

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE

N° 189/012/2011

Of November 08, 2011

Decision

N° 119/007/2011 CC.D

Of November 17, 2011

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the National Election Committee decision N° 001/11 N.E.C.D of November 03, 2011 made to delete the names of 19 voters from the preliminary voter lists and to maintain the names of 39 voters on the preliminary voter lists in Kampong Loung commune;
- Seen the November 08, 2011 petition N° 135/11 S.R.P of Mr. RUOS SUOR, representative of Mr. MAO DIAMAND, Representative of SAM RAINSY Party, against the National Election Committee decision N° 001/11 N.E.C.D of November 03, 2011.

Having heard the rapporteur,

Having heard the parties,

Having deliberated in compliance with the law,

- Whereas the National Election Committee issued the November 03, 2011 decision N° 001/11 N.E.C.D;

Mr. RUOS SUOR, Representative of Mr. MAO DIAMAND, filed the November 08, 2011 petition N° 135/11 S.R.P against the National Election Committee decision N° 001/11 N.E.C.D of November 03, 2011. The Secretariat General of the Constitutional Council received this petition on November 08, 2011 at 15:15;

The aforementioned petition of Mr. RUOS SUOR was made within the time limit as stipulated in Article 65 (New-two) Paragraph 6 of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly and in Article 26 point 3 of the Law on the Organization and the Functioning of the Constitutional Council; therefore, it is admissible;

- Whereas during the public hearing and at the inquiry of Group I of the Constitutional Council, Mr. RUOS SUOR clarified that:

“The November 08, 2011 petition, which has been read, is mine and the power of attorney of November 08, 2011 of Mr. MAO DIAMAND given to me by Mr. MAO DIAMAND to file the petition to the Constitutional Council, is really Mr. MAO DIAMAND’s letter. I would like to add my affirmation on the petition as follows: in my petition, I state my qualification as the representative of SAM RAINSY Party because at the Kampong Loung commune Mr. MAO DIAMAND files a petition on behalf of SAM RAINSY Party, but at the National Election Committee, he entitles me as his representative. Therefore, I file a petition to the Constitutional Council as the representative of SAM RAINSY Party. So I would like to confirm that I file a petition here as the representative of Mr. MAO DIAMAND, Representative of SAM RAINSY Party.

At the National Election Committee, I demand the names of 58 foreigners to be deleted. The National Election Committee decides to delete the names of 19 voters and to maintain the names of 39 voters on the preliminary voter list at Kampong Loung commune, Ponhear Leu district, Kandal province. Therefore, I would like to request the Constitutional Council to delete the names of 39 Vietnamese from the preliminary voter list at Kampong Loung commune, Ponhear Leu district, Kandal province;

Those Vietnamese have settled in Cambodia since 1991, 1992 and some of whom have settled in 1985. As I know, those Vietnamese have had the names in the voter list since 2003.”;

- Whereas during the Public Hearing and at the inquiry of Group I of the Constitutional Council, H.E. EM SOPHAT, Representative of the National Election Committee, confirmed that:

“Mr. RUOS SUOR files a petition to the National Election Committee to delete the names of 58 foreigners from the 2011 preliminary voter list at Kampong Loung commune, Ponhear Leu district, Kandal province.

I would like to inform that the 2011 preliminary voter list is the 2010 final voter list updated by deleting the names of people deceased, moved out, have no residences, and correcting the names of voters including the new voters in the 2011 voter list;

All 58 people who are confirmed by Mr. RUOS SUOR as foreigners have no concrete evidences. In fact, those people have their names in the voter lists since 2003. During the inquiry and at the public hearing of the National Election Committee on November 03, 2011, Mr. RUOS SUOR just orally confirms by referring to the accent, colors, names, and surnames of those people with no any concrete evidences.

I would like to add more confirmation that the National Election Committee decides to delete the names of 19 people from the preliminary voter list at Kampong Loung commune among the 58 names mentioned by Mr. RUOS

SUOR because among the 19, 15 people have no residences at Kampong Loung commune and 4 people deceased. Concerning to other 39 names, the National Election Committee decides to maintain their names in the 2011 preliminary voter list at Kampong Loung commune for the following reasons:

- Those people are living in Kampong Loung commune
 - Their names are not in the list of the Immigrant Administration
 - Those people have sufficient conditions in compliance with Article 54 new (II) point C dash 5 of the Law on the Elections of the Members of the National Assembly and the Law on the Amendment of this Law.”;
- Whereas according to the provision of Article 54 (New-two) point C “In order to prove that their Khmer nationality, a citizen shall show any of the following documents:
- a passport of the Kingdom of Cambodia;
 - an identity card issued pursuant to the Law on the Nationality of the Kingdom of Cambodia and the Sub-Decree (Anukret) n° 36, dated 26 July 1996, on the Khmer Identity Card;
 - an identification card of the civil servant or of the Royal Cambodian Armed Forces or of the National Police of the Kingdom of Cambodia;
 - an identification card of the Buddhist monk;
 - an evidence proving that the name of the applicant for registration exists in the final voter list, and in the voter registration book of the Commune/Sangkat;
 - a birth certificate stating the Khmer nationality;
 - a letter issued by the Royal Government of Cambodia certifying that he/she is a Khmer citizen;
 - a letter of certification, a document or a final decision of the court proving that a parent (mother or father) of the applicant is a Khmer citizen, and a document proving that the applicant for voter registration is the child of that parent.
 - an official document proving that the applicant for voter registration was born in Cambodia and that the foreign parents of that applicant were also born and lived legitimately in Cambodia, and an official document proving that the applicant for voter registration is the child of those parents.”;
- Whereas the National Election Committee decision N° 001/11 N.E.C.D of November 03, 2011 has legal ground;
- Whereas Mr. RUOS SUOR who filed the petition to the Constitutional Council on November 08, 2011, had no written documents or evidences to reject the decision of the National Election Committee;
- Whereas the authentication of identity is not within the competence of the Constitutional Council.

Decides:

Article 1: The petition of Mr. RUOS SUOR N° 135/11 S.R.P of November 08, 2011 is admissible for its legal form, but is rejected for being unfounded;

Article 2: Is upheld the decision of Jurisdictional Council of the National Election Committee N° 001/11 N.E.C.D of November 03, 2011;

Article 3: This decision pronounced in the Public Hearing in Phnom Penh on November 17, 2011 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 17, 2011
On behalf of the Constitutional Council
Sitting as the Jurisdictional Council
The President,

Signed and Sealed: EK SAM OL

Glossary

CC.D	Decision of the Constitutional Council
Preah Reach Kram	Royal Kram (the legal act signed by His Majesty the King for promulgating the Constitution or Law)
NS	Norodom Sihamoni (His Majesty the King of the Kingdom of Cambodia)
RKM	Royal Kram
N.E.C.D	Decision of the National Election Committee
S.R.P	SAM RAINSY Party