



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 233/037/2013

Of August 17, 2013

Decision N° 131/006/2013 CC.D

Of September 01, 2013

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the August 16, 2013 letter N° 829/13 NEC of the National Election Committee;
- Seen the August 17, 2013 petition of H.E. **Chea Poch**, Representative of the National Rescue Party, filed against the provisional results of the 2013 Elections of the Members of the National Assembly for its 5th legislature in Kampot province constituency;
- Seen the August 16, 2013 power of attorney of H.E. **Sam Rainsy**, President of the National Rescue Party, given to H.E. **Chea Poch** as Representative of National Rescue Party to file a petition against the provisional results of the 2013 Elections of the Members of the National Assembly for the 5th legislature in Kampot province constituency;
- Seen the introduction letter N° 854/13 NEC dated August 20, 2013 of the National Election Committee;
- Seen the August 21, 2013 minutes recording the clarification, attaching with 2 bunches of documents as evidences, given by H.E. **Chea Poch**;;
- Seen the August 22, 2013 minutes recording the clarification, attaching with 3 pages of the pleadings dated August 22, 2013, given by H.E. **Mao Sophearith**, Representative of the National Election Committee;

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas the August 17, 2013 petition of H.E. **Chea Poch**, Representative of the National Rescue Party, submitted to the Constitutional Council

which the Secretariat-General of the Constitutional Council received on August 17, 2013 at 15:30, made within the timeframe as stipulated in Point 2 of Article 27 (New) of the Law on the Organization and the Functioning of the Constitutional Council and the Law on the Amendment of this Law and Article 117 (New) of the Law on the Elections of the Members of the National Assembly and the Law on the Amendment of this Law, is therefore admissible;

- Whereas the petition of H.E. **Chea Poch** filed against the provisional results of the Elections of the Members of the National Assembly for the 5th legislature as well as the clarification before Group II of the Constitutional Council, was demanded to reject the entire election results in the Kampot province constituency, re-organize the voter lists in entire Kampot province and to verify the Forms 1102 and 1104 in package "A" in the entire Kampot province. The plaintiff highlighted two important points: 1- Loss of the names of citizens from the 2012 voter lists, and 2- The substitute voters;
- Whereas during the clarification before Group II of the Constitutional Council, H.E. **Mao Sophearith**, Representative of the National Election Committee, attaching with 3 pages of the written pleadings, confirmed that the petition against the loss of the names from voter lists shall be made in the period of the annual voter lists examination and annual voter registration. Concerning the substitute voters, H.E. **Chea Poch** didn't provide concrete evidences for the National Election Committee to examine and evaluate the impact. The plaintiff did not clarify the irregularities of the commissions or its members who made the mistakes, the dates and places of wrongdoing, the names and addresses of the witnesses as well as documents or other evidences as stipulated in Article 114 of the Law on the Elections of the Members of the National Assembly. The representative of the National Election Committee made a comparison between the petition to the National Election Committee and the petition to the Constitutional Council and found that the plaintiff added one more point which demanded to verify the Forms 1102 and 1104 in the safety package "A" throughout the entire Kampot province;
- Whereas the petition against the loss of the names shall be made within the period of the voter lists annual examination of and annual voter registration from the October 01 to December 31. In the general election year 2013, the examination of the voter lists and voter registration shall be conducted from September 01, 2012 a month ahead as stipulated in the schedule of the National Election Committee dated July 04, 2012 in conformity with Article 49 (New-three) of the Law on the Elections of the

Members of the National Assembly and the Law on Amendment of this Law. The petition or objection against the loss of the names, the removal of the names and voter registration was over the timeframe. According to the Law, the voter lists given the validity by the National Election Committee on December 31, 2012 were the official voter lists and used in the July 28, 2013 election;

- Whereas the case concerning the substitute voters on the polling day, the plaintiff didn't prove the concrete evidences confirming that in which polling station numbers, the number and names of the substitute voters;
- The plaintiff did not clarify the irregularities of the commissions or its members who made the mistakes, the dates and places of wrongdoing, the names and addresses of the witnesses as well as documents or other evidences as stipulated in Article 114 of the Law on the Elections of the Members of the National Assembly;
- Whereas the election in Kampot province constituency, which had totally 848 polling stations, had neither violence nor chaos. Citizens had secretly and freely casted their ballots. The turnout of voters was 68.96%;
- Whereas the letter N° 829/13 NEC dated August 16, 2013 of the National Election Committee has legal ground;

Decides:

Article 1: The August 17, 2013 petition of H.E. **Chea Poch** is admissible for its legal form, but is rejected for being unfounded.

Article 2: Is upheld the August 16, 2013 letter N° 829/13 NEC of the National Election Committee.

Article 3: This decision made in the Plenary Session of the Constitutional Council in Phnom Penh on September 01, 2013 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, September 01, 2013

**On behalf of the Constitutional Council
The President,**

Signed and Sealed: **EK SAM OL**