

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE

N° 195/004/2012

Of November 10, 2012

Decision

N° 123/004/2012 CC.D

Of November 16, 2012

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the November 05, 2012 National Election Committee (NEC) decision N° 004/12 N.E.C.D, made to uphold the October 26, 2012 Sampov Poun Commune Council decision N° 02/012;
- Seen the November 05, 2012 National Election Committee (NEC) decision N° 005/12 N.E.C.D, made to uphold the October 26, 2012 Sampov Poun Commune Council decision N° 04/012;
- Seen the November 05, 2012 National Election Committee (NEC) decision N° 006/12 N.E.C.D, made to uphold the October 26, 2012 Sampov Poun Commune Council decision N° 01/012;
- Seen the November 05, 2012 National Election Committee (NEC) decision N° 007/12 N.E.C.D, made to uphold the October 26, 2012 Sampov Poun Commune Council decision N° 03/012;
- Seen the November 09, 2012 petition of Mr. LY SOPHORN, Representative of SAM RAINSY Party, contesting all 4 decisions of the National Election Committee;
- Seen the November 10, 2012 power of attorney given by H.E. Kong Korm, President of SAM RAINSY Party, to Mr. LY SOPHORN to be representative of SAM RAINSY Party in appealing and attending the Constitutional Council public hearing;
- Seen the November 13, 2012 minutes recording the clarification given by Mr. LY SOPHORN;
- Seen the November 13, 2012 minutes recording the clarifications given by the chief of Sampov Poun Commune;
- Seen the November 14, 2012 minutes recording the clarifications given by H.E. MEAN SATIK, Representative of N.E.C;
- Seen the report on verification of the names between the case of the plaintiff, Mr. LY SOPHORN and the names lists in the case N° 112/012/2006 and N° 134/ 006/ 2007 at Sampov Poun Commune, Koh Thom District, Kandal Province. The

Constitutional Council declared in the public hearing to uphold the 2006 and 2007 decisions of the jurisdictional council of N.E.C referring to the decision N° 084/011/2006 CC.D of November 24, 2006 and the decision N° 094/005/2007 CC.D of November 21, 2007;

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

- Whereas the National Election Committee issued the November 05, 2012 decision N° 004/12 N.E.C.D, the November 05, 2012 decision N° 005/12 N.E.C.D, the November 05, 2012 decision N° 006/12 N.E.C.D and the November 05, 2012 decision N° 007/12 N.E.C.D, upholding the October 26, 2012 decision N° 01/012, decision N° 02/012, decision N° 03/012 and decision N° 04/012 of the Council of Sampov Poun Commune, Koh Thom District, Kandal Province;
- Whereas the November 09, 2012 petition of Mr. LY SOPHORN, Representative of SAM RAINSY Party, made against the 04 decisions of N.E.C. The petition is received by the Secretariat General of the Constitutional Council on November 10, 2012 at 11:00. This petition was made within the time limit provided by Article 65 (New-two) paragraph 6 of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly and Article 26 Point 3 of the Law on the Organization and the Functioning of the Constitutional Council, is therefore admissible;
- Whereas the case raised by Mr. LY SOPHORN was already decided by the Constitutional Council through the November 24, 2006 decision N° 084/011/2006 CC.D and the November 21, 2007 decision N° 094/005/2007 CC.D. These two decisions shall be final, without recourse, shall have authority over all the instituted powers as stipulated in the Constitution;
- Whereas according to the principle of law, the Constitutional Council shall not retry twice in the same case (non bis in idem).

Decides:

Article 1: The November 09, 2012 petition of Mr. LY SOPHORN is admissible for its legal form, but is rejected for being unfounded.

Article 2: This decision pronounced in the Public Hearing in Phnom Penh on November 16, 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, November 16, 2012
On behalf of the Constitutional Council
Sitting as the Jurisdictional Council
The President,

Signed and Sealed: EK SAM OL

Glossary

CC.D	Decision of the Constitutional Council
N.E.C.D	Decision of the National Election Committee