

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N°:117/017/2006

Of November 18, 2006

Decision

N°: 083/010/2006 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 from H.E. KONG KAM, acting President of the SAM RAINSY party, giving the power to Mr. THACH KHUN SARIN, 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 complaint of November 17, 2006 from Mr. THACH KHUN SARIN demanding that the names of 8 people in Sangkat Chbar Ampeuv I, Khan Meanchey, Phnom Penh, be deleted from the electoral lists, which the Secretariat General of the Constitutional Council received on November 18, 2006 at 11.10 A.M;
- Seen the letter N° 514/06 N.E.C. of November 23, 2006 appointing the National Election Committee's representatives to attend the Hearing of the Constitutional Council;
- Seen the decision of the National Election Committee of November 13, 2006 rejecting the complaint N° 0011/06 គ.ជ.ជ.ប dated November 10, 2006 from Mr. THACH KHUN SARIN;
- Seen the minutes of inquiry of November 21, 2006 in Sangkat Chbar Ampeuv I, Khan Meanchey, Phnom Penh;

- Seen the minute relating to the clarification given by NEC representatives on November 21, 2006 at 14:30;

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

- Whereas the complaint of Mr. THACH KHUN SARIN 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 law on 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. THACH KHUN SARIN confirms that he has known the eight people because he is the deputy Chief of Sangkat Chbar Ampeuv I and has been living there for ten years. The witness whose name is CHHOUN TY, living in the above-mentioned Sangkat, affirms that the eight people speak Vietnamese, watch Vietnamese TV channels, wear Vietnamese clothes, and follow Vietnamese custom; and do not possess identity cards;
- Whereas during the Hearing and in their responses, H.E. MEAN SATIK and H.E. MAO SOPHEARITH, Members of the National Election Committee, say, *“In the hearing of the National Election Committee, Mr. THACH KHUN SARIN does not produce any document as evidence, except the arguments dealing with their Vietnamese names and accents. Mr. THACH KHUN SARIN proves that he is both a complainant and a person involved in the settlement, by signing the settlement document at the Khum / Sangkat Council of Chbar Ampeuv I, acknowledging that three of them possess Khmer identity cards and five of them have their names registered in the final electoral list.”* Furthermore, H.E. MEAN SATIK says, *“Mr. THACH KHUN SARIN does not know the identities of the eight people and the places where they live;”*
- Whereas Mr. THACH KHUN SARIN argues that the eight people do not possess Khmer citizenship because they speak Vietnamese, watch Vietnamese TV channels, wear Vietnamese clothes, teach their children to greet in a Vietnamese way. These arguments cannot be held as evidence for the Constitutional Council to delete their names from the electoral list;
- Whereas the investigation on the spot reveals that three of the eight people whose names were asked to be deleted, possess Khmer identity cards and the other five have their names registered in the final electoral list;
- Whereas the confirmation 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 from Mr. THACH KHUN SARIN is admissible for its legal form but is rejected for being groundless.

Article 2 : The decision of November 13, 2006 of the National Election Committee rejecting the complaint N° 0011/06 ក.ទ.ជ.ប of November 10, 2006 is 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