

**KINGDOM OF CAMBODIA**  
**Nation Religion King**

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**The Constitutional Council**

**CASE**

N° 192/001/2012

Of February 09, 2012

**Decision**

N° 121/002/2012 CC.D

Of February 17, 2012

**The Constitutional Council**

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the February 06, 2012 National Election Committee decision N° 005/12 N.E.C.D made to uphold the February 01, 2012 Kompong Chhnang Provincial Election Commission decision N° 035/12;
- Seen the February 09, 2012 petition N° 020/12 S.R.P of Mr. HING YOEUEN, Representative of Mr. DOUNG CHANTRA, Representative of SAM RAINSY Party at Kompong Chhnang province, against the February 06, 2012 National Election Committee decision N° 005/12 N.E.C.D.

**Having heard the rapporteur,**

**Having heard the parties,**

**Having deliberated in compliance with the law,**

- Whereas the National Election Committee issued the Decision N° 005/12 N.E.C.D of February 06, 2012 to receive February 01, 2012 petition of Mr. DOUNG CHANTRA, and that is admissible for its legal form, but is rejected for being unfounded, to uphold the February 01, 2012 Kompong Chhnang Provincial Election Commission decision N° 035/12. Mr. HING YOEUEN, Representative of Mr. DOUNG CHANTRA, filed the petition N° 020/12 S.R.P of February 09, 2012 against the February 06, 2012 National Election Committee decision N° 005/12 N.E.C.D. The Secretariat General of the Constitutional Council received this petition on February 09, 2012 at 14:50. The aforementioned petition of Mr. HING YOEUEN was made within the time limit as stated in Point A.3 Article 8.9.23 Chapter 8 of the Regulations and Procedures for the 3<sup>rd</sup> mandate of the

Elections of the Senators and made in according with Article 73 (New) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly, Article 29 of the Law on the Elections of the Senators, and Article 25 (New) of the Law on the Amendment of the Law on the Organization and the Functioning of the Constitutional Council, is therefore admissible;

- Whereas during the Public Hearing as well as at the inquiry of Group II of the Constitutional Council, Mr. HING YOEUEN clarified that: *“The petition N° 020/12 S.R.P of February 09, 2012 is really mine. I would like to file a petition for rejecting the February 06, 2012 decision N° 005/12 N.E.C.D of the National Election Committee and for penalizing Mr. SOM SOTHY, police inspector of Krong Kampong Chhnang, Mr. NHAUK BUNTHY, Chief of the police station of Psar Chhnang, and Mr. SUM SOCHEAT, police officer, by deleting their names from the voter lists and by imposing a fine of twenty five million riels (25.000.000 riels) each, in accordance with Article 124 (New) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly, on the ground the aforementioned decision of the N.E.C is totally unfair because of the incident day (on January 27, 2012 at 5:30 p.m at Doeum Po port of Sangkat Psar Chhnang, Krong Kampong Chhnang at 7:30 p.m on the same day at Psar Leu taxi station, Krong Kampong Chhnang. While the working group of Sam Rainsy Party is conducting their electoral campaign with video projection on a large screen in the aforementioned both public places in accordance with point 5.1.5 of Article 5.1 and point 5.2.2 of Article 5.2 of Chapter 5 of Regulations and Procedures for the Elections of the Senators of the third legislature of the National Election Committee, suddenly the mixed force of the police led by Mr. SOM SOTHY, Inspector of Police of Krong Kompong Chhnang, Mr. NHAUK BUNTHY, Chief of police station of Psar Chhnang and Mr. SUM SOCHEAT, police officer, interrupted the Sam Rainsy Party from conducting their electoral campaign by knocking cruelly the working group including member of the National Assembly of Sam Rainsy Party. This caused panic for the crowd, making them to flee the scene. On the other hand, these two aforementioned places are neither a theater, nor public sports center, or a public hall where the Sam Rainsy Party shall rent. These two places can be used by everyone. However, the Sam Rainsy Party has sent the January 25, 2012 letter N° 004/12 SRP.KC, requesting permission to Chief of Sangkat Khsam, Krong Kampong Chhnang and another letter N° 005/12 SRP.KC of January 25, 2012, requesting permission to Chief of Sangkat Psar Chhnang Krong Kampong Chhnang. The authorities not only give any responses but also cause trouble. I would like to inform the Jurisdictional council that the request of Sam Rainsy Party signed on January 25, 2012 is submitted to the Electoral Commission of Kampong Chhnang Province on January 26, 2012. The Electoral Commission of Kampong Chhnang recommends submitting the request to the territorial authorities. Thus, the Sam*

*Rainsy Party submits this request to Sangkat Psar Chhnang and Khsam on January 27, 2012.”;*

- Whereas the National Election Committee issued the decision N°005/12 N.E.C.D of February 06, 2012 to receive the February 01, 2012 petition of Mr. DUONG CHANTRA and that is admissible for its legal form, but is rejected for being unfounded, and to uphold the February 01, 2012 decision N° 035/12 of Kampong Chhnang Provincial Election Commission on the ground that:

1- Mr. DUONG CHANTRA, Representative of Sam Rainsy Party, submitted the request to authorities to ask for places to conduct the electoral campaign on January 27, 2012 and began to show the propaganda video immediately on the same day. This is contrary to the law, the Regulations and Procedures that the request shall be made at least three days before the electoral campaign;

2- Mr. NHAUK BUNTHY, Mr. SAM SOTHY and Mr. SUM SOCHEAT fulfilled their duties to maintain the public order and asked them for the authorized letter only;

- Whereas at the Public Hearing and the inquiry of Group II of the Constitutional Council, H.E. MEAN SATIK, Representative of the National Election Committee replied that:

*“The petition of Mr. HING YOEUN is made during the period of electoral campaign of the Elections of the Senators. The National Election Committee decides the matter based on Article 20 and 33 of the Law on the Elections of the Senators and Article 73 (New), 131 (New) of the Law on the Elections of the Members of the National Assembly and the Regulations and procedures for the Elections of the Senators of the third legislature. Article 20 of the Law on the Elections of the Senators reads that the electoral campaign of the Elections of the Senators shall be implemented in accordance with the Law on the Elections of the Members of the National Assembly. Article 33 of the Law on the Elections of the Senators reads that the penalties in the Elections of the Senators shall be implemented in accordance with the Law on the Elections of the Members of the National Assembly. Article 73 (New) of the Law on the Elections of the Members of the National Assembly reads that the electoral campaign, all political parties and candidates shall respect the Regulations and Procedures and the Law on the Elections of the Members of National Assembly. Article 131 (New) of the Law on the Elections of the Members of the National Assembly reads the penalties of any person or political parties who violates Article 73 (New) of the Law on the Elections of the Members of the National Assembly. According to the Regulations and Procedures of the Elections of the Senators of the third legislature point 5.15 provides that the political parties or candidates who wish to rent public places shall apply the request at least three days before the electoral campaign and authority shall respond at least one day before the electoral campaign. According to the investigation carried out by the skilled officials of the National*

*Election Committee, the Sam Rainsy Party submitted a letter asking for permission on January 27, 2012 and started video projection on a large screen in that evening. The duration is too short for authorities to respond on time. I would like to ask the Constitutional Council to uphold the February 06, 2012 decision N° 005/12 N.E.C.D of the Jurisdictional Council of the National Election Committee.”;*

- Whereas Mr. HING YOEUN who filed the petition to the Constitutional Council on February 09, 2012, had no more documents or written evidence to reject the decision of the National Election Committee;
- Whereas the February 06, 2012 decision N°005/12 N.E.C.D of the National Election Committee is well founded.

**Decides:**

- Article 1:** The February 09, 2012 petition N° 020/12 S.R.P of Mr. HING YOEUN is admissible for its legal form, but is rejected for being unfounded;
- Article 2:** Is upheld the decision of the Jurisdictional Council of the National Election Committee N° 005/12 N.E.C.D of February 06, 2012;
- Article 3:** This decision pronounced in the Public Hearing in Phnom Penh on February 17, 2012 shall be final, without recourse, shall have authority over all the instituted powers as stipulated in the Constitution, and shall be published in the Royal Gazette.

Phnom Penh, February 17, 2012

**On behalf of the Constitutional Council**

*Sitting as the Jurisdictional Council*

**The President,**

**Signed and sealed: EK SAM OL**

## Glossary

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CC.D	Decision of the Constitutional Council
N.E.C.D	Decision of the National Election Committee
N.E.C	National Election Committee
S.R.P	SAM RAINSY Party
SRP.KC	SAM RAINSY Party, Kampong Chhnang Province
Krong	A city or town