

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N°:112/012/2006

Of November 16, 2006

Decision

N°: 084/011/2006 CC.D

Of November 24, 2006

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- 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° CS/RKM/0498/06 of April 08, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen Preah Reach Kram N° NS/RKM/0301/04 of March 19, 2001 on the Elections of Khum / Sangkat Council;
- Seen Preah Reach Kram N° NS/RKM/0902/017 of September 17, 2002 on the Amendment of the Law on the Elections of the Members of the National Assembly;
- Seen Preah Reach Kram N° NS/RKM/0606/020 of June 27, 2006 on the Amendment of the law on the Elections of Khum / Sangkat Council;
- Seen Preah Reach Kram N° NS/RKM/0606/019 of June 27, 2006 on the Amendment of the Article 13 (N) of the law on the Elections of the Members of the National Assembly;
- Seen the letter of attorney dated November 16, 2006 of H.E. KONG KAM, Acting President of the SAM RAINSY Party, giving the power to Mr. DYNA SAKUN, member of the election committee of the SAM RAINSY party, to be his representative in lodging the complaint and attending the hearing at the Constitutional Council;
- Seen the letter of November 16, 2006 of H.E. KONG KAM, Acting President of the SAM RAINSY party;
- Seen the letter N° 640 គ.ស.វ/11/06 dated November 21, 2006 from H.E. KONG KAM, Acting President of the SAM RAINSY party;
- Seen the complaint dated November 16, 2006 from Mr. DYNA SAKUN asking to delete the names of 1,604 Vietnamese people from the electoral lists, and to reject the decision of the Hearing Council of the National Election Committee signed by H.E. IM SUOSDEY on November 12 and 13, 2006, letter received by the Secretariat General of the Constitutional Council on November 16, 2006 at 16.38;
- Seen the decision of the National Election Committee dated November 12, 2006 upholding the decision of the Khum / Sangkat

Council of CHONG KHNEAS (SIEM REAP district, SIEM REAP province);

- Seen the decision of the National Election Committee dated November 13, 2006 rejecting the complaint N° 0013/06 ឆ.វ.ជ.ប, dated November 10 2006, of Mr. SOK SAM EAN;
- Seen the decision of the National Election Committee of November 13, 2006 rejecting the complaint N° 0017/06 ឆ.វ.ជ.ប of November 11, 2006 of Mr. DYNA SAKUN;
- Seen the letter N° 515/06 N.E.C. of November 23, 2006 appointing NEC representatives to attend the public hearing of the Constitutional Council;
- Seen the minutes of investigation in CHONG KHNEAS commune (SIEM REAP district, SIEM REAP province), BAVET commune (CHANTREA district, SVAY RIENG province), and SAMPOEUV POUN commune(KOH THOM district, KANDAL province);
- Seen the minutes of affirmation by NEC representatives, on November 21 2006 from 15:30;

Having heard the rapporteur,

Having heard the parties and the witnesses,

Having deliberated in compliance with the law,

- Whereas the complaint of Mr. DYNA SAKUN was made within the period of public posting of the initial electoral lists. In accordance with the Article 42 (N) of the law on the amendment of the law on the Elections of Khum / Sangkat Council, the Article 64 (N) of the Amendment of the law on the Elections of the Members of the National Assembly, and the Article 26 of the law on the Organization and the Functioning of the Constitutional Council, therefore it is admissible;
- Whereas during the hearing and in his complaint, Mr. DYNA SAKUN demands that the names of 1,604 foreigners be deleted from the electoral lists, by arguing that those people speak Khmer with Vietnamese accent, live in the Vietnamese way, do not know how to read and write Khmer, and by referring to the law on Naturalization and the sub-Decree N°36 អ.វ.ជ.ប of July 26, 1996 in support. Besides, Mr. YIM THY, witness from CHONG KHNEAS commune (SIEM REAP district, SIEM REAP province) presents similar arguments as those of the complainant. Mr. SOK SAM EAN, witness from BAVET commune (CHANTREA district, SVAY RIENG province) asserts that the 58 people whose names he demanded to delete have clear identity, but tainted with irregularities. Mr. SEM MOEUN, witness from SAMPOEUV POUN commune(KANDAL province), asserts that some people whose names he demanded to delete possess identity cards and have been living there since 1979 throughout the subsequent years, and that 250 out of the 783 contested people have had their names deleted by the KANDAL

Provincial Election Commission in 2001, but still listed on the initial electoral lists;

- Whereas during the hearing and in his response during the inquiry, H.E. EM SOPHAT confirms that Mr. DYNA SAKUN filed a complaint asking to delete the names of 1,604 people from the electoral lists by arguing that they are Vietnamese, without producing any evidence or knowing the people against whom he lodged the complaint.

H.E. EM SOPHAT says during the hearing at the National Election Committee, Mr. DYNA SAKUN did not raise the question of the removal of the names of 250 people by the KANDAL Provincial Election Commission in 2001, but through Mr. SEM MOEUN' s reiterations , H.E. EM SOPHAT realizes that the people could have their names registered prior to the General Election in 2003 and that is the reason why their names remain in the final electoral lists;

- Whereas in accordance with the provisions of the Articles in chapter 12 on the inter-provisions of the law on the Election and the law on the Amendment of the law on the Elections of the Members of the National Assembly, the 250 people who had their names struck off by the KANDAL Provincial Election Commission could have their names reregistered;
- Whereas the investigation at CHONG KHNEAS commune (SIEM REAP district, SIEM REAP province) shows that among the 763 people demanded to have their names struck off, 2 people have passed away and 26 people have moved out. Their names shall be struck off the initial electoral lists; (Those names are available in the annex of this decision.)
- Whereas the affirmation of the authenticity of an individual's identity is not within the competence of the Constitutional Council;

Decides:

In the presence of the parties

Article 1 : The complaint of November 17, 2006 of Mr. DYNA SAKUN is admissible for its legal form but is rejected for being groundless.

Article 2 : The decisions of the National Election Committee:

- dated of November 12, 2006 rejecting the complaint N° 0007/06 ក.ទ.ជ.ប of November 07, 2006;
- dated of November 13, 2006 rejecting the complaint N° 0013/06 ក.ទ.ជ.ប of November 10, 2006;
- dated of November 13, 2006 rejecting the complaint N° 0017/06 ក.ទ.ជ.ប of November 11, 2006;

are upheld.

Article 3 : This decision pronounced in public hearing in Phnom Penh on November 24, 2006 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, November 24, 2006
**For the Constitutional Council and For the Hearing Council
The President**

Signed and Sealed

BIN CHHIN

**KINGDOM OF CAMBODIA
Nation Religion King
The Constitutional Council**

**Annex of the Decision
N° 084/011/2006 CC.D.
of November 24, 2006**

Bureau 0482

N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
10	HVEANG Thy Hnor	F	1940	R1-923-189	Moved
38	HVEANG Thy Bert	F	1950	5-342-699	Moved
70	HVEANG Thy Hear	F	1946	9-209-002	Moved
83	HVEANG Yaing Kang	M	08-11-1970	R1-923- 178	Moved
85	HVEANG Yaing Ko	M	1982	9-209-129	Moved
101	HVEANG Yaing Ti	M	1948	9-209-043	Moved
108	HVEANG Yaing Bann	M	1982	9-209-044	Moved
112	HVEANG Yaing Peur	M	1980	R1-923-137	Moved
127	HVEANG Yaing Yeung	M	1983	9-209-003	Moved
318	VIN Thy Houng	F	1983	R1-923-179	Moved

352	HOR Thy Than	F	1956	9- 209-125	Deceased
353	HOR Thy Ben	F	1977	R1-923-138	Moved

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N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
3	NGUYENG Chantha	M	1983	9-176-923	Moved
9	NGVEANG Thy Cheang	F	1971	5-344-699	Moved
14	NGUYENG Thy Dave	F	1980	5-344-809	Moved
28	NGUYENG Thy Ti	F	1983	R1-923-046	Moved
110	NGUYENG Yaing Loun	M	1960	5-344-877	Moved
112	NGUYENG Yaing Sang	M	1961	5-344-568	Deceased
117	NGUYENG Yaing Seung	M	1947	5-344-697	Moved
121	NGUYENG Yaing Hay	M	1962	R1-922-962	Moved
129	NGUYENG Yaing Heng	M	1979	5-344-700	Moved
140	CHEA Yung	M	1979	9-176-920	Moved
191	TREUNG Thy Hay	F	1923	5- 344-850	Moved
198	TREUNG Thy Ek	F	1959	5-344-876	Moved
238	PHA Yaing Cheang	M	1958	9-176-889	Moved
272	YOR Thy Fé	F	1949	5-344-698	Moved
304	LOU Yaing Sin	M	1932	5-344-507	Moved
369	LË Thy Houy	F	1963	9-176-885	Moved