

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 100/010/2005

Of December 24, 2005

Decision

N° 073/005/2005 CC.D

Of December 29, 2005

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- Seen Preah Reach Kram N° CS/RKM/0498/06 of April 8, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen Preah Reach Kram N° NS/RKM/1297/06 of December 26, 1997 on the Elections of the members of the National Assembly;
- Seen Preah Reach Kram N° NS/RKM/0902/017 of September 17, 2002 promulgating the Law on the amendment of the law on the Elections of the members of the National Assembly;
- Seen Preah Reach Kram N° NS/RKM/0605/020 of June 20, 2005 on the Elections of the Senators;
- Seen the Rules of Procedure of the National Assembly of the Kingdom of Cambodia;
- Seen the letter of Attorney of December 20, 2005 of Mr. NONG SRENG, Deputy Chief of the SAM RAINGSY's Party Prey Veng Province Council, giving the power to Mr. MAO SOPHEARITH, member of the Bar Association of the Kingdom of Cambodia to defend and as representative;
- Seen the complaint of Mr. MAO SOPHEARITH of December 24, 2005 opposing the decision of the National Electoral Committee of December 19, 2005, complaint received by the Secretariat General of the Constitutional Council on December 24, 2005 at 11:00 AM;
- Seen the letter N° 425/05 NEC of December 28, 2005 of H.E IM SOURSDEY, President of the National Electoral Committee, assigning representatives of the National Electoral Committee to answer in the public hearing of the Constitutional Council;

Having heard the rapporteur,

Having heard the Parties

Having deliberated in compliance with the law,

- Whereas the complaint of Mr. MAO SOPHEARITH, representative of SAM RAINGSY's Party, which complied with the legal procedures is admissible;
- Whereas KHEM VEASNA was removed by the SAM RAINGSY's Party from the list of party member by the decision n° 050 D of July 15, 2005. Therefore, KHEM VEASNA has lost his membership as elected member of

the party (SAM RAINGSY's Party) according to the provision of the Article 83N of the Rules of Procedure of National Assembly and shall lose his quality as deputy;

- Whereas the decision of the National Electoral Committee of December 19, 2005, which upheld the decision of the Prey Veng Provincial Electoral Commission holding that KHEM VEASNA is still a deputy because the Secretariat General of the National Assembly has registered his name on the list of the electors, has no sufficient legal grounds.

**Decides:
in the presence of the parties**

- Article 1.-** The complaint of Mr. MAO SOPHEARITH of December 24, 2005 is admissible for its legal form and substance;
- Article 2.-** The decision of the National Electoral Committee of December 19, 2005 is quashed;
- Article 3.-** Orders the National Electoral Committee to delete KHEM VEASNA's name from the list of electors for the Elections of the Senators for the second legislature, which will be held on Sunday, January 22, 2006;
- Article 4.-** This decision pronounced in the public hearing in Phnom Penh on December 29, 2005 shall be final without recourse, shall have authority over all the instituted powers as stipulated in the Constitution, and shall be published in the "Journal Officiel."

Phnom Penh , December 29, 2005
For the Constitutional Council
The President
Signed and Sealed

BIN CHHIN