

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



**The Constitutional Council**

**CASE** N° 235/039/2013

Of August 18, 2013

**Decision** N° 134/009/2013 CC.D

Of September 02, 2013

**The Constitutional Council**

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the August 16, 2013 letter N° 822/13 NEC of the National Election Committee;
- Seen the August 18, 2013 petition of Mr. **Ngim Nheng**, Representative of the National Rescue Party, filed against the provisional results of the 2013 Elections of the Members of the National Assembly for the 5<sup>th</sup> legislature in Pursat province constituency;
- Seen the August 14, 2013 power of attorney of H.E. **Sam Rainsy**, President of the National Rescue Party, given to Mr. **Ngim Nheng** as Representative to file a petition against the provisional results of the 2013 Elections of the Members of the National Assembly for the 5<sup>th</sup> legislature in Pursat province constituency;
- Seen the introduction letter N° 873/13 NEC dated August 23, 2013 of the National Election Committee;
- Seen the August 26, 2013 minutes recording the clarification given by Mr. **Ngim Nheng**;
- Seen the August 26, 2013 minutes recording the clarification, attaching with 4 pages of the pleadings dated August 23, 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 according to Article 115 (New) and Article 117 (New) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly and Point 2 of Article 27 (New) of the Law on the Amendment of the Law on the Organization and the Functioning of the Constitutional Council, the August 18, 2013 petition of Mr. **Ngim Nheng**,

Representative of the National Rescue Party, submitted to the Constitutional Council, which the Secretariat-General of the Constitutional Council received on August 18, 2013 at 10:50, was filed within the timeframe of 72 hours after the party had received the August 16, 2013 letter N° 822/13 NEC of the National Election Committee, is therefore admissible;

- Whereas the essences of the petition of Mr. **Ngim Nheng**, submitted to the Constitutional Council as well as the clarification before Group III of the Constitutional Council, he clarified the demand as follows: 1- To reject the election results in Pursat province constituency, 2- To re-organize the voter lists in Pursat province, and 3- To re-organize the election in Pursat province. The plaintiff's demand based on:
  - 1- There were a lot of people losing their names from the 2012 voter lists without clear reasons in Pursat province constituency;
  - 2- Some polling station chiefs allowed citizens holding the forged identity documents to cast their ballots, and I had filed a petition to reject the election results at all levels, but it was rejected by all levels of the election commissions;
  - 3- The case of conflict of interest between the Pursat Provincial Election Commission and the political parties' candidates;
  - 4- The case of having many foreigner names in the voter lists. The plaintiff had no any evidence to submit to the Constitutional Council;
- Whereas during the clarification before Group III of the Constitutional Council, H.E. **Mao Sophearith**, Representative of the National Election Committee, attaching with the pleadings of August 26, 2013 confirmed that: the petition of Mr. **Ngim Nheng** filed against the provisional results of the election in Pursat province constituency, the plaintiff raised the reasons that in the polling stations N° 0301, 0621, 0411, 0412, and 0307 of Phtas Prey and Roleap commune, the chiefs of the polling stations and ballot counting stations allowed the holders of the forged identity documents to cast their ballots. According to the petition, the answers and the evidences of Mr. **Ngim Nheng**, the National Election Committee decided to reject the August 14, 2013 petition because:
  - 1- The clarification of Mr. **Ngim Nheng** that the chiefs of the polling stations allowed the holder of the forged identity documents to cast their ballots at the above-mentioned polling stations. The scientific and technical police in the Pursat province examined the seal mark on the photos pasted on the identity documents used for voting and confirmed the existence of the seal mark on the photos;
  - 2- The appeal or objection against the loss of the names from the voter lists or the names of foreigners in the voter lists shall be made within the period of the annual examination of the voter lists and voter registration. This petition was over the timeframe since the end of 2012;

- 3- The case of Mr. **Phan Vansith's** wife was a candidate of Pursat province constituency and Mr. **Em Phuribothy's** sister was a candidate of the Pursat province constituency didn't affect the conflict of interest in the election process;
  - 4- The argument raised by the plaintiff was not in conformity with Articles 111 (New) and Article 112 (New) of the Law on Amendment of the Law on the Elections of the Members of the National Assembly for the National Election Committee to re-organize the election;
  - 5- The plaintiff didn't prove the irregularities of the commission or its members who made the mistakes, the dates and places of wrongdoing, the names and addresses of the witnesses as well as documents and other evidences as stipulated in Article 114 of the Law on Elections of the Members of the National Assembly;
- Whereas the election in Pursat province constituency, which had totally 625 polling stations, had neither force majeure, violence nor chaos. Citizens had secretly and freely casted their ballots. The turnout of voters was 72.60%;
  - Whereas the letter N° 822/13 NEC dated August 16, 2013 of the National Election Committee has legal ground;

**Decides:**

- Article 1:** The August 18, 2013 petition of Mr. **Ngim Nheng**, Representative of the National Rescue Party, is admissible for its legal form, but is rejected for being unfounded.
- Article 2:** Is upheld the August 16, 2013 letter N° 822/13 NEC of the National Election Committee.
- Article 3:** This decision made in the Plenary Session of the Constitutional Council in Phnom Penh on September 02, 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 02, 2013

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

Signed and Sealed: **EK SAM OL**