



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 232/036/2013

Of August 17, 2013

Decision N° 135/010/2013 CC.D

Of September 02, 2013

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the August 16, 2013 letter N° 823/13 NEC of the National Election Committee;
- Seen the August 17, 2013 petition of H.E. **Ho Vann**, Representative of the National Rescue Party, filed against the provisional results of the 2013 Elections of the Members of the National Assembly for the 5th legislature in Phnom Penh municipal constituency;
- Seen the August 17, 2013 power of attorney of H.E. **Sam Rainsy**, President of the National Rescue Party, given to H.E. **Ho Vann** as Representative of the 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 Phnom Penh municipal constituency;
- Seen the introduction letter N° 881/13 NEC dated August 24, 2013 of the National Election Committee;
- Seen the August 28, 2013 minutes recording the clarification given by H.E. **Ho Vann** attaching with evidences as documents, a CD, and a DVD put in 3 paper boxes and 1 paper package;
- Seen the August 28, 2013 minutes recording the clarification, attaching with 4 pages of the pleadings dated August 28, 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 17, 2013 petition of H.E. **Ho Vann**, 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, was filed within the timeframe of 72 hours after the party had received the August 16, 2013 letter N° 823/13 NEC of the National Election Committee, is therefore admissible;
- Whereas the essences of the petition of H.E. **Ho Vann**, 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 request the National Election Committee to re-register the names of those who had lost their names and to allow them to cast their ballots;
 - 2-To release the voter lists of those who had already casted their ballots, to verify the duplicated names, the ghost names (having only the names but no persons) in all Sangkats;
 - 3-To re-organize the election in 32 Sangkats where the most serious irregularities were found;
 - 4-To rectify the incorrect names of the voters and allow them to cast their ballots;
 - 5-To delete all names of the foreigners in Phnom Penh municipality and forbid them from having the rights to vote;
 - 6-To punish citizens who had no residents in Phnom Penh but casted their ballots in Phnom Penh;
 The plaintiff's demanded based on:
 - 1-In Phnom Penh municipal constituency, there were a lot of people losing their names from the voter lists. The National Rescue Party received the petitions from 1,547 people;
 - 2-In Phnom Penh polling stations, there were a lot of duplicated names, especially in Sangkat Boeung Keng Kang 3, Phsar Doeum Thkov and Tonle Bassac in Khan Chamcarmon;
 - 3-There were irregularities in issuing the identity documents used for voting which the National Rescue Party collected 8 cases in Sangkat Koh Dach and Boeung Tompun;
 - 4-Many names in the voter lists were rectified;

5-There were a lot of substitute voters which the National Rescue Party received petitions from 95 citizens;

6-A lot of citizens were forbidden from casting their ballots which the National Rescue Party received 32 petitions;

7-There were a lot of foreigners casting their ballots;

8-A lot of citizens who had no residence in Phnom Penh casted their ballots;

Finally, H.E. **Ho Vann** requested the Constitutional Council to settle the above cases in conformity with the procedures;

- Whereas during the clarification before Group III of the Constitutional Council, H.E. **Mao Sophearith**, Representative of the National Election Committee, attaching with 4 pages of the pleadings dated August 28, 2013 affirmed that:

1-The appeal or objection against the loss of the names from the voter lists, the rectification of voter names and duplicated names in the voter lists shall be filed within the period of the annual voter list examination and annual voter registration. This matter, based on the Law on the Elections of the Members of the National Assembly for the 2013 Election, was over the timeframe;

2-Regarding the irregularities in issuing the identity documents used for voting and the substitute voter, the plaintiff didn't provide concrete evidences for confirming the polling station sites;

3-The provided evidences were not legitimate for the National Election Committee to re-organize the election in 31 Sangkats of the municipality (in the petition submitted to the Constitutional Council, H.E. **Ho Vann** requested the election to be re-organized in one more Sangkat);

4-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 Phnom Penh municipal constituency, which had totally 1,690 polling stations, had neither force majeure, violence nor chaos. Citizens had secretly and freely casted their ballots. The turnout of voters was 66.46%;
- Whereas the letter N^o 823/13 NEC dated August 16, 2013 of the National Election Committee has legal ground;

Decides:

- Article 1:** The August 17, 2013 petition of H.E. **Ho Vann**, 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° 823/13 NEC.D 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**

Glossary

- CC.D Decision of the Constitutional Council
- Sangkat quarters