

WHITE PAPER

**THE 2013 GENERAL ELECTION FOR THE
5TH MANDATE OF THE
NATIONAL ASSEMBLY OF THE
KINGDOM OF CAMBODIA**

NATIONAL ELECTION COMMITTEE

5 September 2013

EXECUTIVE SUMMARY

On 28 July 2013, the general election for the 5th mandate of Cambodia's National Assembly was held in 19,009 polling stations nationwide.

This is the eleventh national and sub-national election to be organized by the National Election Committee (NEC). For this 2013 Election, the NEC initially accredited 99,481 agents from political parties, including the Cambodian People's Party (CPP) (19,009 agents and 19,013 reserve agents); the Cambodian National Rescue Party (CNRP) (18,012 agents and 17,514 reserve agents); and FUNCINPEC (14,839 agents and 10,044 reserve agents). The NEC also accredited 9,931 observers from the Sam Rainsy Party (SRP) and 4,780 observers from the Human Rights Party (HRP), added to the 40,142 accredited national election observers from 35 associations and organizations, including the election monitoring NGO, COMFREL, which had observers present at each polling station.

The NEC also accredited 292 international election observers from 35 international organizations, embassies and countries. Among them were distinguished dignitaries such as the former five-term Speaker of the House of Representatives of the Philippines, a former Vice President of Indonesia, former Deputy Prime Ministers of Canada and the Republic of Korea, a Senator from Pakistan, Chairmen of the Election Commission of the Philippines, Thailand and Myanmar, election commissioners from Malaysia, Laos and Russia, and the Director of Community Affairs Development of the ASEAN Secretariat. None of the international observers reported having witnessed any serious misconduct of the election on voting day, and virtually all the teams issued statements expressing satisfaction with the free and fair conduct of Cambodia's 2013 general election and its peaceful atmosphere during the press conference held at the Phnom Penh Hotel on 28 July 2013 and in written statements and reports.

Voting was held to elect 123 members of the National Assembly representing 24 capital/provinces in 19,009 voting stations staffed by 114,054 polling workers. The preliminary results provided by the NEC and broadcast through the national television channel, TVK, on the evening of the polling and counting day reported the totals cast in each commune. The provisional results announced by NEC on 12 August gave the national totals for each party, with the CPP having received 3,235,969 votes and the CNRP having received 2,946,176 votes.

The CPP announced its own calculations, by which the CPP had won 68 seats and the CNRP 55 seats – somewhat similar to an announcement made by COMFREL (CPP 67 and CNRP 56). By contrast, the CNRP announced that it had won 63 seats and the CPP 60 seats. **If these claims had been based on the original forms provided by the chief of every polling station, which every one of CPP and CNRP's agents as well as COMFREL observers had received from each polling station, the results should not have differed.**

Despite the elaborate system of procedures, cross-checks, and consolidation, with opportunities for filing complaints and appeals at all levels (where evidence can be presented and examined), a number of charges of “irregularities” have been disseminated through the media, public speeches, letters to the NEC or by rumours, without evidence to be validated and to be weighed.

This *White Paper* provides a detailed account of the procedures to be followed at each stage of the election process, together with actual figures from the 2013 Election, as well as an outline of both official complaints filed and unofficial charges regarding compiling the Voter List and allegations of “irregularities” concerning the election campaign, voting and counting day and the provisional results.

Registration and Voter List

Witnessed by thousands of Cambodian and international observers, the process of Voter List revision and voter registration took place over four months in late 2012. Political parties were entitled to have observers present throughout the process; however the SRP and HRP both decided not to participate.

Before the new Voter List became official, the preliminary Voter List had been posted publicly in each commune/sangkat, so that any inaccuracies or mistakes could be corrected. Throughout the entire country, only 37 complaints were received either objecting to the inclusion of names on the voter list or asking for inclusion of a name that had been removed or rejected.

However, two separate surveys by local and international NGOs reported finding a number of discrepancies. It is notable that some of their results differed substantially from each other, one survey finding that 97.7% of the respondents claimed to have registered to vote, while the comparable figure in the other survey was 82.9%.

The former survey found that the names of 13.5% of those interviewed who claimed to be registered voters could not be found on the Voter List. This figure was extrapolated to suggest that there were 1.25 million “missing voters” across the country, as has been widely reported in the media. Regrettably, the survey organizations refused to provide the NEC with any details that would permit a thorough check for the missing names in the Voter List.

By way of contrast, after a similar survey during the 2008 national election, the NEC was provided with 88 names that the survey organizers said could not be found on the Voter List, and the NEC was able to account for all of them, including 15 who were in fact on the list and 31 who had moved to a different commune since they had registered.

In Cambodia neither voting nor registering to vote are compulsory. In every democratic country with the same electoral approach, there are significant numbers of people who do not register or vote although they are eligible to do so. The fact that this also occurs in Cambodia should not be assumed to be evidence of a faulty registration procedure. Cambodia’s voter turnout (69.61% in 2013) is high compared to other countries without compulsory voting obligation, such as in the Philippines (60.7% in 2013), in India (58.19% in 2009) and in the United States of America (41.59% in 2010).

Complaints during Campaign and Election Period

For the period covering the election campaign, the Commune Election Commissions received a total of 373 complaints. In regard to the polling day, they received 281 complaints. In addition, there were 5 complaints regarding the “white day”, the day before the election, when campaigning is not permitted. This is a total of 660 complaints concerning the conduct of a month-long process in 1,633 communes/sangkat. That is, from the opening of the campaign until the conclusion of the vote-counting, on average a commune experienced 0.4 of an alleged irregularity.

Among 281 election day complaints, the four most numerous related to voter harassment and disturbance, accounting for almost half of the total, including: disturbing the polling process (49); intimidating voters (30); preventing voters from casting their votes (28); and recording names, taking photos or questioning voters at the polling stations (24).

Most of the above complaints did not provide sufficient evidence to justify upholding them at the original or appeal level. However, 25 people were sanctioned as a result of these complaints.

In addition to the formal complaints filed and resolved, other unofficial charges would appear to involve allegations that voting figures had been falsified in some fashion. It is therefore important to note there were very transparent and detailed procedures for counting and recording the votes in the presence of witnesses, including agents from all the contesting parties. A similarly transparent and verifiable process was involved at every stage of consolidating the votes. **At every stage of this process at every polling station, agents from all contesting parties were present and signed the relevant documents to indicate that the correct procedure had been followed, and that the vote count, including the votes recorded as gained by each party, are correct. Observers were also present throughout to witness the process. There was no instance in which any party agent present for the procedure at any of the 19,009 polling stations did not sign the relevant documents.**

When the records from four provinces were verified by the NEC, as ordered by the Constitutional Council, it was found that mistakes had occurred in some instances. Due to carelessness by the officials at the polling stations, some Safety Packages A were not sealed. However, they were all correctly placed inside Package B, and later inside Package C and then inside Package D, all of which were then packaged in the presence of political parties’ agents and observers. Furthermore, in very few cases were there any discrepancies between the vote totals recorded and copied onto the different forms in the package. And, after cross-checking with the primary data (including the tally sheets posted on the wall of the polling station on which the votes were recorded at the time of counting), in no case did such discrepancies result in a change in the votes received by each party.

An expert observer of the process, Professor Shiro Harada from the University of Tokyo, referred to “careless mistakes... but I could not see any clear evidence of manipulation against the CNRP.” (*Phnom Penh Post*, 29 August 2013, Page 2)

Another allegation, also presented in the media rather than to the electoral authorities, claimed that the indelible ink used to mark voters' fingers and thus prevent multiple voting could be easily washed off. The ink used was provided as electoral assistance by the government of India. It is widely used in at least six other countries as well as India.

Since the announcement of the provisional results, a number of presidents, prime ministers and other political leaders from different countries have also expressed their positive assessments of the process and congratulations on the results. UN Secretary-General Ban Ki-moon, the State Department of the United States of America, the European Union and others expressed their satisfaction on the conduct of the election. Those statements encouraged all political parties to settle their differences peacefully, and to investigate any irregularities that may have occurred before and during the election. The EU expressed its hope that "any dispute addressed to the NEC and the established judicial mechanisms will be dealt with fairly and swiftly."

These established judicial mechanisms are the NEC and the Constitutional Council, which have been discharging their mandated duties to deal with all complaints made by all political parties and individuals in accordance with the Law on Election of Members of the National Assembly (LEMNA) and in a fair and transparent manner. Decisions have been made, including sanctions where appropriate for any infringement of laws or procedures. The process is now nearing completion, leading up to official announcement of the election results by the NEC, scheduled for the coming 8 September. As such, the call to establish a new mechanism such as a "Joint Committee" or "Special Committee" would not only be outside the deadline, but also outside the framework of the Constitution, LEMNA and the Regulations and Procedures of the NEC, which leave the entire electoral process and any dispute that may arise in the hands of the NEC and the Constitutional Council.

Furthermore, His Majesty the King has issued two Royal Messages in relation to the situation surrounding the election results appealing to the two parties to continue dialogue to solve disputes or remaining problems peacefully. In his statement on 30 August 2013, His Majesty the King proclaimed that "The Kingdom of Cambodia is an independent and sovereign state with its own Constitution as its supreme law, which all Cambodian people respect. Resolution of any national affairs should be based on the Constitution and handed to the competent institutions mandated by the Constitution and the laws of the nation."

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I. BACKGROUND

Cambodia is a constitutional monarchy, under His Majesty the King Preah Boromneath Norodom Sihamoni, who reigns but does not govern. The Prime Minister must be one of the elected parliamentary members. The approval of the newly formed government requires a simple majority (50%+1) of the elected parliamentary members. The legislative branch is composed of two Houses, the National Assembly and the Senate. The National Assembly currently consists of 123 parliamentary members, and the Senate is composed of 61 members: two appointed by His Majesty the King, two appointed by the National Assembly and 57 elected by the 2012 Election.

The Election for the 1st Mandate of the current National Assembly took place in 1993, organized by the United Nations Transitional Authority in Cambodia (UNTAC). All eleven successive national and sub-national elections, including National Assembly Elections in 1998, 2003 and 2008, as well as the current 2013 Election, have been conducted by the National Election Committee (NEC) of Cambodia, in accordance with the Law on Election of Members of the National Assembly (LEMNA), initially adopted by the National Assembly in December 1997, and subsequently amended and supplemented by three Additional Laws.

1. The National Election Committee of Cambodia

The National Election Committee was created the second mandate of the National Assembly in 1998, as prescribed in Article 13 of LEMNA. The NEC is an independent Electoral Management Body.

The NEC organizes all national elections, including the election of the Senate and the National Assembly Members, and the sub-national elections such as the elections of the Commune/Sangkat Councils, the Capital/Province Councils and the City/District/Khan Councils.

Evolution of the NEC composition and structure

- 1998 - 2002: the NEC consisted of eleven commissioners, representing the political parties holding parliamentary seats, the Ministry of Interior, citizens, and NGOs.
- 2002 - 2006: LEMNA was amended in 2002 to reduce the number of NEC members from eleven to five. The characteristics of the new NEC members were also changed from being representatives of political parties to being Cambodian dignitaries competent in politics, having professional experience and a good reputation.

The new NEC members were obliged to abide by LEMNA's insistence on strict neutrality and impartiality and therefore had to resign from any political party, with which they were affiliated before taking office. Similarly, the Capital/Province Election Commissioners (PEC) and the Commune/Sangkat Election Commissioners (CEC) were no longer recruited on the basis of political affiliation. This change in structure and recruitment procedures was made on the recommendation of the Sam Rainsy Party and certain NGOs.

- 2006 - 2012: LEMNA was amended in 2006 to increase the number of the NEC members from five to nine.
- 2012 – Present: The current NEC was elected by the National Assembly on 11 October 2012. These include two newly elected commissioners who are retired judges, in response to the UN Special Rapporteur’s recommendations regarding NEC membership.

2. Election and Appointment

Members of the NEC are elected to office by the National Assembly, and appointed by the King (by a Royal Decree). The Ministry of Interior shall propose the NEC membership based on strict neutrality and professionalism, as prescribed in LEMNA. The nomination list must be first approved by the Council of Ministers before it is submitted to the National Assembly.

The NEC is composed of one Chairperson, one Vice-chairperson, and the remainder is Members known as commissioners. The present NEC is composed of nine commissioners, of whom five have previously worked as judges or lawyers. The current composition is:

Chairperson: H.E. Mr. Im Sousdey

Vice-Chairperson: H.E. Dr. Sin Chum Bo

Commissioners: H.E. Mr. Havan Sivilay, H.E. Mr. Mean Satik, H.E. Mr. Em Sophath, H.E. Mr. Som Chandyna, H.E. Mr. Mao Sophirith, H.E. Mr. Sin Dim and H.E. Mr. Sor Sophary

As the Electoral Management Body in charge of conducting free and fair elections, the NEC is committed to abide by the Constitution, LEMNA and the Regulations and Procedures. The NEC performs its duties in the spirit of independence, neutrality, integrity, transparency, efficiency, professionalism and service-mindedness.

3. NEC Organizational Structure

The NEC has a Cabinet, a General Secretariat at its Headquarters headed by the Secretary-General, Mr Tep Nytha, and 24 Capital/Province Election Secretariats (PES). During the election period, these 24 PESs become 24 Capital/Provincial Election Commissions (PEC) and, as well, a Commune/Sangkat Election Commission (CEC) is established in each of the 1,633 communes/sangkat. During the polling and vote-counting day, Polling Station Commissions (PSC) are established in all 19,009 polling stations.

3.1. General Secretariat

The NEC's General Secretariat oversees five departments, namely, Operations Department; Administration; Finance; Training & Public Information Department; and Legal Services.

3.2. The Capital/Provincial Election Commissions (PEC)

Each PEC is composed of seven members recruited by the NEC among the eligible voters of the respective Capital/Province including civil servants and officials, but excluding

members of the armed forces, police, religious orders, court officials, local government officials or village chiefs, deputies and members.

Between elections, one or two officials run the PES, to maintain continuity of electoral work, while a larger PEC is established during each election period.

There are 24 PECs – one for each capital/province in the country.

3.3. The Commune/Sangkat Election Commissions (CEC)

CEC members are recruited and appointed by the NEC, upon the request of the PEC among eligible voters in the respective City/District/Khan or Commune/Sangkat, including civil servants and officials, but excluding members of the armed forces, police, religious orders, court officials, local government officials or village chiefs, deputies and members.

The CEC is composed of one Chairperson, one Vice-Chairperson and three Members.

There are 1,633 CECs – one for each commune/sangkat in the country.

3.4. The Polling Station Commissions (PSC)

The PSC members are recruited and appointed by the NEC, upon the request of the PEC, among eligible voters in the respective city/district/khan or commune/sangkat, including civil servants and officials, but excluding members of the armed forces, police, religious orders, court officials, local government officials or village chiefs, deputies and members.

A PSC consists of one Chairperson, one Vice-Chairperson, one Secretary, and three Assistants.

The number of the PSC varies from one election to another (for the 2013 Election there were 19,009 PSCs).

4. Recruitment

Recruitment of officials and staff for the PECs, CECs, and PSCs is carried out by the NEC as prescribed in LEMNA, conforming to the principles of neutrality and independence. The recruitment by the NEC is not geared toward any political party; application is open to all Cambodians without socio-economic, religious, or political discrimination, provided they have the professional requirements to perform the duties of the position.

NEC officials and staff at all levels are not civil servants. The NEC recruits its own employees to carry out the required tasks for the annual update of the voter list and elections. Some are permanent and full time, while others are part time or seasonal depending upon the electoral operations (during voter registration or election, or between the elections and the voter registration). They receive salary, pay, and bonuses from the NEC budget.

For the 2013 Election, the NEC employed 347 officials and staff at its headquarters, 927 officials and staff at PECs, 8,180 officials and staff at CECs, and 114,054 polling officials at PSCs.

5. Training

The NEC trains its own electoral officials to perform the required tasks for each stage in the electoral process, including voter registration, registration of political parties, electoral campaign, voting, vote-counting, consolidating the election results, and handling any related complaints. Training is done in the form of cascade training, from the national down to the local level (from NEC to PEC, PEC to CEC, and CEC to PSC). NEC also includes the representatives of political parties and NGOs in all training phases at the national and capital/province levels.

In preparation for the 2013 Election, the NEC conducted two training phases at its headquarters. The first was on the voter list revision and voter registration for the chief of all PECs and representatives of the political parties' and NGOs. The second, focusing on the electoral process, was in two sessions: the first covering the registration of political parties, the electoral campaign, and filing/solving complaints for the chief/deputy, the legal and training members of all PECs, and the representatives of political parties and NGOs; and the second training session was on polling, vote-counting, consolidating the election results, and filing/solving complaints for the PECs chief/deputy, PECs member responsible for training and legal services, all PECs trainers, and the representatives of the political parties and NGOs.

In accordance with LEMNA, the NEC must delegate its powers to the commune/sangkat to perform the revision of the voter list and the voter registration, therefore, at the capital/provincial level, each PES must conduct training on the voter list revision and voter registration for the chief/deputy and member of the Commune/Sangkat Councils and the clerks, as scheduled in the NEC calendar. PEC must also conduct two other training sessions: the first on the registration of political parties, the electoral campaign, and filing/solving complaints for PEC officials, PECs trainers, and representatives of the political parties and NGOs; and the second on polling, vote-counting, consolidating the election results, and filing/solving complaints for PECs officials and representatives of the political parties and NGOs, while the 350 PECs trainers trained the CECs for two days, one week before the election day.

The CEC conducted a one-day training session for all PSCs officials, two days before the election day. Each PSC also received the polling station manual to be used for reference on polling and vote-counting day, and a video to ensure that they have not only learned to perform the operation by reading but also by demonstrating the process and procedure step by step. Given the financial and time constraints, it would be beyond expectations if all 8,180 CEC officials and 114,054 PSC officials performed their tasks perfectly.

6. Public Education

The NEC conducted a vigorous public education program, including on nine TV stations (6 video spots, 3 songs and one role-play), eight radio stations (3 episodes of a story), placing

banners, leaflets, flyers, and posters in public places, and a three-day public information campaign in every commune/sangkat using mobile loudspeakers.

7. Budget

The budget of the NEC for the 2013 Election was USD 20,938,777.49, equivalent to Riels 85,848,987,709 (including the voter registration budget). The Royal Government of Cambodia was the sole contributor to the NEC's budget. In addition, NEC received the following international support in kind:

The Government of India offered training to the NEC staff, and donated an essential element for voting; that is 40,000 jars of indelible ink. The NEC has used this top quality ink produced by the same company from India since 1998.

The Government of South Korea donated 26 lap-top and desk-top computers and five projectors, and offered training to some NEC officials.

The EU provided two advisers in training and media, to improve training materials and the dissemination of electoral information to voters and the public at large.

USAID, through the NGO, International Foundation for Electoral Systems (IFES), provided support to Cambodian election for the first time, assisting in the area of voter registration and voter education, by introducing the Interactive Voice Response system (telephone call to #1285 free of charge).

II. ELECTION PROCESS

1. Voter Registration

Article 49 (new) of LEMNA prescribes that the register of voters must be updated annually. The newly updated register of voters must be validated by the NEC in order to be used for the next election. According to LEMNA, there are several steps in the registration process in order to produce a final Voter List.

Over the years, the NEC has devoted considerable efforts to the task of computerizing Voter List due to the complexities involved in compiling Khmer-language names into databases developed for the English-speaking world. Merely alphabetizing names has presented enormous challenges. Aside from computer difficulties, many Cambodian names can be spelled or written in more than one way. Further, Khmer script was included in the international standard Unicode only in 2003 (Unicode 4). Previously, a variety of non-standard fonts were used, which did not facilitate sorting or searching. The NEC used Post Script (1998) and Khek Brothers (from 2001) before switching to Unicode in 2005.

These are some of the reasons that the NEC has always devoted considerable attention to constantly updating the list left from UNTAC. It allows lengthy periods in which all eligible citizens have the opportunity to ensure that their name is correctly recorded on the voter list, and in which names that are no longer valid for any legitimate reason may be

removed. For the 2013 election, the registration period was extended for an additional month according to LEMNA.

The updating of the Voter List consists of two main phases: firstly, to clean the final Voter List, and secondly, to register additional voters (first-time eligible voters and previously registered voters who have moved to another location).

The cleaning of the Voter List is to delete voters' names, as appropriate, from the Voter List or to correct names and data of the voters in the Voter List.

The deletion of voters' names is to delete names of voters who are deceased, have moved out of that commune/sangkat, have lost their eligibility to vote, do not have the residence in the commune/sangkat, as well as to delete duplicate names.

To commence the process, Commune/Sangkat Council (CSC) calls a meeting of the commune/sangkat clerk, the head of the administrative police post of the commune/sangkat, the village chiefs, political parties' agents and NGOs within the commune/sangkat in order to disseminate information to all residents in the commune/sangkat regarding the intention of undertaking of the annual verification and registration of names, and to encourage them to participate in this process of ensuring the accuracy of the Voter List.

Step 1: Preparation for the verification and registration process

In order to ensure the accuracy of deletion of any names from the Voter List, the village chiefs and officials from the administrative police post of the commune/sangkat shall take into account any documentation relevant to each case, as well as any thumb-printed statutory declaration from the family or neighbours, or any statement by the village chief or administrative police post of the commune/sangkat.

The commune/sangkat clerk then prepares a list of persons who are newly eligible to vote within that commune/sangkat, namely those who have reached or will have reached the voting age of 18 years by the date of the next election, those who have moved into the commune/sangkat, those who have had their eligibility to vote restored, as well as any eligible voters who have never previously registered.

Step 2: Creation of an initial updated Voter List

The initial updated Voter List is a combination of the latest Voter List with any names to be deleted or names with data to be corrected marked on it, and a separate list of new names to be added (newly registered).

One copy of the latest Voter List is displayed at each commune/sangkat office throughout the country to permit voters to verify their names, sex, birth date and address. Voters have the right to claim inclusion of their missing names, or correction of incorrect or missing details, such as names, sex, birth date and address.

The commune/sangkat clerk also has another copy of the same latest Voter List on which to correct voter names, or delete duplicate names or names of those who have died, moved outside the commune/sangkat or have lost their eligibility to vote. The clerk also must fill out the registration form to register persons requesting to have their names be added to the list, based on four criteria: have Cambodian nationality, be 18 years old by the election time, and reside in the commune/Sangkat. The applicant must appear in person to register and present an official identification document. Those names will be placed on a separate list of new names to be added to the Voter List. At the end of the registration period, the updated voter list is displayed by the clerk for public scrutiny. The display of the initial updated Voter List is to allow the voters to file any claim for inclusion of their missing names or correction of their names or data, or to file any objection to other persons' names on the initial updated Voter List.

Step 3: Creation of the Voter List

Complaints regarding the Voter List can be appealed up to the Constitutional Council (CC), whose decision is final. The NEC validates the updated Voter List, once all complaints have finalized. Once validated, the Voter List is final and cannot be amended. One copy of the Voter List is sent to each commune/sangkat to be kept as a permanent register of voters of the commune/sangkat. The general public, including the political parties have access to the Voter List at the commune/sangkat, and through NEC's web site.

It is important to note that once the Voter List is validated, no one may bar any voter whose name appears in the Voter List, from voting. To do so is to violate the Cambodian Constitution, LEMNA and Regulations and Procedures. Any objection against a suspected illegally registered voter should be made during the period of the annual update of the Voter List as prescribed by LEMNA and outlined in the Regulations and Procedures and voter registration time-table, and not during the election period.

Note: The Voter List for the 2013 Election was prepared during the period from 1 September to 31 December 2012. The Voter List for the 2013 Election, validated on 31 December 2012 by the NEC, listed a total of 9,675,453 voters (52.5% of whom are female), including 940,445 newly registered voters, 92,366 corrected names, and 468,485 deleted names, all attached with supporting legal documents.

Table: National Assembly Elections from 1993-2013

Election Year	Registered Voters	# Voter Turnout	Voter Turnout as % of Registered Voters
1993	4,764,430	4,267,192	89.56%
1998	5,395,595	5,057,830	93.74%
2003	6,341,834	5,277,494	83.22%
2008	8,125,529	6,110,828	75.21%
2013	9,675,453	6,735,244	69.61%

The significant increase in the number of registered voters shows the results of the strenuous efforts by NEC to update the Voter List. The registered voters increased by 1,783,695 between 2003 and 2008 and a further 1,549,924 between 2008 and 2013.

In Cambodia, voter turnout is high compared to other countries without compulsory voting, such as the Philippines (60.7% in 2013), India (58.19% in 2009) and the US (41.59% in 2010), as reported for parliamentary elections by the Institute for Democracy and Electoral Assistance (IDEA).

Voter Information Notice (VIN)

To minimize the issue of “not able to find name or polling station”, the NEC distributes VINs to voters one month ahead of the Election Day to inform voters individually well in advance of the election about their essential electoral data as it appears on the Voter List by means of the Voter Information Notice (VIN). The electoral information on the 2013 VIN is exactly the same as the electoral information on the 2012 Voter List, because it is printed out from the same data-base in a different format.

The NEC distributes VINs at the villages by the Commune/Sangkat Election Commission (CEC) in collaboration with the local authorities who are knowledgeable of the geographical setting of the commune/sangkat and villages. The political parties are entitled to participate as observers, and the NGOs are entitled to participate in the VIN distribution. After the ending of the VIN distribution at the villages, the remaining VINs are made available throughout the election campaign period for collection from the CEC’s office by those who missed out at the village distribution time.

Note: For the 2013 Election, some 8.1 million VINs were distributed directly to voters from 1 June to 25 June 2013. This represented 84.05% of names on the Voter List. The remainder were held for collection from the relevant CEC until 05:30 PM on 25 July 2013. A further 195,440 were so collected, giving a total of 8,328,120 or 86.07%.

In addition to VIN distribution, in 2013 voters were able to check their name by calling the NEC's hotlines (five free phone lines), by using the NEC's website and, for the first time, also through the Interactive Voice Response system. Furthermore, the Voter List was posted at the CECs 30 days before election day and, importantly, posted at each polling station, one day before the election day.

These mechanisms gave many opportunities for voters to make sure in advance of polling day at which polling station they should vote, to avoid confusion and reduce delays at the polling station.

2. Political Party and Candidate Registration

Step 1: The NEC accepts applications for registration of political parties wishing to contest the election, together with supporting documentation as prescribed by laws, and deposit. After receiving applications, the NEC reviews the applications submitted by political parties within 7 days for approval. If corrections or amendments are needed, the NEC has to return the applications to any political party, allowing 5 days for any correction or amendment.

Step 2: Each registered political party needs to present to the NEC its hierarchical list of party candidates and reserve candidates for each constituency (capital/province), together with a declaration of acceptance by each candidate and proof of his/her name on the Voter Lists.

Step 3: Following resolution by the NEC or the Constitutional Council of any complaints or appeals by rejected parties or candidates, the NEC announces the official registration status of all registered political parties. After organizing a draw to select the sequence on the ballot paper of contesting parties, the NEC posts the listed of registered parties and their lists of candidates for each Capital/Province.

Note: For the 2013 Election, the NEC registered 8 political parties, 886 candidates and 1,012 reserve candidates.

3. Election Campaign

3.1. Regulations

LEMNA mandates the NEC to manage and coordinate the electoral campaign by the registered political parties, for thirty days, from June 27 to July 26, 2013. All electoral campaign activities must stop 24 hours before the Election Day, and during the Election Day.

During the election campaign, the CECs and PECs took a number of measures to facilitate the maintenance of security, safety and public order, in cooperation with relevant local authorities at all levels and political parties and candidates. Such measures included allocation of public space for processions, public meetings, concerts and sporting events.

All campaign activities should avoid interference with or disturbance to other political parties, candidates or supporters.

The NEC disseminated the Regulations and Procedures on the electoral campaign to all, especially the political parties and their candidates, and outlined the “Do’s and Don’ts”, and how to work with the local authorities and other parties involved, such as the national and international organizations and the owners/managers of public or private facilities.

3.2. Media Access

The NEC provides a variety of means to all registered political parties to inform voters about their political platforms via the electronic and print media, and to ensure access to the media by all registered political parties during the election campaign, and issues media principles to guide election-related public and private media activities in Cambodia.

For the 2013 Election, the NEC provided opportunities to each political party to publish its political platform in five issues of the NEC’s weekly bulletins, from 27 June 2013 to 20 July 2013, of which 20,000 each were published and distributed widely throughout the country.

Public Radio and TV: In contrast to many other countries, the NEC instructed public radio and TV to allocate equal time free of charge to every political party as stipulated in the NEC Regulations and Procedures.

The NEC ordered public radio (FM 96 and 105.70 MHz) and TVK each to reserve 4 hours daily for broadcasting the political party platforms, with each political party allocated 30 minutes per day on each station.

Private Radio and TV: Private radio and TV should follow the NEC media principles to ensure balanced coverage and access. Private radio and TV may offer advertising time to any political party, but if they do so, they are obliged to offer it to all registered political parties at the same rates. If they reject advertisement of any political party, they should reject all. They are not allowed to sell or rent to only one political party.

Aside from the stipulated equal time allocated to each registered political party during the election campaign period, the NEC issued principles and regulations relating to the preparation and operation of broadcasting the political parties’ platforms, the selling or renting broadcast time to political parties and also principles for national and international NGOs and broadcasting outlets regarding the preparation of Q&A or discussion programs on the policies of the political parties contesting the election.

Criticisms were made on the one hand that public media favoured the CPP in its news and other programs, while on the other hand that certain private media, as well as foreign media broadcasting inside Cambodia in the Khmer language, favoured the CNRP.

4. Pre-Election Day (White Day)

According to LEMNA, in the 24 hours before the polling day and during the polling day, no electoral campaigning is permitted.

5. Polling and Vote-counting Day

5.1. Polling Station Commissions (PSC)

From 6 to 7 AM, polling officials, political parties' agents, observers and reporters are permitted to enter the polling station. These include the chief of the polling station, deputy chief, secretary, first and second assistants and security official, totaling six persons and political parties' agents and observers accredited by the NEC to observe the election process in each polling station.

While openly observed by all present, polling officials show the empty ballot box, fasten the inner lid of the ballot box and record the coded number of the fastener. Then, polling officials open the taped package of ballot papers and count the actual number of ballot papers, recording their first and last serial numbers, as well as the total number of names on the Voter List, before opening the envelope containing the stamp with the secret unique insignia for that polling station, which is stamped on a blank paper and shown to all present.

All these steps should be concluded before the polling station is opened at 7AM or, in the case of delay, such as late receipt of the electoral materials at the polling station, at the latest at 8 AM.

From 7 AM to 3 PM, it is polling time. The polling officials and accredited agents and observers continue to observe the entire election process in each polling station. Polling Stations will be closed at 3 PM.

Note: From the beginning of the polling day to the closing of the polling station, polling officials, all political parties' agents and observers are present to witness all steps in the process as permitted under LEMNA and the Regulations and Procedures. If there is any irregularity, the political parties' agents can raise a verbal objection immediate claim to the chief of the polling station who has the authority to solve it. If the political parties' representative disagrees with the solution made by the chief, then he/she can obtain a Form 1202 to outline the nature of the claim and submit it to the CEC before 11:30 of the following day.

After closing, the following duties are performed:

Step 1:

1. The chief must seal off both dropping slots on the top of the ballot box.
2. The chief sign a blank sheet of paper to seal off both dropping slots and invites the political parties' agents to sign it.
3. The chief closes the ballot box with the outer lid and fastens it with two fasteners with code numbers.
4. The secretary records the time of the closing of the poll and the code numbers of the fasteners, in the Form 1101.
5. The secretary counts the total number of voters recorded on the Voter List as having cast a vote.
6. The deputy chief separately counts the unused ballot papers and the spoiled ones (if any).
7. The deputy chief and the secretary mutually double verify the numbers of voters recorded as having cast a vote, which, together with the sum of the spoiled and unused ballot papers, should be equal to the number of the actual ballot papers received in the polling station.
8. Assistant #2 punches or partially cuts the unused ballot papers.
9. The deputy chief puts the punched/cut unused ballot papers and the stubs of used ballot papers in a separate plastic bag and places it into Safety Package A.
10. The secretary records the above figures in three copies of the Minute of Polling (Form 1101) and invites all political parties' agents to sign it.
11. The chief places one copy of Form 1101 in the polling records envelope to be placed later in Safety Package A.
12. The chief places the Voter List in an envelope and places it in Safety Package A.
13. The chief puts any spoiled ballot papers (if any) in a separate envelope and places it into Safety Package A.
14. The chief places the secret stamp in an envelope and places it in Safety Package A.
15. The chief places any false ballot papers and documents that were confiscated by polling officials from voters in an envelope and places it in Safety Package A.
16. The chief places the plastic bag containing any unused ballot paper and the stubs of used ballot papers into Safety Package A.

Step 2:

1. To make sure that the contents in the locked ballot box remained intact, the PSC chief invites the political parties' agents and observers to verify the coded number of the irreversible fastener and the blank sheet of paper sealing the box before cutting and removing them, before re-opening the sealed ballot box.
2. The chief re-opens the sealed ballot box.
3. Each ballot paper is held up to show all present and to announce the party for which the ballot was cast.
4. Assistant #1 records the votes one by one on the tally sheet posted on the wall of the polling room, available for all to see.
5. Meanwhile, the deputy chief and secretary record the votes on separate copies of the Table to Record Votes (Form 1108).
6. After the counting is completed, the above three records are cross-checked. In the case of any discrepancy, the votes are recounted.
7. The chief and secretary sign Form 1108 and invite all political parties' agents to sign it.
8. The secretary then transfers the figures from Form 1108 onto four original copies of the Minute of Counting (Form 1102), which are then signed and stamped by the chief and secretary, who invites all political parties' agents to sign all four copies.
9. The four original copies of Form 1102 are distributed as follows: one copy posted in front of the polling station, one copy sent to CEC, one copy sent to PEC, and one copy sent to NEC.
10. The chief then places Form 1108 and one copy of Form 1102 in the polling records envelope, which already contains Form 1101, to be placed later in Safety Package A.

Note: These two original copies of Form 1108 must be signed and stamped by the secretary and signed by the PSC chief. One copy is put into the envelope containing the original Forms 1101 and 1102 – this envelope should be put in Safety Package A to be sent to the NEC. The second copy of Form 1108 should be put in another envelope containing the other original Forms 1101 and 1102 to be put in Package B to be sent to CEC. A copy of Form 1101 and Form 1102 are put into an envelope to be sent to the PEC.

Final Step At Polling Stations:

1. Form 1102 is posted on the wall in front of each polling station for public information.

2. Three copies of Form 1107 are prepared, itemizing all items to be sent to CEC (one copy placed in Package B, one copy in the outside pocket of Package B, and one copy to be used when handing Package B to CEC).
3. Safety Package A of each polling station contains:
 - 1) Envelope containing the Voter List
 - 2) Envelope containing the secret stamp
 - 3) Envelope containing spoiled ballots
 - 4) Envelope containing confiscated documents or items (if any)
 - 5) Plastic bag containing unused ballot papers and stubs of used ballots
 - 6) Plastic bag containing tally sheet and all cast ballots (both valid and invalid)
 - 7) Envelope containing Forms 1101, 1102 and 1108
4. Safety Package A is placed into Package B together with copies of Forms 1101, 1102 and 1108 for CEC, copies of Forms 1101 and 1102 for PEC, and the PSC stamp (not the secret stamp).

Note: In the 2013 Election, all political parties' agents signed all Forms 1101, 1102 and 1108 as well as the Form 1107 transfer document.

In addition to completing the above official records of polling and counting, the secretary fills in the Paper on Preliminary Polling Results (Form 1104) by copying the data from Form 1102. Form 1104 is signed by the polling station chief and secretary and given to each political party's representative who is present inside the polling/ballot-counting station at the time of counting.

One copy of Form 1104 must be sent to the CEC immediately. The CEC officials sum up all the 1104 Forms received from polling stations in its respective commune/sangkat, and sends them on to the respective PEC, which consolidates them onto Form 1105 for its respective province and sends them on to the NEC for the televised broadcasting of the preliminary results of the elections.

Note: At the end of the election, through their parties' agents and observers, the political parties and NGOs can make their own calculation on the election results by consolidating the preliminary results indicated in either Form 1102 posted at the polling station or Form 1104. However, any announcements of the election results, other than the announcement made by NEC are not official.

Form 1104 is provided as preliminary information to political parties and the public, and for the televised broadcasting of the preliminary results, but is not part of the determination of the provisional results or the final election results.

After finishing their work at the polling station, polling officials, accompanied by political parties' agents and observers, takes Package B containing Safety Package A to be handed over to the respective CEC, with Form 1107 which is signed to prove receipt of Package B by the CEC.

5.2. Commune/Sangkat Election Commissions (CEC)

On the day following the election and after having received Package B from each polling station in the commune/sangkat, the CEC may consider any complaints filed and decide, depending on the case, whether or not to open Safety Package A in order to resolve such complaint. In the 2013 Election, no Safety Package A was opened at the CEC level. This step must also be done in the presence of political parties' agents.

Note: In the 2013 Election, no Safety Package A was opened at the CEC level.

The CEC then undertakes its own duties as follows:

1. verifies the data in Form 1102 and 1108 and sums up the voting figures for the commune/sangkat, in the presence of the political parties' agents and observers.
2. records the polling results from Form 1102 in the Summary Table of Election Results in the commune/sangkat (Form 1109).
3. records all results of the summation from Form 1109 into the Summary Minute of Elections Results in the Commune/Sangkat (Form 1103), which needs to be signed by the CEC Chief and the CEC Administrative Member; and also may be signed by the parties' agents, as witnesses.
4. posts one copy of Form 1103 at the CEC office for public information together with a minute reporting the time and location at which these figures were posted.
5. places one copy each of Forms 1103 and 1109 and the minute on posting of Form 1103 in an envelope to be sent to PEC.
6. places one copy each of Forms 1103 and 1109 in an envelope to be sent to the NEC (via the PEC).
7. removes from Package B the envelope addressed to PEC containing Forms 1101 and 1102, to be placed in Package C Special.

Package C is then prepared, containing Packages B from all Polling Stations within the commune/sangkat. In addition, Package C Special is prepared, containing the following:

- 1) Envelope to be sent to PEC containing Forms 1103, 1109 and the Minute on posting of Form 1103.

- 2) Envelope to be sent to the NEC (via the PEC) containing Forms 1103 and 1109.
- 3) Envelope to be sent to PEC containing Forms 1101 and 1102.

Note: In the 2013 Election, all political parties' agents signed all Forms 1103 and 1109 as well as the Form 1107 transfer document. All political parties' agents and observers witnessed the whole process at the CEC level as permitted under LEMNA and the Regulations and Procedures.

After finishing their work at the CEC, CEC officials, accompanied by political parties' agents and observers, take Package C and Package C Special to be handed over to the respective PEC, with Form 1107 which was signed to prove receipt of Package C and Package C Special by PEC.

5.3. Capital/Provincial Election Commissions (PEC)

On the day after having received Package C and Package C Special from each CEC in the respective capital/province, the PEC may consider any complaints filed and decide whether or not to open Safety Package A in order to resolve such complaint. This step must also be done in the presence of political parties' agents.

Note: In the 2013 Election, no Safety Package A was opened at the PEC level.

PEC then opens the Package C Special from each CEC and opens the envelopes addressed to it containing Forms 1103 and 1109 and proceeds to carry out its own duties:

- 1) creates a center for verification/cross-check and consolidation of election results and establishes a number of teams of four officials each to carry out this work.
- 2) each team examines and cross-checks the polling results recorded in Forms 1103 and Forms 1109 of each commune/sangkat. If there are any data or figures in doubt, the relevant team must verify them against data and/or figures recorded in Forms 1101 and 1102 of the concerned polling/ballot-counting stations.
- 3) records the elections results of the communes/sangkat in two copies of the Verification Form for the Commune/Sangkat (Form 1116 v.c.) to be signed by all four members of the relevant verification/cross-check team.
- 4) the consolidation team then consolidates the figures from Forms 1116 v.c. into the Summary Table of Election Results for the Capital/Province (Form 1110), the Minute of Election Results for the Capital/Province (Form 1111) and the Election Results Sheet for the Capital/Province (Form 1114) .
- 5) the PEC chief and PEC member in charge of administration signs Forms 1111 and 1114, and Form 1111 also may be signed by the parties' agents, as witnesses.

- 6) posts one copy each of Forms 1111 and 1114 at the PEC office for public information.
- 7) places one copy each of Forms 1110, 1111 and 1114 in an envelope to be sent to the NEC and sent a soft copy of Form 1110 to NEC by email.
- 8) places one copy of Form 1116 v.c. in an envelope to be sent to the NEC.
- 9) removes the envelope addressed to the NEC containing Forms 1103 and 1109 from Package C Special, to be placed in Package D Special.

Package D is then prepared, containing Packages C from all CECs within the Capital/Province. In addition, Package D Special is prepared, containing the following:

- 1) Envelope to be sent to the NEC containing Forms 1110, 1111 and 1114.
- 2) Envelope to be sent to the NEC containing Forms 1116 v.c..
- 3) Envelope addressed to the NEC containing Forms 1103 and 1109 from Package C Special.

After finishing their work at the PEC, PEC officials, accompanied by political parties' agents and observers, take Package D and Package D Special to be handed over to the NEC, and Form 1107 is signed to prove receipt of Package D and Package D Special by the NEC.

Note: In the 2013 Election, all political parties' agents signed all Form 1111 as well as the Form 1107 on transfer. All political parties' agents and observers witnessed the whole process at PEC level as permitted under LEMNA and the Regulations and Procedures.

5.4. National Election Committee (NEC)

In the evening of 28 July 2013, based on Form 1104 of each polling station sent to the NEC through CECs and PEC, the NEC announced the preliminary results of the election.

Note: As mentioned previously, Form 1104 is provided as preliminary information to political parties and the public, and for the televised broadcasting of the preliminary results, but is not part of the determination of the provisional results or the official election results.

The NEC establishes verification and cross-checking teams to verify the results of the election. All registered political parties are invited to send their representative to observe the process.

After having received Package D and Package D Special from each PEC, the NEC takes Forms 1110, 1111 and 1114 from Package D Special for verification. After finishing the verification, NEC teams prepare a verification report and fill a verification table (Form

1117 v.c.). If there is any doubt, the NEC teams may verify with Forms 1116 v.c., 1103 and 1109.

The verification report and Form 1107 v.c. are then submitted to the NEC's Secretary General for comments, so that the NEC can make a final decision.

5.5. NEC's Preventive Procedures

The above process details the assured preventive procedures put in place by the NEC to be applied at various stages of the entire electoral process to prevent possible fraud. These including such features as:

- 1) The opening of all packages containing ballot papers to be used must be visible to and verifiable by the political parties' agents and observers. The ballot papers are packed in a coded package which is securely taped, and can be opened only in the presence of the political parties' agents and observers on polling day.
- 2) The unique stamp of each polling station is securely sealed in an envelope, which can be opened only at the time of the polling station preparation for polling, sometime between 6:30 AM and 7:00 AM, witnessed by political parties' agents and observers.
- 3) All ballot papers must be stamped with the polling station's unique stamp on the back, and shown by voters to Assistant #1 before being dropped into the ballot box through a slot visible to everyone, including the political parties' agents and observers.
- 4) Using indelible ink to prevent voter from casting more than one ballot.
- 5) Deliberate redundancy in all recording of the total number of ballots cast at each polling station, the number of valid, invalid and spoiled ballots and the number of votes received by each party. Separate copies of the forms recording these figures are sent up the chain to higher level electoral committees for cross-checking and consolidation. In addition, the ballots themselves and the tally sheets posted on the walls during the initial count are sent to the NEC.
- 6) In case they witness an irregularity at any stage in the process, political parties' agents may file an oral complaint to the relevant authority for resolution. If the resolution of the complaint is not acceptable, the complainant may file a written complaint to a higher level within the fixed time period.

6. Preliminary Results

The NEC announces the preliminary results based on Form 1104 from each PSC, Form 1105 from each CEC and Form 1110 from each PEC through national radio and TV on the evening of the polling day and on the day after the polling day.

Based on the preliminary results and on Form 1104, which the CPP had received from each polling station, it claimed that it had obtained 68 seats and the CNRP had obtained 55 seats. Meanwhile, the CNRP announced that it had gained 63 seats, while 60 seats had gone to the CPP, without producing any supporting documentation. If the CNRP had used Form 1104, which its party's representative had received from each polling station, the results should not have been different.

Note: In the 2013 Election, all political parties' agents and observers had access to the primary data posted in front of the office of each PSC (Form 1102).

7. Provisional Results

The provisional results of each capital/province throughout the country based on Form 1102, 1103, 1111 were announced by TVK at 9:00 AM on 12 August 2013 as follows:

1.	Cambodian Nationality's Party	38,123
2.	FUNCINPEC Party	242,413
3.	Republican Democracy Party	33,715
4.	Cambodian People's Party	3,235,969
5.	Khmer Economic Development Party	19,152
6.	Khmer Anti-Poverty Party	43,222
7.	Cambodian National Rescue Party	2,946,176
8.	League for Democracy Party	68,389

It took more than ten days after the polling day for the NEC to announce the provisional results because the NEC needed time to verify and cross-check the results and to resolve complaints filed at CECs, PECs, and the NEC, according to the complaints timetable, as precisely defined in the NEC Regulations and Procedures and calendar.

8. Official Results

After posting of the provisional results of the elections and once all complaint matters are resolved at the NEC and the Constitutional Council, and a report made on verification of ballot papers used in the election, the seat allocation team must prepare the draft official election results, the draft seat allocation results, and the draft elected candidate list for the NEC's examination and official approval, via the NEC Secretary General. The NEC then announces the official election results, the seat allocation results, and the elected candidate list.

III. Observers and Political Parties' Agents

1. National and International Observers

For the 2013 Election, the NEC accredited election observers from 35 associations, organizations embassies, countries and political parties. The NEC accredited 292 international election observers, and 40,142 national observers, including COMFREL observers present in every polling station. Based on a new decision made on 23 July 2013, only a few days before polling day, the NEC also accredited 9,931 observers from SRP (in 17 provinces and 1 Capital) and 4,780 observers from HRP (in 7 provinces and 1 Capital).

Among those international observers were dignitaries from certain countries and organizations such as the former five-term Speaker of the House of Representatives of the Philippines, a former Vice President of Indonesia, former Deputy Prime Ministers of Canada and the Republic of Korea, a Senator from Pakistan, Chairmen of the Election Commission of the Philippines, Thailand and Myanmar, election commissioners from Malaysia, Laos and Russia and the Director of Community Affairs Development of the ASEAN Secretariat. The Statements of CAPDI led by the Honorable former Speaker of the Philippines and former Vice President of Indonesia stated "The ICAPP-CAPDI considers the elections in Cambodia as a triumph of popular will and a victory of the Cambodian people in their quest to build a better future based on the supremacy and sanctity of the ballot. That the elections were free, fair and transparent, and, above all, peaceful, non-violent and smooth, bears testimony to the fact that Cambodian democracy has not only matured, but come of age politically. We extend our heartiest congratulations to the people, political parties, leaders, media, civil society and the NEC of Cambodia for the successful and orderly conduct of the general election." The Chairperson of the Election Commission of Myanmar also appreciated the opportunity in gaining the lesson learned from the election in Cambodia, and virtually all other delegations also expressed their satisfaction with the smooth and peaceful environment of the pre-election day and the polling and vote-counting day, stating that they considered that this was a free and fair election.

2. Political Parties' Agents at Polling Stations

For the 2013 Election, the NEC initially accredited 99,481 agents of political parties, among whom CPP had 19,009 agents and 19,013 reserve agents; CNRP had 18,012 agents and 17,514 reserve agents; FUNCINPEC had 14,839 agents and 10,044 reserve agents.

IV. COMPLAINTS

LEMNA and NEC Regulations and Procedures prescribe the procedures to be followed in filing, receiving and resolving complaints that may arise during the various stages of the electoral process, including the revision of the Voter List and registration of names, registration of political parties and candidates, the electoral campaign, the polling and vote-counting process and the announcement of preliminary results. In addition, procedures are prescribed regarding complaints against electoral officials and leadership of the election commissions at all levels.

The members of the NEC and the election commissions at all levels shall be neutral and impartial in the implementation of their electoral duties. Any person can file a complaint against electoral officials if they see that any officials do not perform their duties as stipulated in LEMNA, Regulations and Procedures, and by-laws.

1. Complaints related to the Voter List

In 1993, the first Voter List was created by UNTAC, then in 1998 the NEC conducted a new voter registration. In compliance with LEMNA, citizens were obliged to present their supporting documents to register their names in the Voter List, except for those who had voter cards issued by UNTAC, who were able to be automatically registered for the 1998 general election. Since then the Voter List has been subsequently updated by the NEC annually according to LEMNA. This updating process permits all eligible voters to request the addition of their name as voters and permits those whose names are on the list to examine their details and request correction if necessary and/or deletion of any duplication of their name. Such correction or deletion may be requested only via submitting a formal request or the basis of a judicial decision.

If a request for registration of a name is rejected by the commune/sangkat clerk, the citizen who filed the request has the right to file a written complaint to the Commune/Sangkat Council within 3 days. The Commune/Sangkat Council is obliged to hold a public meeting within a further 3 days and decide by majority vote. If this request for addition of a name is rejected by the Commune/Sangkat Council, the citizen has the right to file a written complaint to the NEC within 5 days. The NEC is obliged to hold a public meeting within a further 5 days and make a decision. If this request for addition of a name is rejected by the NEC, the citizen has the right to file a written complaint to the Constitutional Council within 5 days. The Constitutional Council is obliged to hold a public meeting within a further 10 days and make a decision. Once all complaints have been resolved, the NEC must post the preliminary updated Voter List in each commune/sangkat.

After posting of the preliminary Voter List, during an election year, a citizen has the right to file a written complaint, within 10 days of the posting of the Voter List, to the Commune/Sangkat Council regarding a missing name, duplicate names or requesting correction of his/her name and/or details, or objecting to the inclusion or retention of any name in the Voter List. The Commune/Sangkat Council is obliged to hold a public meeting within a further 3 days and decide by majority vote. If this request is rejected by the Commune/Sangkat Council, the citizen has the right to file a written complaint to the NEC within 5 days. The NEC is obliged to hold a public meeting within a further 5 days and make a decision. If this request for is rejected by the NEC, the citizen has the right to file a complaint to the Constitutional Council within 5 days. The Constitutional Council is obliged to hold a public meeting within a further 10 days and make a decision. Once all complaints have been resolved, the Voter List becomes official.

Note: During the 2012 revision of names and data and registration of new names for the 2013 Election, the Commune/Sangkat Councils received two complaints.

Case 1: on 12 October 2012, O Char Commune Council in Battambang province received a complaint from the Sam Rainsy Party alleging that the chief of Anchanh village falsified a thumb print in order to delete the name of Mr. Chea Chhork from the Voter List. On 18 October 2012, this complaint was rejected by the O Char Commune Council on the ground that the name of Mr. Chea Chhork had not been deleted from the Voter List as claimed in the complaint.

Case 2: on 7 October 2012, Samrong Commune Council in Prey Veng received a complaint from the Human Rights Party, requesting the deletion of a number of names from the Voter List that had been registered on 5 October 2012 at Registration Office #0898 on the ground that those persons were not residents of that commune. On 9 October 2012, the Samrong Commune Council held a meeting and rejected this complaint, stating that according to LEMNA, such a complaint should be filed later, during the period of posting the preliminary list.

During the stage of posting the preliminary Voter List, the Commune/Sangkat Councils throughout the country received a total of 35 complaints, of which 7 were filed by the Sam Rainsy Party, 2 by the CPP, 26 by individual citizens (2 from Kampong Chhnang, 14 from Kandal, 13 from Phnom Penh, 1 from Prey Veng, 1 from Svay Rieng and 4 from Pailin). Of these complaints, 18 requested the retention of 22 names and 17 requested the deletion of 573 names. The Commune/Sangkat Councils decided to retain 19 of the 22 names so requested, and the deletion of 89 of the 573 names so requested, on the basis of LEMNA and relevant Regulations and Procedures. Of these complaints, 8 were appealed by the Sam Rainsy Party to the NEC (7 requests for deletion of 357 names from Kandal and 1 request for retention of 1 name from Phnom Penh). The NEC decided to delete 11 names of the 357 so requested and rejected the request for retention.

Three complaints were further appealed to the Constitutional Council from the Sam Rainsy Party (2 requests for deletion from Kandal and 1 request for retention from Phnom Penh). The Constitutional Council decided to uphold the decision of the NEC in all 3 cases.

The process of handling the two complaints filed during the stage of revision and registration of new names and the 35 complaints filed during the stage of posting the preliminary list were conducted professionally and smoothly. The complaints were resolved in accordance with LEMNA by the Constitutional Council, the NEC and the Commune/Sangkat Councils, which had been delegated by the NEC with the task of annually updating the Voter List.

LEMNA clearly prescribes that once all complaints have been resolved, the Voter List becomes official. Any election must use the latest updated Voter List; therefore the NEC used the 2012 updated Voter List in the election of 28 July 2013, and any registered voter whose name is on that list is legally entitled to cast a ballot without hindrance or obstruction. Any hindrance or obstruction preventing a citizen from casting a ballot is therefore a legal offence, and violates legal rights of the citizen as prescribed in the Constitution and LEMNA.

Note: The NEC declared on 24 October 2012, that 4,667 political agents and 1,634 national and international observers were participating in the process of voter list revision and voter registration in 2012. However, as COMFREL reports “two main opposition political

parties, the Sam Rainsy Party (SRP) and Human Rights Party (HRP) boycotted observation saying that the voter process registration and the deletion of voter's names was very complicated; also the opposition parties said the in-charged officials for voter registration and audit of Voter List were mostly from Cambodian People's Party (CPP)". (COMFREL *Voter List, Voter Registration, And Audit of the Voter List plus Verification of the Deletion Forms For the 2013 National Election (Svra-Plus)*, page 8)

Audits of Voter List

COMFREL Audit

The Committee for Free and Fair Elections in Cambodia (COMFREL) carried out a "people to list" audit between June 2012 and January 2013, into the accuracy of the Voter List, and the process of voter registration and updating the Voter List.

Some 2,600 eligible voters from 223 polling stations nationwide were interviewed about voter registration and then the data from the survey was cross-checked against the NEC's 2012 Voter List for the 2013 national election.

COMFREL evaluated the accuracy of the 2012 Voter List as a little better than previously observed in their 2008 and 2011 surveys. 97.7% of the people interviewed claimed to have registered to vote. When checked on the Voter List, the data for these persons showed an accuracy of the names of 83.4%; date of birth of 75.1%; gender of 86.2%; and address of 77%.

However, when they checked the Voter List, COMFREL could not find 13.5% of the names of eligible voters in their sample interviewed. This figure was extrapolated to suggest that there were 1.25 million "missing voters" across the country, as has been widely reported in the media.

The NEC deeply regrets that COMFREL refused to cooperate with the NEC in providing the data of the 13.5% of respondents who said that they have registered but their names were not found on the Voter List, on the ground of protecting the respondents' privacy, although the NEC has assured COMFREL that the NEC will not release the respondents' identities.

In addition to checking the accuracy of the Voter List, the COMFREL survey asked a number of questions about people's attitudes to the registration and electoral process, producing the following positive responses:

96.80% said that the NEC voter registration procedure is not difficult

(80.60% "not difficult at all" and 16.20% "not very difficult")

98.26% felt "no fear during voter registration"

Little publicity was given to the positive aspects of the COMFREL survey, but instead focus was placed on COMFREL's dramatic claim of 1.25 million "missing names". It should be noted that

in 2007 COMFREL claimed that 2.5 million names were missing and in 2012 the figure was reduced to 1.5 million.

(COMFREL, Voter List, Voter Registration, and Audit of the Voter List plus Verification of the Deletion Forms for the 2013 National Election (Syra-Plus)

NDI- NICFEC-CAS Voter Registry Audit

The National Democratic Institute (NDI) of the USA in collaboration with the Neutral & Impartial Committee for Free & Fair Elections in Cambodia (NICFEC) and the Center for Advanced Study (CAS) of Cambodia carried out their third voter registry audit in February 2013. Previous such audits had been carried out in 2007 and 2008.

Some 4,893 respondents from 414 communes across Cambodia were interviewed about voter registration and then the data from the survey were cross-checked against the data from the NEC's 2012 Voter List for the 2013 national election.

82.9% of eligible voters claimed to have registered to vote. When checked on the Voter List, the data for these persons showed that 80.7% of names on the registry were valid and up-to-date, while the accuracy of the names was 86.4%; date of birth 63%; gender 98.2%; and address 86.3%.

10.8% of eligible citizens who thought they were registered were not found on the voter registry. Paradoxically, 7.8% of eligible citizens were not found on the voter registry even though they said they voted in the 2008 and/or 2012 elections.

In addition to the above "people to list" survey, the survey also attempted to check the accuracy of the Voter List by conducting a "list to people" test, by attempting to identify and then locate a representative sample of people whose names are selected at random from the voter registry and from the list of names recently deleted from the list. This "list to people" test gave the following results: 80.7% of names on the list were valid and up to date, the remaining 18.3% were invalid, of whom 0.5% were confirmed deceased, 7.4% permanently relocated, 10.4% unknown to people in that community (constituting the so-called "ghost voters"), and 0.9% "others".

The NEC deeply regrets that NDI in 2013 refused to cooperate with the NEC in providing the data of either the 10.8% of respondents who said that they have registered but their names were not found on the Voter List, or the 10.4% "ghost voters" on the ground of protecting privacy, although the NEC has assured NDI that the NEC will not release the respondents' identities. By contrast, in 2008 NDI gave the names of 88 persons whose names they could not find on the Voter List, but the NEC managed to find that 15 still had their name in 2007 lists, 7 had registered twice, 19 had 2 names in one polling station, 9 had 2 names, 31 had moved out of the commune, 2 had lost their right to vote, 2 had died, 2 had no residence, and 1 had not registered.

In addition, to checking the accuracy of the Voter List, the NDI survey asked a number of questions about people's attitudes to the registration and electoral process, producing the following positive responses:

97.1% said that the NEC voter registration procedure was simple & easy

91.3% had confidence in the voter registration process

(65% very confident + 26.3% somewhat confident)

(NDI Report on the Voter Registry Audit in Cambodia: 2013)

Audit commissioned by the NEC

To demonstrate its transparency and integrity in compiling the Voter List, as well as the accuracy of the lists themselves in response to claims by NGOs regarding "missing names" not on the Voter List, the NEC commissioned two private companies to conduct an independent "people to list" audit on the 2012 Voter List.

The completeness of the Voter List has been called into question by allegations of "missing names", but those allegations were based on surveys relying on various different sources of population statistics. The NEC formulated its own statistical base geared towards registration, using the number of voting age population to show the number of eligible voters living in each commune/sangkat up to the ending of the registration period. Any other statistical base is unreliable for the purpose of evaluating the completeness of Voter List.

A sample of at least 100 eligible voters from each capital/province was surveyed. Of these 2,472 persons, 91% (2,236) claimed to have registered to vote, while 9% (236) claimed they have never registered to vote (as compared to 13.5% reported by COMFREL and 10.8% by NDI). The audit companies then undertook a two-stage verification procedure to check the 2,236 names with the Voter List. The first stage of the verification resulted in 97% (2,169) being found on the list, while 3% (67) names were not found. An advanced name search found all of the 67 names (3%) not initially found on the lists: one name was deleted in 2009; one name was deleted in 2010; one name was deleted in 2012; and 64 names were deleted before 2006).

In addition, the names of 11% of those who claimed never to have registered (26 of 236) were actually found on the lists.

(Final Report: Voter Registry Survey, People-to-List Test. Prepared by Business and Marketing Research Solutions Asia for the National Election Committee, Cambodia. June, 2013)

Note: The three audits give significantly different figures for the number of people who said they had registered (COMFREL 97.7%, NDI 82.9%, NEC 91%). One must always take with caution people's statement as to whether they had or had not registered – they could have misremembered, or they could have thought that the interviewer wanted them

to give a positive response to the question. The possibility that COMFREL's figure over-reported the reality could significantly or even completely account for its projected 1.25 million "missing voters".

2. Complaints related to the Registration of Political Parties and Candidates

During the 2013 election period, no complaints were filed in relation to the registration of political parties and candidates. However, the leader of the CNRP, Mr. Sam Rainsy, on his return to Cambodia following his royal pardon, sent two letters to the NEC requesting reinstatement of his name in the 2012 Official Voters' List and the inclusion of his name in the CNRP's candidate's lists. The NEC was not able to positively respond to both requests. With regard to restoring his name back into the 2012 Voter List, the NEC decided this was not possible. Firstly because his name had been deleted from the Voter List of Sangkat Boeung Raing, Phnom Penh, as he had moved out of that sangkat (living overseas); secondly his name had been deleted due to his criminal conviction. By contrast, although his wife had moved out of the commune, she went on to register in person in her new place of residence. Furthermore, since Mr. Sam Rainsy is now living in Cambodia, he will have a chance to reinstate his name in the Voter List like any other eligible voter, by registering in person as required by LEMNA, during this coming 2013 annual update of the Voter List revision and voter registration from 1 to 20 October 2013. Unfortunately, the NEC was not able to approve his second request either, due to a number of factors. Firstly, any candidate must have a registered name in the Voter List. Secondly, in reference to this legal provision, the CNRP was not able to include his name on their list of candidates contesting the 2013 Election. Thirdly, the period for registration of political parties and lists of candidates was already long over. Furthermore, fourthly, according to LEMNA, once the list of registered political parties and candidates lists had been validated by the NEC, it could not be amended before the 2013 Election.

3. Complaints during the Election Campaign

During the electoral campaign period, in the event of any violation of LEMNA, and/or NEC Regulations and Procedures, and/or the various Codes of Conduct issued by the NEC relating to campaign activities, any person may file a complaint to CECs within 3 days of the incident. The CEC is obliged to reconcile the dispute promptly within a reasonable time. If the reconciliation is not successful, the complainant may file a complaint to the PECs within 3 days. The PEC is obliged to resolve the complaint promptly within a reasonable time by carrying out a thorough investigation. The PEC is obliged to begin with an attempt at reconciliation, but if not successful, must hold a public hearing within one day. If dissatisfied with the resolution by the PEC, the complainant may file a complaint to the NEC within 3 days of receiving PEC's decision. The NEC is obliged to resolve the dispute promptly within a reasonable time by carrying out a thorough investigation. If dissatisfied with the decision taken by the NEC, the complainant may file a complaint to the Constitutional Council within 3 days of receiving the NEC's decision. The Constitutional Council is obliged to resolve the dispute within 10 days.

According to the Regulations and Procedures, the CECs, PECs and the NEC have the right to immediately reject any complaints filed outside the prescribed time limit, and to issue a rejection letter for any complaint that is not based on a violation of LEMNA or Regulations and Procedures.

During the 2013 Election Campaign, 373 complaints were filed with the CECs. Some of the complaints were not filed within the deadline outlined in the Regulations and Procedures. After resolution by CECs, 122 were appealed to the PECs. After resolution by the PECs, 44 were further appealed to the NEC. After resolution by the NEC, 12 were even further appealed to the Constitutional Council. These complaints related to a number of offences, namely, campaigning outside the hours permitted by the NEC, not following the schedule allocated to each political party, refusing to obey the Regulations and Procedures and the code of conduct for political parties, which prohibit acts such as inciting supporters or voters to commit offences against LEMNA, threatening or committing violence, swearing or defaming.

All the received complaints were resolved following thorough investigation according to LEMNA and the Regulations and Procedures. Some complaints were resolved to mutual satisfaction, especially at field level (CECs) where hot campaign activities and actions had taken place, others were withdrawn, while others were resolved through transparent public hearings.

Most of the complaints had no supporting evidence to permit the electoral officials at each level to resolve them. Of those complaints that did have sufficient supporting evidence, the electoral officials at each level, particularly the NEC, took the following measures against 24 offenders:

- 16 persons were given a warning letter
- 1 person was given a verbal disciplinary warning
- 3 persons were fined 5,000,000 riels
- 1 person had his/her name removed from the Voter List for a period of 3 years
- 1 person was given a reminder
- 2 persons were referred to the Ministry of Interior and Ministry of Education, Youth and Sports, respectively, for sanction

The reduction through the appeal process in the number of complaints from 373 at the CECs to 122 at the PECs, to 44 at the NEC, and finally to 12 at the Constitutional Council, as well as the imposition of certain penalties, shows a high level of responsibility by the election officials at all levels, despite all challenges, time constraints and limited available resources.

4. Complaints related to Media Access

In the 2013 Election, no complaints were filed in relation to equal media access; however, it is noted that on 26 July 2013, the NEC took action against ABC Radio Station for airing

provocative news by sending a letter to the Ministry of Information to temporarily shut down this radio station.

5. Complaints arising during the Pre-election Day (White Day)

The election campaign lasts 30 days and must come to an end 24 hours before the poll takes place. The day before polling day is called the “white day” or quiet day during which political parties are not allowed to campaign. In the event campaigning takes place, any person can file complaints with CECs by 11:30 AM on the day after the poll, except complaints requesting individual punishment which may be filed within 3 days as prescribed by the campaign procedures. If no complaints are lodged by 11:30 AM on the day after the poll, irregularities are considered not to have taken place. If complaints have been filed, the CECs must hold a meeting and make a decision within 2 days. If the complainants are not satisfied with the decision, they can file a complaint to the PEC within 2 days of the decision. The PEC must hold a meeting and make a decision within 3 days. If the complainants are not satisfied with the decision, they can file a complaint to the NEC within 2 days of the decision. The NEC must resolve the complaint within 3 days.

Note: During the 2013 “white day”, five complaints were filed with the CECs (1 in Banteay Meanchey, 1 in Battambang, 1 in Kampot, 1 in Prey Veng and 1 in Takeo). Of these complaints, 2 were appealed to the PECs and 1 was appealed further to the NEC.

6. Complaints on the Polling and Vote-counting Day

The polling and vote-counting are carried out in accordance with precise mechanisms and procedures; particularly all political parties’ agents and observers witness the process of polling and vote-counting in all stages.

The polling stations become the vote-counting stations once the polls end at 3:00 PM.

Political parties’ agents have the right to immediately raise verbal complaints or objections against the conduct of polling and vote-counting officials or any decision made by the chief of the PSC at their respective polling stations to the chief of the PSC, giving reasons and providing evidence of any irregularities or violations of LEMNA or the Regulations and Procedures at the polling stations. The chief of the PSC must immediately resolve the complaints or objections.

The political parties’ representative dissatisfied with the decision made by the chief of the PSC may file a complaint with the CEC by 11:30 AM on the day following the election. The CEC then holds a meeting and resolves the complaint within 2 days. In case the complainant is dissatisfied with the decision made by the CEC, he or she may appeal to the PEC within 2 days. The PEC is obliged to resolve the complaint within 3 days. In case the complainant is dissatisfied with the decision made by the PEC, he or she may further appeal to the NEC within 2 days. The NEC must resolve the complaint within 3 days.

Note: During the polling and vote-counting process of the 2013 Election, no complaints or objections were made against the polling and vote-counting and all political parties’ agents

at all polling stations signed Forms 1101, 1102 and 1108, as well as the tally sheets. This means that they recognized the polling and vote-counting process as having been organized in a smooth manner and proceeded with no irregularities.

In contrast, on the polling day 281 complaints were filed with the CECs. The 281 complaints were filed by: CNRP 151; CPP 65; individuals 50; FUNCINPEC 1; observers 8; SRP observers 4; electoral officials 1; HRP observers 1, alleging offences such as the following:

disturbing the polling process	49
intimidating voters	30
preventing voters from casting their votes	28
recording names, taking photos, questioning voters at the polling stations	24
allowing voters to vote with insufficient proof of identity	20
curbing political parties' agents and observers exceeding their rights	12
permitting immigrants to vote	10

Observations on the complaints filed on polling and vote-counting day

Harassment: 29.1 % of complaints related to forms of harassment, including intimidating voters; preventing voters from casting their votes and recording names, taking photos and questioning voters at the polling stations. The majority of these consisted of people allegedly challenging intending voters, charging them as being not Khmer, or being “yuon” (Vietnamese), and the majority of these incidents took place in Phnom Penh and Prey Veng (including all of the official complaints regarding preventing voters from casting their votes).

Disturbance: 17.1% of complaints filed related to disturbing the polling process. This is a serious infringement of the Constitution and LEMNA. One such complaint was filed by the CPP representative in Sangkat Chak Angre Krom, Phnom Penh, against CNRP activists including Mr. Sam Rainsy, the leader of that party.

Indelible ink: This is the first time that the ink issue has been raised in Cambodian elections. On 27 July 2013, COMFREL issued a press statement claiming that their staff tested the ink and it could be washed off easily within a few minutes. This claim was widely reported and caused considerable concern among the public that voters could thereby be able to cast multiple ballots, although only five complaints were filed relating to the indelible ink, all of which charged CNRP's agents agitating and discrediting the election by repeating this allegation and inciting voters to wash the ink off. In Dei Eit Commune, Kandal Province, a complaint was filed by an individual citizen charging the Deputy Commune Chief, acting as a political party representative for CNRP, with shouting inside the polling station itself about the ink. In Sangkat Nirot, Phnom

Penh, the CPP filed a complaint charging CNRP representative with attempting to wash the ink off in front of Russey Sros polling station.

An article entitled: *Despite Concerns, Little Evidence of Faulty Election Ink* stated: “However, COMFREL observers in northwest Cambodia said that tests of the security ink showed that it was certainly indelible. In Ratanakkiri, Kratie and Mondolkiri provinces, attempts to wash off the ink with readily available substances were unsuccessful”, according to Devin Morrow who worked with COMFREL as an election observer” (*The Cambodia Daily*, 31 July 2013, p. 20).

A team of 14 observers from the Khmer Institute of Democracy registered with NEC through COMFREL, observed 20 polling stations and indicated that: “Following up on a media report on the indelible ink, team members did a test by inviting voters to clean off the ink after they voted, walking steps or minutes away from the polling stations. Water, soap, lemon, rubbing alcohol, and gasoline were substance we could best find and therefore used.... According to the test, voters and our own observation, the ink could not be completely cleaned off... photos and videos of the ink rubbing are available upon request.” (Khmer Institute of Democracy, web page accessed 16 August 2013).

A few international observers, who also tested the indelible ink on their fingers confirmed that the ink could not be removed.

As mentioned above, the Government of India donated 40,000 jars of indelible ink. Since 1998, the NEC has used this top quality ink produced by a state-owned company. This ink is used widely for election purposes in Afghanistan, Malaysia, Nigeria, Singapore, South Africa and Thailand, as well as throughout India. The indelible ink is used to mark voters' fingers and it cannot be washed off for at least 7 days.

To sum up, out of the above 281 complaints filed on polling day, 109 were appealed to PECs. Of these 109 complaints, 38 were appealed to the NEC. Of those 38 complaints, 12 were further appealed directly to the Constitutional Council.

Most of the complaints did not have sufficient supporting evidence to permit the electoral officials at each level to resolve them. But regarding those complaints that did have sufficient supporting evidence, the electoral officials at each level, mainly at the NEC, took the following measures against 25 offenders:

- 11 persons were given a warning letter
- 11 persons had their names removed from the Voter List for a period of 3 years
- 1 person had voting rights withdrawn for a period of 3 years
- 2 persons were referred to the Ministry of Interior for sanction

The reduction in the number of complaints from 281 at the CECs to 109 at the PECs, to 38 at the NEC, and finally to 12 at the Constitutional Council, as well as the imposition of certain penalties show a just process of resolution and a high level of responsibility by the election officials at all levels.

All complaints regarding any alleged irregularities during polling day were resolved by the NEC on 10 August 2013 in accordance with LEMNA and Regulations and Procedures. As a result, the announcement of the provisional results, originally scheduled to be made on 10 August 2013, was postponed until 9:00 AM of 12 August 2013.

7. Provisional Results

According to Article 114 of LEMNA, after the announcement of the provisional results of the Election, all political parties registered for the election may file a complaint against all or part of the election results within 72 hours to the NEC or Constitutional Council indicating alleged irregularities caused by the Commissions or Members of the Commissions, the date and the place where such irregularities have taken place, the names and addresses of witnesses, together with other documents or evidence. The NEC shall rule on the complaint within 48 hours after receiving it. Any person or/and political party whose appeal is rejected by the NEC may appeal in writing to the Constitutional Council within 72 hours after receiving the rejection notice.

The provisional results were announced by the NEC at 9 AM on 12 August 2013 on TVK. On 14 and 15 August 2013, the CNRP filed 17 complaints against the provisional results (1 complaint against the total of the provisional results for 24 capital/provinces, and 16 complaints against the provisional results in Banteay Meanchey, Battambang, Kampong Cham, Kampong Chhnang, Kampong Speu, Kampong Thom, Kampot, Kandal, Kratie, Phnom Penh, Prey Veng, Pursat, Siem Reap, Preah Sihanouk, Svay Rieng and Takeo).

The NEC resolved all the complaints within 48 hours. Four complaints were decided through summary judgment (Battambang, Kandal, Kratie and Siem Reap) and the other 13 complaints were rejected through notification letters of rejection based on LEMNA and the Regulations and Procedures, after the NEC had carefully examined the complaints, conducted direct interrogations of the complainants and examined evidence provided by the complainants indicating that irregularities were caused by the Commissions or Members of the Commissions.

8. Rulings of the Constitutional Council on Appeals

The CNRP filed 15 appeals to the Constitutional Council against the decisions by the NEC. Some of these appeals also included new issues, which were regarded by the Constitutional Council as unlawful for the consideration, as they had not been filed within 72 hours of the official announcement of the provisional results.

Of these 15 appeals, eleven are in process, and the NEC was ordered by the Constitutional Council to open the Safety Packages A for four provinces, namely Kratie, Battambang, Siem Reap and Kandal.

Kratie Province

On 23 August 2013, the Constitutional Council ruled that the NEC should open the Safety Packages A of 13 polling stations in Svay Chres Commune, Kratie Province for verification on 25 August 2013. The Safety Packages A were opened in the presence of 3 members and 3 secretaries of the Constitutional Council, 13 representatives from the NEC, 2 representatives from CPP, 2 representatives from CNRP, 1 representative from FUNCINPEC, 52 media representatives, as well as 15 local and international NGO observers.

After opening the Safety Packages A of 13 polling stations of Svay Chres Commune, Kratie Province, the NEC verified Forms 1102, 1108 and the tally sheets. These forms showed that no complaints on irregularities had been made either during the polling and vote-counting or after counting and that political parties' agents from CPP, CNRP and FUNCINPEC, along with observers had been present at the time, and all political parties' agents had signed all forms at the polling stations.

However, the NEC observed that mistakes had been made in the process. Among 13 polling stations, the Safety Packages A of 8 were unsealed. However, the NEC found that the figures of ballots received by each political party still remained unchanged in every polling station. The plaintiffs from CNRP agreed that those signatures on all forms belonged to their agents.

The Constitutional Council convened a public hearing on 30 August 2013 on the appeal filed by the CNRP. The Constitutional Council upheld all the decisions made by NEC and ordered the NEC to sanction 8 polling station officials who made the mistakes, as well as those involved at higher levels.

Battambang Province

On 26 August 2013, the Constitutional Council ruled that the NEC should open Safety Packages A of 8 polling stations in Battambang City, Battambang Province, for verification on 28 August 2013. The Safety Packages A were opened in the presence of 3 members and 3 secretaries of the Constitutional Council, 13 representatives from the NEC, 2 representatives from CPP, 3 representatives from CNRP, 2 representatives from FUNCINPEC, 61 media representatives, as well as 30 local and international NGO observers.

After opening the Safety Package A of 8 polling stations of Battambang City, Battambang Province, the NEC verified Forms 1102, 1108 and the tally sheets. These forms showed that no complaints on irregularities had been made either during the polling and vote-counting or after counting and that political party agents from the CPP, CNRP and FUNCINPEC, along with observers, had been present at the time, and all political parties' agents had signed all forms at the polling stations.

The NEC observed that all the 8 Safety Packages A were correctly sealed, and the NEC found that the figures of ballots received by each political party remained unchanged in every polling station, and are consistent with the Form 1104 held by the CNRP. However, there were some mistakes in which Forms 1102 from 2 polling stations were not filled in at all but bore only the signatures of the polling officials and the political party agents. Nevertheless, Form 1108 and the tally sheets provide the same data for both of these polling stations.

At the time of compiling this White Paper, the Constitutional Council has yet to hold a public hearing or issue any decisions on Battambang Province.

Siem Reap Province

On 28 August 2013, Constitutional Council decided that the Safety Packages A of 12 polling stations in Siem Reap City and Pourk District, Siem Reap Province, should be opened on 30 August 2013. The Safety Packages A were opened in the presence of 3 members and 3 secretaries of the Constitutional Council, 13 representatives from the NEC, 3 representatives from CPP, 2 representatives from CNRP, 1 representative from FUNCINPEC, 53 media representatives, as well as 66 local and international NGOs' observers.

After opening the Safety Packages A of 12 polling stations of Siem Reap City and Pourk District, Siem Reap Province, the NEC verified Forms 1102, 1108 and the tally sheets. These forms showed that no complaints on irregularities had been made either during the polling and vote-counting or after counting and that political parties' agents from CPP, CNRP and FUNCINPEC, along with observers had been present at the time, and all political parties' agents had signed all forms at the polling stations.

However, the NEC observed that mistakes had been made in the process. Among 12 polling stations, the Safety Packages A of 7 were unsealed and Form 1102 from 1 polling station was not filled in at all but bore only the signatures of the polling officials and the political parties' agents. Nevertheless, Form 1108 and the tally sheets provide the same data for this polling station. Overall, the figures of ballots received by each political party remained unchanged in every polling station. The plaintiffs from CNRP agreed that those signatures on all forms belonged to their agents.

The representatives of the CNRP then requested the NEC to re-examine the validity of all ballot papers previously declared invalid and to add any newly validated ballots to the tally for each party. The Constitutional Council team refused this request, maintaining that the Constitutional Council had ordered the NEC to re-open the Safety Packages A only to verify the forms. The CNRP representatives stated that they refused to continue to participate if the process did not include what they had requested. The Constitutional Council decided that the process should continue even in their absence and the CNRP representatives then changed their minds and continued their presence in the verification process.

At the time of compiling this White Paper, the Constitutional Council has yet to hold a public hearing or issue any decisions on Siem Reap Province.

Kandal Province

On 30 August 2013, Constitutional Council decided that the Safety Packages A of 8 polling stations in Sangkat Takhmao, Takhmao City, Kandal Province, should be opened on 1 September 2013. The Safety Packages A were opened in the presence of 3 members and 3 secretaries of the Constitutional Council, 13 representatives from the NEC, 2 representatives from CPP, 3 representatives from CNRP, 1 representative from FUNCINPEC, 33 media representatives, as well as 47 local and international NGOs' observers.

After opening the Safety Packages A of 8 polling stations of Sangkat Takhmao, Takhmao City, Kandal Province, the NEC verified Forms 1102, 1108 and the tally sheets. These forms showed that no complaints on irregularities had been made either during the polling and vote-counting or after counting and that political party agents from CPP, CNRP and FUNCINPEC, along with observers had been present at the time, and all political parties' agents had signed all forms at the polling stations.

The NEC observed that all Safety Packages A were correctly sealed. However, some mistakes had been made in the process. In the Safety Package A from 1 polling station, electoral officials had mistakenly placed two copies of Form 1101 instead of one Form 1101 and one Form 1102, and two copies of Form 1102 were sent to CEC in Package B. Nevertheless, Form 1108 and the tally sheets provide the same data on votes received for each party and so the figures remained unchanged in this polling station. The plaintiffs from CNRP agreed that those signatures on all forms belonged to their agents.

At the time of compiling this White Paper, the Constitutional Council has yet to hold a public hearing or issue any decisions on Kandal Province.

All in all, the Constitutional Council decided to order the NEC to open a total of 41 Safety Packages A. It is important to put this in perspective and to realize that the ballots were cast in a total of 19,009 polling stations.

At the time of compiling this White Paper, the total number of polling station results to be confirmed or overturned by the Constitutional Council is not yet known.

V. PROPOSAL TO ESTABLISH NEW MECHANISM WITH UN AND NGO PARTICIPATION

The day after the polling and vote-counting day, the CNRP proposed establishment of a new mechanism outside the framework of LEMNA. The new mechanism, which was referred to by the CNRP variously as a “Joint Committee” or “Special Committee”, was proposed to investigate irregularities alleged to have taken place on 28 July 2013. A number of different proposals were put forward regarding the composition of this Committee: it should be under the leadership of UN; the UN or NGOs should have a dominant role; the NEC should have only a facilitator role; or no role for the NEC or Constitutional Council which by law are the bodies mandated to deal with elections. No countries have endorsed the CNRP’s call for such a new mechanism.

Under its jurisdiction and responsibility, the NEC responded to the CNRP proposal on 31 July 2013 by announcing that all political party agents should file any reports of irregularities in the electoral process with PECs or the NEC from 2 to 6 August 2013. The NEC received reports on 48 cases from three different stakeholders: political parties (CPP, CNRP and FUNCINPEC), authorities and individuals in 11 Capital/Provinces (Phnom Penh City, Battambang, Kampong Chhnang, Kampong Speu, Kandal, Kratie, Preah Vihear, Prey Veng, Pursat, Takeo and Oddor Meanchey).

On 3 August 2013, the NEC held a meeting with CPP and CNRP participation resulting in an in-principle agreement to establish a special committee to deal with alleged irregularities on polling day, and proposed to hold a second meeting. At that time, on 3 August 2013, the NEC requested that each party put forward the names of their party’s representatives for the committee. In response, the CPP named four representatives; however, until now the CNRP has not responded to the request.

In response to the CNRP proposal, the CPP proposed that UN representative and national and international stakeholders be invited to participate as observers.

On 9 August 2013, the NEC called both parties to join a meeting in order to decide on the roles and responsibility and mandate of the committee, to be established under the umbrella of the NEC. The CNRP did not respond to the invitation of the NEC.

In order to accord with LEMNA, the Regulations and Procedures and the calendar of the election process, the NEC was obliged to go ahead with its own process to respond to reports of irregularities. On 5 August 2013 it established a sub-committee of four persons – one Commissioner is the chief, one Commissioner is the deputy chief, one Commissioner is a member and the Secretary General is the secretary – to examine the reports on irregularities submitted between 2 and 6 August 2013. The sub-committee examined those reports and sent a summary paper to the NEC for its consideration and decision.

The CNRP’s reports alleged three types of irregularity, regarding: the 2012 Voter List; the issuance of certificates of identity; and incidents that occurred on polling day. No evidence or

documentation was provided to substantiate the reports; the CNRP saying that this would be provided only to their proposed special committee. Due to this lack of evidence, the NEC was not in a position to decide on these alleged irregularities.

The reports by other stakeholders alleged irregularities such as campaigning during the “white day”; causing disturbances to the polling and vote-counting process; causing lack of confidence in the election by spreading information that the ink was not indelible; obstructing and threatening voters, preventing them from voting; intimidating; offering inducements and vote buying; interfering with the work of electoral officials; providing transport for voters to the polling stations; and organizing people to file complaints after polling day.

After careful consideration, on 11 August 2013 the NEC held a public meeting to consider these reports and the sub-committee’s paper. The NEC agreed that, while there was some basis for charging such irregularities, the obstruction to the polling and vote-counting process was of low significance, with no impact on the results. Furthermore, several major cases had already been filed as complaints to the relevant level of electoral authority, and they were already decided according to LEMNA and Regulations and Procedures.

The NEC is of the view that the special committee proposed by the CNRP to investigate irregularities alleged to have taken place on 28 July 2013, under the leadership of the UN, or in which the UN or NGOs should have a dominant role, would be a new mechanism and would push the Kingdom of Cambodia to diverge from the rule of law. Specifically it would push the NEC and Constitutional Council to exercise their roles and responsibility outside the framework of LEMNA and the Constitution, which leave the entire electoral process and any dispute that may arise in the hands of the NEC and the Constitutional Council.

VI. CONCLUSION

The NEC is mandated to organize a free, fair and transparent election in order to reflect the will of the people. In consultation with all stakeholders including political parties, NGOs and civil society, the NEC follows the comprehensive LEMNA and related Regulations and Procedures, directives, principles and codes of conduct as well as carrying out training programs and public education and information campaigns to achieve this objective.

The 2013 election, throughout the voter registration, the month-long election campaign, the “white day” and the polling and vote-counting day, was carried out in a smooth and peaceful manner. In contrast to some countries, not a single case of political assassination was reported, and no serious violence was noted except for one incident in the polling station at Steung Meanchey, Phnom Penh, where two police cars were set on fire.

On the evening of 28 July 2013, the polling and vote-counting day, TVK announced the preliminary results provided by NEC, derived from Form 1104 prepared by each Polling Station Commission, according to which the CPP received 3,227,729 votes and the CNRP received 2,941,133 votes.

The CPP announced its own calculation of the preliminary results, by which the CPP had won 68 seats and the CNRP 55 seats, similar to COMFREL's figures (CPP 67 and CNRP 56). By contrast, the CNRP announced that it had won 63 seats and the CPP 60 seats. If these claims had been based on Form 1104, which every one of CPP and CNRP's agents as well as COMFREL observers had received from each polling station, the results should not have differed.

As noted above, a number of complaints and objections were filed and resolved at various stages in the electoral process and at various levels concerning infringements of LEMNA and its Regulations and Procedures. As to the procedural irregularities revealed during the opening of Safety Packages A, it is useful to quote from an expert observer of the process, Professor Shiro Harada from the University of Tokyo, who said that clear evidence of foul play is yet to be seen from the opening of the Safety Packages. "Those kind of careless mistakes were also found [in Kratie]... but I could not see any clear evidence of manipulation against the CNRP." (*Phnom Penh Post*, 29 August 2013, Page 2)

Virtually all international observers expressed positive opinions in their evaluation of the election process during the press conference held at the Phnom Penh Hotel on 28 July 2013 and in written statements and reports.

Since the announcement of the provisional results, many representatives from different countries have also expressed their positive assessments of the process. UN Secretary-General Ban Ki-moon, the State Department of the United States of America, the European Union and others expressed their satisfaction with the conduct of the election. Those statements encouraged all political parties to settle their differences peacefully, and to investigate any irregularities that may have occurred before and during the election. The EU expressed its hope that "any dispute addressed to the NEC and the established judicial mechanisms will be dealt with fairly and swiftly."

These established judicial mechanisms are the NEC and the Constitutional Council, which have been discharging their mandated duties to deal with all complaints made by all political parties and individuals in accordance with LEMNA and in a fair and transparent manner. Decisions have been made, including sanctions where appropriate for any infringement of laws or procedures. The process is now nearing completion, leading toward official announcement of the election results by the NEC, scheduled for the coming 8 September. As such, the call to establish a new mechanism such as a "Joint Committee" or "Special Committee" would not only be outside the deadline, but also outside the framework of LEMNA and the Constitution, which leave the entire electoral process and any dispute that may arise in the hands of the NEC and the Constitutional Council.

Furthermore, His Majesty the King issued two Royal Messages in relation to the situation surrounding the election results. On 7 August 2013, His Majesty the King appealed "For the highest interests of our nation and people, as well as for the maintenance of peace and national stability, I would like to appeal to the two parties for which the people voted to award seats in the National Assembly in the 5th mandate to continue dialogue to solve disputes or remaining

problems peacefully”. On 30 August 2013, His Majesty the King proclaimed that “The Kingdom of Cambodia is an independent and sovereign state with its own Constitution as its supreme law, which all Cambodian people respect. Resolution of any national affairs should be based on the Constitution and handed to the competent institutions mandated by the Constitution and the laws of the nation.”