

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



**The Constitutional Council**

**CASE**

N° 134/006/2007

Of November 13, 2007

**Decision**

N° 094/005/2007 CC.D

Of November 21, 2007

**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 promulgating the Law on 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 promulgating the Law 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/0606/019 of June 27, 2006 promulgating the Law on the Amendment of the 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 November 08, 2007 decision of the National Election Committee(NEC), to maintain the names of 1,331 persons at the Prek Chrey commune and the names of 702 persons at the Sampoeu Poun commune in the preliminary voter lists;
- Seen the November 13, 2007 petition by Mr. LONG LIMHEA , demanding to delete the names of 2,033 Vietnamese and rejecting the decision of the NEC Jurisdictional Council, signed by H.E. IM SUOSDEY on November 08, 2002 (in fact : 2007), petition which the Secretariat General of the Constitutional Council received on November 13, 2007 at 10:45 am;

- Seen the power of attorney dated on November 13, 2007 given by H.E. SAM RAINSY, President of the SAM RAINSY Party to Mr. LONG LIMHEA to represent his Party for appealing and attending the public hearing of the Constitutional Council;
- Seen the letter N° 838/07 NEC of November 19, 2007, appointing the representatives of NEC to attend the public hearing of the Constitutional Council;
- Seen the November 16, 2007 minutes of investigation at Sampoeu Poun commune, Koh Thom district, Kandal province;
- Seen the November 16, 2007 minutes of investigation at Prek Chrey commune, Koh Thom district, Kandal province;
- Seen the November 16, 2007 minutes recording the clarification given by Mr. LONG LIMHEA;
- Seen the November 16, 2007 minutes recording the clarification given by the representatives of the NEC;

**Having heard the rapporteur,**

**Having heard the parties,**

**Having deliberated in compliance with the law,**

- Whereas Mr. LONG LIM HEA 's petition, made within the period of the public posting of the preliminary voter lists, is admissible for its legal form according to Article 64 (New) of the Law on the Elections of the Members of the National Assembly and to Item 3 of Article 26 of the Law on the Organization and the Functioning of the Constitutional Council, notwithstanding the error committed, as to its subject on the date of November 08, 2002 given to the NEC decision instead of November 08, 2007;
- Whereas in his petition and in his clarification given during the inquiry, Mr. LONG LIMHEA demanded the names of 2,033 Vietnamese to be stricken off the voter lists by arguing that the latter are illegal immigrants in Cambodia, having no Khmer identity cards nor resident record books, and some of them who have only residence permit, continue to live in Vietnam, yet during election they come back to vote. At the public hearing, Mr. LONG LIMHEA added that he has no written evidences but only noted that those persons are Vietnamese, speak Vietnamese and live in the Vietnamese way;
- Whereas during the inquiry and in the public hearing, H.E. MEAN SATIK and H.E. MAO SOPHEARITH, the NEC representatives, confirmed that the NEC Jurisdictional Council based its decision to reject the petition of Mr. LONG LIMHEA and to maintain the names of 2,033 persons upon 3 reasons :
  - 1- The plaintiff has no evidence. The plaintiff did not produce any evidence as required by Article 64(New) of the Law on the Elections of the Members of the National Assembly;
  - 2- The chief of the commune and the chief of administrative (police) station clarified that in the course of the registration of the immigrants, submitted to the Ministry of Interior, the names of these 2,033 persons are not mentioned on the immigrants lists;

- 3- The residence record books of the persons subjected to the petition, attest that they are Cambodians, who have been residing since long and even have lands to farm;
- Whereas Mr. LONG LIMHEA has no evidence in order to have the names of 2,033 persons to be stricken off the preliminary voter lists, besides his affirmation, has no legal ground.
  - Whereas the motive given by H.E. MEAN SATIK and H.E. MAO SOPHEARITH, the NEC representatives, referring to Article 64(New) of the Law on the Elections of the Members of the National Assembly, proves to have legal foundation and can be considered as relevant;
  - Whereas pursuant to the investigation conducted by the representatives of the Constitutional Council, the 1,331 persons of Prek Chrey commune and the 702 persons of Sampoeu Poun commune,( Koh Thom district, Kandal province), whose names Mr. LONG LIMHEA demanded to be stricken off from the preliminary voter lists, have all their names registered in the final voter lists, in accordance with Article 54(New), Item "C" of the Law on the Elections of the Members of the National Assembly;
  - Whereas concerning the names which Mr. LONG LIMHEA demanded to be stricken off from the preliminary voter lists at Prek Chrey and Sampoeu Poun communes,( Koh Thom district, Kandal province); the investigation at Prek Chrey and Sampoeu Poun commune conducted by the representatives of the Constitutional Council and the verification by its expert department which has examined the decision of the Constitutional Council in 2006, have found similar affirmation about a great number of, if not nearly all the names on the lists that Mr. TOUCH RITHY has demanded to be deleted in his petition of November 17, 2006 about Prek Chrey commune and in the petition of Mr. DYNA SAKUN of November 16, 2006 at Sampoeu Poun commune, which the Constitutional Council had already examined and decided on:
    - o the case of Prek Chrey commune by its Decision N° 086/013/2006 CC.D of November 25, 2006 upholding the decision of NEC;
    - o the case of Sampoeu Poun commune by its Decision N° 084/011/2006 CC.D of November 24, 2006 upholding the decision of NEC but enjoining NEC to delete the names of 2 deceased and the other 26 persons, who have already moved out among the names of 763 registered persons at Chong Kneas commune,( Siem Reap district, Siem Reap province); whereas for the case of Sampoeu Poun all the names are maintained;
  - Whereas the authentication of identity is not within the competence of the Constitutional Council;

**Decides:**

**Article 1** : The petition of Mr. LONG LIMHEA of November 13, 2007 is admissible for its legal form, but is rejected for being unfounded;

**Article 2** : Is upheld the decision of the Jurisdictional Council of NEC on November 08, 2007 to maintain:

- 1- the names of 1,331 persons registered in the preliminary voter lists at Prek Chrey commune;
- 2- the names of 702 persons registered in the preliminary voter lists at Sampoeu Poun commune;

**Article 3** : This decision pronounced in the public hearing in Phnom Penh on November 21, 2007, 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, November 21, 2007

**On behalf of the Constitutional Council**

*Sitting as* **the Jurisdictional Council**

**The President,**

**Signed and Sealed: EK SAM OL**