

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE

N° 141/004/2008

Of May 17, 2008

Decision

N° 098/003/2008 CC.D

Of May 26, 2008

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- Seen Preah Reach Kram N° CS/RKM/0498/06 of April 08, 1998 promulgating the Law on the Organization and the Functioning of the Constitutional Council;
- Seen Preah Reach Kram N° NS/RKM/0107/005 of January 31, 2007 on promulgating the Law the Amendment of the Law on the Organization and the Functioning of the Constitutional Council;
- Seen Preah Reach Kram N° NS/RKM/1297/06 of December 26, 1997 on promulgating the Law 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/0606/019 of June 27, 2006 promulgating the Law on the Amendment of Article 13 (New) of the Law on the Elections of the Members of the National Assembly;
- Seen Preah Reach Kram N° NS/RKM/0107/006 of January 31, 2007 promulgating the Law on the Amendment of the Law on the Elections of the Members of the National Assembly;
- Seen the May 12, 2008 decision of the National Election Committee N° 142/08NEC.D, rejecting the registration of political parties and candidates in the elections;
- Seen the May 16, 2008 petition of Mr. OEURN SARATH, President of SANGKUM KHMER NIYUM Party, requesting the replacement of 25 disqualified candidate's names, in order to have the official candidate lists validated by the National Election Committee. The Secretariat General of the Constitutional Council received the petition on May 17, 2008 at 03:45 pm;

- Seen the May 21, 2008 minutes of the Constitutional Council Group II inquiring Mr. OEURN SARATH, as plaintiff;
- Seen the May 21, 2008 minutes of the Constitutional Council Group II inquiring the Representatives of the National Election Committee, as defendants;

**Having heard the rapporteur,
Having heard the parties,
Having deliberated in compliance with the law,**

- Whereas the petition of Mr. OEURN SARATH was filed within the period of registration of political parties and candidates lists for the elections in accordance with Article 136 (New) of the Constitution and Article 25 (New) of the Law on the Organization and the Functioning of the Constitutional Council;
- Whereas the petition of Mr. OEURN SARATH, filed within the period of time stipulated in Article 42 (New) of the Law on the Elections of the Members of the National Assembly, is therefore admissible;
- Whereas the verbal petition before the Constitutional Council Group II by Mr. OEURN SARATH, requesting the subject of his petition to be changed into rejecting the decision of the National Election Committee and replacing disqualified candidates rejected by the National Election Committee with 25 new ones, is inadmissible for non compliance with the stipulation of Article 42 (New) of the Law on the Elections of the Members of the National Assembly;
- Whereas before the Constitutional Council Group II, the Representatives of the National Election Committee clarified that the SANGKUM KHMER NIYUM Party had on April 29, 2008 filed the request for the National Election Committee to register the party, and the latter had 7 days to examine it. If during the 7 days period the preliminary adjustment have not been done, the National Election Committee would issue an official letter N° 184/08 NEC of May 06, 2008 giving the Party 5 additional days to complete the names, especially those of the candidates not found on the electoral lists. This notification letter cites 15 constituencies to be readjusted, still the concern party has not done so until May 12, 2008 by 05.00 pm, when the National Election Committee decided to reject the request;
- Whereas during the Public Hearing, Mr. OEURN SARATH (the plaintiff) stated: “the May 16, 2008 petition is indeed mine”; and that the registration of his political parties and candidates for the election contains some irregularities on the candidate names lists for implementing correctly the electoral law, nevertheless these irregularities are not intentional. Consequently, he request for his party to be able to proceed;
- Whereas during the Public Hearing Mr. MEAN SATIK, Representative of the National Election Committee, stated that he has no comment on the subject of this petition, by adding that this party had registered his political party and candidates for the election, on April 29, 2008. The National Election Committee granted his party 7 days to adjust and to

complete its dossier. On May 06, 2008, the National Election Committee issued an official letter, giving the party 5 additional days, especially concerning the candidates whose names are not on the electoral lists. on May 12, 2008 at 5.30 pm, this party still had not fulfill the required condition ,consequently the National Election Committee decided to reject its request for registration;

- Whereas the authorization to replace the names of the 25 candidates who are not registered on the electoral list, is not stipulated in the Law on the Organization and the Functioning of the Constitutional Council, especially in the provisions concerning the competence of the Constitutional Council;

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

Article 1 : Mr. OEURN SARATH's petition of May 16, 2008 is admissible for its legal form but is rejected for being unfounded

Article 2 : This decision pronounced in Public Hearing of the Constitutional Council in Phnom Penh on May 26, 2008 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, May 26, 2008

On behalf of the Constitutional Council
Sitting as **the Jurisdictional Council**
The President,

Signed and Sealed: EK SAM OL