



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 231/035/2013

Of August 17, 2013

Decision N° 129/004/2013 CC.D

Of August 29, 2013

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the letter N° 826/13 NEC dated August 16, 2013 of the National Election Committee;
- Seen the August 17, 2013 petition of H.E. **Cheam Channy**, Representative of the National Rescue Party, filed to verify the Forms 1102 and 1104 of the 2013 Elections of the National Assembly for the 5th legislature in 9 Communes of the Kampong Thom province constituency;
- Seen the August 14, 2013 power of attorney of H.E. **Sam Rainsy**, President of the National Rescue Party, given to H.E. **Cheam Channy** as Representative of the National Rescue Party to file a petition against the provisional results of the Elections of the Members of the National Assembly for the 5th legislature in Kampong Thom province constituency;
- Seen the introduction letter N° 856/13 NEC dated August 20, 2013 of the National Election Committee;
- Seen the August 21, 2013 minutes recording the clarification given by H.E. **Cheam Channy**;
- Seen the August 22, 2013 minutes recording the clarification, attaching with 2 pages of the pleadings dated August 21, 2013, given by H.E. **Em Sophath**, Representative of the National Election Committee;

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas the aforementioned August 17, 2013 petition of H.E. **Cheam Channy**, which the Secretariat-General of the Constitutional Council

received on August 17, 2013 at 14:45, was filed within the timeframe in accordance with the Law—Point 2 of Article 27 (New) of the Law on the Organization and the Functioning of the Constitutional Council and the Law on the Amendment of this Law and Article 117 (New) of the Law on the Elections of the Members of the National Assembly and the Law on the Amendment of this Law, is therefore admissible;

- Whereas the essences of the petition of H.E. **Cheam Channy**, Point 1 demanded to verify the Forms 1102 and 1104 in 9 Communes—Chhuok Ksach, Krorva, Damrey Slab, Kampong Svay, Sann Kor, Phan Nheum, Phnov, Samproch and Sangkat Kampong Rotes, and Point 2, demanded to re-organize the voter lists in the Kampong Thom province with the reasons that many people lost their names and some substitute voters;
- Whereas according to the clarification before Group II of the Constitutional Council, H.E. **Cheam Channy** requested to file the petitions to all polling stations in 9 Communes because the Chiefs of the polling stations were in a rush. H.E. **Cheam Channy** confirmed that he sent observers to all polling stations in the Kampong Thom province constituency. The representatives of his party signed on the Form 1102 of all Communes and a Sangkat as the witness;
- Whereas according to the letter N° 826/13 NEC dated August 16, 2013 of the National Elections Committee as well as the clarification of H.E. **Em Sophath**, Representative of the National Election Committee, before Group II of the Constitutional Council, confirmed that H.E. **Cheam Channy** had no evidences to the National Elections Committee, proving 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 and the Law on the Amendment of this Law. H.E. **Cheam Channy** didn't have any evidence to prove any serious irregularity for the National Election Committee to verify the Forms 1102 and 1104 in 9 Communes/Sangkat of the Kampong Thom province constituency;
- Whereas the demand in Point 2 of H.E. **Cheam Channy's** petition was a new issue, which was not mentioned in the petition dated August 15, 2013 submitted to the National Election Committee and was not linked with the decision of National Election Committee;
- Whereas no petition was submitted to the polling station and ballot counting station commission, the 9 Communes/Sangkat Election Commission and to the Kampong Thom Provincial Election Commission in

conformity with the Regulations and the Procedures of the Elections of the Members of the National Assembly for the 5th legislature;

- Whereas the National Election Committee duly implemented in conformity with Article 115 (New) of the Law on the Elections of the Members of the National Assembly and the Law on the Amendment of this Law and with the Regulations and Procedures of the Elections of the Members of the National Assembly for the 5th legislature;
- Whereas the election in Kampong Thom province constituency had neither violence nor chaos. Citizens had secretly and freely casted their ballots;
- Whereas the letter N° 826/13 NEC dated August 16, 2013 of the National Election Committee has legal ground;

Decides:

Article 1: The August 17, 2013 petition of H.E. **Cheam Channy**, Representative of the National Rescue Party is admissible for its legal form, but is rejected for being unfounded.

Article 2: Is upheld the letter N° 826/13 NEC dated August 16, 2013 of the National Election Committee.

Article 3: This decision made in the plenary session of the Constitutional Council in Phnom Penh on August 29, 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, August 29, 2013

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

Signed and Sealed: **EK SAM OL**