

**KINGDOM OF CAMBODIA**  
**Nation Religion King**

**The Constitutional Council**

**CASE**

N°:114/014/2006

Of November 17, 2006

**Decision**

N°: 085/012/2006 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 Amendment 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. LENG SENG, member of the election committee of the SAM RAINSY Party, to be his representative in lodging the complaint and attending the Hearing of the Constitutional Council;
- Seen the complaint dated November 17, 2006 from Mr. LENG SENG asking to delete the names of 257 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, which the Secretariat General of the Constitutional Council received on November 17, 2006 at 10:24 A.M;
- Seen the decision of the National Election Committee of November 12, 2006 rejecting the complaint N° 0008/06 ក.ស.ជ.ប dated November 07, 2006 of Mr. LENG SENG;

- Seen the decision of the National Election Committee of November 13, 2006 rejecting the complaint N° 0015/06 គ.ជ.ប of November 10, 2006 of Mr. LEN SENG;
- Seen the decision of the National Election Committee of November 13, 2006 rejecting the complaint N° 0016/06 គ.ជ.ប of November 10, 2006 of Mr. LEN SENG;
- Seen the letter N° 516/06 N.E.C. of November 23, 2006 appointing NEC representatives to attend the public hearing of the Constitutional Council;
- Seen the minutes of investigation of the Constitutional Council's representatives in PREK KOY commune, KBAL KOH commune, and CHHEU KHMAO commune, KANDAL province;
- Seen the minutes of affirmation of NEC representatives on November 22, 2006 from 15:00;

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

- Whereas the complaint of Mr. LENG SENG was made within the period of public posting of the initial electoral lists. In accordance with the Article 42 (N) of 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. LENG SENG demands that the names of 257 Vietnamese be deleted from the electoral lists of communes of KANDAL province (KBAL KOH commune of KIEN SVAY district, CHHEU KHMAO commune of KOH THOM district and PREK KOY commune of SAANG district) by referring to the Articles 50 (N) and 54 (N) point 'C' of the law on the Amendment of the Law on the Elections of the Members of the National Assembly. He asserts that in KBAL KOH commune, the commune Chief does not dare to confirm that these people are not Vietnamese; in CHHEU KHMAO commune, the official in charge of commune election whose name is ROS CHHENG says these are Vietnamese names but the Khum / Sangkat Council is not entitled to strike them off; and in PREK KOY commune, the complaint settlement is not held on the fixed date;
- Whereas during the hearing and in the inquiry, H.E. MEAN SATIK and H.E MAO SOPHEARITH, members of the National Election Committee, confirm that the plaintiff's affirmations are similar to those that made during the Hearing at NEC. H.E. MEAN SATIK says that in this Hearing the clerk of PREK KOY commune showed the documents proving that the 128 people have been living in the commune since 1979. In KBAL KOH commune, the commune Chief says the 67 people live in the commune and possess their family books. In CHHEU KHMAO commune, the commune Chief says the

62 people whose names were demanded to be deleted have been living in the commune since 1979;

H.E MAO SOPHEARITH replies to the plaintiff that the irregularities of the issuance and possession of Khmer identity cards are criminal offenses, which lie within the competence of the courts, not within that of the National Election Committee;

- Whereas the people whose names were demanded to be deleted from the initial electoral lists, are people who have their name registered in the electoral lists since 1993. Therefore, they shall not have their names struck off, unless they passed away, moved, have their names registered twice, have been deprived of the rights to vote by a court decision or have been proved they are not Khmer by a legal document;
- Whereas the complaint, which referred only to the Constitution, to the laws, to the sub-Decrees, to the legal provisions, and to the electoral procedures without producing clear evidences to confirm each case, has no sufficient legal grounds to delete the names of the people who had their names registered in the final electoral lists;
- Whereas the 257 people whose names were demanded to be deleted from the initial electoral lists are registered in the final electoral lists although there are some contradictory allegations among commune Chiefs, officials in charge of commune election, and commune clerks;
- Whereas concerning the complaint's settlement raised by Mr. LENG SENG about the set time, the PREK KOY commune council should draw experience;
- Whereas the investigation on the site shows that in PREK KOY commune 8 people have passed away, and 7 people have moved; in CHHEU KHMAO commune, 2 people have passed away, and 3 people have moved. Their names shall be struck off the initial electoral lists ( Those name 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 dated November 17, 2006 of Mr. LENG SENG is admissible for its legal form but is rejected for being groundless.

**Article 2** : The decisions of the National Election Committee:

1- dated November 12, 2006 rejecting the complaint N° 0008/06 គ.ជ.ប of November 07, 2006;

2- dated November 13, 2006 rejecting the complaint N° 0015/06 គ.ជ.ប of November 10, 2006;

3- dated November 13, 2006 rejecting the complaint N° 0016/06 គ.ជ.ជ.ប of November 10, 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° 085/012/2006 CC.D.**  
**of November 24, 2006**

**1. PREK KOY Commune, SAANG District**  
**- 8 people passed away**

| N°  | NAMES             | SEX | DATE OF BIRTH | ADDRESS         | MISCELLANEOUS |
|-----|-------------------|-----|---------------|-----------------|---------------|
| 726 | VEANG Thy Boûy    | F   | 1930          | PHUM PREK RUN   | deceased      |
| 144 | YAING Sath        | M   | 1939          | PHUM KNONG PREK | deceased      |
| 161 | YAING Seûng       | M   | 1929          | PHUM KNONG PREK | deceased      |
| 131 | VEANG Thy Yov     | F   | 1930          | PHUM KNONG PREK | deceased      |
| 438 | VEANG Yaing Phung | M   | 1925          | PHUM KNONG PREK | deceased      |
| 194 | HVEANG Thy Va     | F   | 1930          | PHUM PREK RUN   | deceased      |

|     |                    |   |      |                 |          |
|-----|--------------------|---|------|-----------------|----------|
| 103 | HVEANG Thy Chive   | F | 1938 | PHUM PREK RUN   | deceased |
| 109 | HVEANG Yaing Heung | M | 1934 | PHUM KNONG PREK | deceased |

- **7 people moved**

| N°  | NAMES             | SEX | DATE OF BIRTH | ADDRESS         | MISCELLANEOUS |
|-----|-------------------|-----|---------------|-----------------|---------------|
| 441 | VEANG Thy Bouy    | M   | 10.05.1956    | PHUM KNONG PREK | moved         |
| 64  | YAING Sath        | F   | 1946          | PHUM KNONG PREK | moved         |
| 65  | YAING Seung       | M   | 1960          | PHUM KNONG PREK | moved         |
| 68  | VEANG Thy Yov     | M   | 1970          | PHUM KNONG PREK | moved         |
| 91  | VEANG Yaing Phung | F   | 1977          | PHUM PREK RUN   | moved         |
| 108 | HVEANG Thy Va     | M   | 1947          | PHUM PREK RUN   | moved         |
| 436 | HVEANG Thy Chive  | M   | 1979          | PHUM PREK RUN   | moved         |

2. **CHHEU KHMOA commune, KOH THOM District**

- **Bureau 0348: 3 people moved**

| N°  | NAMES             | SEX | DATE OF BIRTH | ADDRESS | MISCELLANEOUS |
|-----|-------------------|-----|---------------|---------|---------------|
| 25  | KIM Ngok Fa       | F   | 1967          |         | moved         |
| 29  | KEANG Yaing Veung | M   | 1948          |         | moved         |
| 483 | LE Thy Dong       | F   | 1967          |         | moved         |

- Bureau 0349: 2 people passed away

| N°  | NAMES        | SEX | DATE OF BIRTH | ADDRESS | MISCELLANEOUS |
|-----|--------------|-----|---------------|---------|---------------|
| 250 | PHAM Thy Ann | F   | 1969          |         | deceased      |
| 369 | VEUNG Rong   | F   | 1946          |         | deceased      |