



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 236/040/2013

Of August 19, 2013

Decision N° 137/012/2013 CC.D

Of September 02, 2013

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the August 16, 2013 letter N° 828/13 NEC of the National Election Committee;
- Seen the August 19, 2013 petition of Mr. **Ouk Suy** filed to verify the Forms 1102 and 1104 of the 2013 Elections of the Members of the National Assembly for the 5th legislature in Takeo province constituency of the National Election Committee;
- Seen the August 16, 2013 power of attorney of H.E. **Sam Rainsy**, President of the National Rescue Party, given to Mr. **Ouk Suy** as Representative of the National Rescue Party to file a petition against the provisional 2013 election results for the 5th legislature of the National Assembly in Takeo province constituency;
- Seen the introduction letter N° 862/13 NEC dated August 22, 2013 of the National Election Committee;
- Seen the August 23, 2013 minutes recording the clarification given by Mr. **Ouk Suy** and a pile of 89 pages documents (copy);
- Seen the August 23, 2013 minutes recording the clarification, attaching with 4 pages of the pleadings dated August 23, 2013, given by H.E. **Som Chandina**, 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 19, 2013 petition of Mr. **Ouk Suy**, Representative of the National Rescue Party, submitted to the Constitutional Council, which the Secretariat-General of the Constitutional Council received on August 19, 2013 at 12:20, was filed within the timeframe of 72 hours after the party had received the August 16, 2013 letter N° 828/13 NEC of the National Election Committee, is therefore admissible;

- Whereas the essences of the petition of Mr. **Ouk Suy**, 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 verify all Forms 1102 and 1104 in the Takeo province constituency;
 - 2- To verify the names in the voter lists in Takeo province because some citizens who had their names in 2012 voter lists, but those names were lost from the voter lists on the polling day in the 2013 election. Some citizens had already their names in the voter lists but their ballots were substituted;
 - 3- There were wrong spellings of citizens' names, wrong dates of birth, the holding of forged identity documents using to cast their ballots, the minors casted the ballots for overseas migrant workers or for the other citizens by just pasting photos on overseas migrant workers' identity documents;
 - 4- The indelible ink could be removable. Mr. **Ta Soun**, Deputy Chief of the village gave the indelible ink to Mr. **Ka Phath** for soaking his index finger before the polling day by giving him 50,000 Riels as an incentive. The plaintiff confirmed that there were more witnesses and evidences but they would be shown at the public hearing of the Constitutional Council. During the clarification before Group III of the Constitutional Council, Mr. **Ouk Suy** provided only a number of documents (copy) which were not enough for consideration;
- Whereas during the clarification, attaching with 4 pages of the pleadings dated August 23, 2013, before Group III of the Constitutional Council, H.E. **Som Chandina**, Representative of the National Election Committee, confirmed that the petition against the loss of the names in the voter lists shall be made within the period of the examination of the voter lists and voter registration; this matter was over the timeframe since the end of 2012. The other cases raised by the plaintiff were definitely settled by all levels;
- Whereas the plaintiff insisted the Constitutional Council holding the public hearing, he himself didn't have the logical argument as stipulated in

Paragraph 5 of Article 117 (New) of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly;

- Whereas the election in Takeo province constituency, which had totally 1.302 polling stations, had force majeure, violence, nor chaos. Citizens had secretly and freely casted their ballots. The turnout of voters was 78.41 %;
- Whereas the letter N° 828/13 NEC dated August 16, 2013 of the National Election Committee has legal ground;

Decides:

Article 1: The August 19, 2013 petition of Mr. **Ouk Suy**, 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° 828/13 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