

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N°:116/016/2006

Of November 17, 2006

Decision

N°: 087/014/2006 CC.D

Of November 25, 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. PIM SAMNANG, 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. PIM SAMNANG demanding to strike the names of Vietnamese people off 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 13, 2006, complaint received by the Secretariat General of the Constitutional Council on November 17, 2006 at 15:49;
- Seen the decision of the National Election Committee of November 13, 2006 rejecting Mr. PIM SAMNANG 's complaint N° 0010/06 ក.គ.ជ.ប dated November 10 2006 ;
- Seen the letter N° 518/06 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 BABOANG commune, PEAM ROR commune, NEAK LOEUNG commune, PREK KSAY (A) commune, PREK KSAY (B)

commune (PEAM ROR district), KAMPONG LEAV commune (KAMPONG LEAV district), and KAMPONG PRASAT commune (PEAM CHOR district);

- Seen the minutes of affirmation of NEC representatives on November 22, 2006 at 10h00;

Having heard the rapporteur,

Having heard the parties,

Having deliberated in compliance with the law,

- Whereas the complaint of Mr. PIM SAMNANG 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. PIM SAMNANG demands to strike the names of 1,264 foreigners off the initial electoral lists in seven communes of PREY VENG province, by asserting that these people do not possess Khmer citizenship, speak unclear Khmer, do not know how to write in Khmer, live on the boats along the rivers, or rent houses and practice Vietnamese customs. He also declared that they are not qualified to get Khmer citizenship in accordance with the Law on the Naturalization, and that they do not have the rights to register for the election, should the Law on the Elections of Khum / Sangkat Council be implemented. He also wonders why some of them hold Khmer identity cards, while they do not obtain the royal Decrees granting the citizenship. He adds that the National Election Committee has held the Hearing in absence of the defendants;
- Whereas during the hearing and in the inquiry, H.E. EM SOPHAT and H.E. SOM CHANDYNA, representatives of the National Election Committee, asserted that during the Hearing at the National Election Committee, Mr. PIM SAMNANG could only affirm that these persons have Vietnamese names and surnames by picking up the names from the electoral lists, and did not specify the names of the polling station of the people whose names were demanded to be struck off. The case in BABOANG commune (PEAM ROR district, PREY VENG province), the commune council decided to strike the names of 46 among the 172 people off the lists, but those names remain the subject of the complaint lodged with the National Election Committee. H.E. EM SOPHAT reiterates that the National Election Committee respects the laws and the procedures, to delete the names entails sound and clear evidences. The fact that the National Election Committee did not make any investigation on the site owes to the existence of its structure at the communal and provincial levels. Nevertheless at the Hearing of the National Election Committee the representatives of the communes were also present along with the decision of the commune councils;
- Whereas despite the absence of the defendant, the National Election Committee can decide in absentia;

- Whereas the people whose names were demanded to be deleted from the initial electoral lists, have their names in the final electoral lists in accordance with the Article 54N point “C” of the Law on the Amendment of the Law on the Elections of the Members of the National Assembly ;
- Whereas the investigation of the representatives of the Constitutional Council found out that in BABOANG commune (PEAM ROR district, PREY VENG province), 46 people had their names struck off the initial electoral lists by the commune council due to their death and change of residence; therefore, 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 dated November 17, 2006 of Mr. PIM SAMNANG 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° 0010/06គ.ទ.ជ.ប of November 10, 2006 is upheld.

Article 3 : This decision pronounced in public hearing in Phnom Penh on November 25, 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 25, 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° 087/013/2006 CC.D.
of November 25, 2006**

Bureau 0528

N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
433	VEANG Yang Seung	M	1955	8.863.252	

Bureau 0532

N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
337	VEANG Thy Yeu	F	1940	R 1.627.638	
338	VEANG Thy Ling	F	1981	R 1.627.635	
339	VEANG Thy Vé	F	1983	R 1.627.630	
340	VEANG Yaing Keung	M	1985	R 1.627.631	
341	VEANG Yaing Gneur	M	1983	R 1.627.639	
342	VEANG Yaing Torng	M	1985	R 1.627.632	

Bureau 0533

N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
81	CHAING Yaing Eung	M	1977	R 1.627.785	
95	CHEUNG Yaing Pheù	M	1958	8.863.119	
117	DANG Yaing Bén	M	1939	R 1.627.780	
122	DEN Thy Keur	F	1956	4.578.931	
125	DEN Thy Heung	F	1958	4.578.994	
128	DEN Yaing Vang	M	1949	R 1.627.778	
139	TRENG Yain Sère	M	1960	4.578.954	
140	TRENG Yain Heung	M	1925	4.578.955	
142	THAM Phala	F	1973	4.578.013	
169	NY Sréng	M	1937	4.578.826	
200	PHAM Heng Ly	M	1953	4.578.936	
258	YOR Thy Doeuv	F	1950	4.578.025	
260	YOR Thy Hay	F	1951	4.578.917	
274	YI Yaing Phuk	M	1977	R 1.627.706	
315	VEANG Thy Dam	F	1965	4.578.977	
317	VEANG Thy Teung	F	1950	4.578.034	
321	VEANG Thy Neak	F	1984	R 1.727.787	
324	VEANG Thy Lour	F	1943	4.578.930	
328	VEANG Thy Lang	F	1960	4.578.937	
335	VEANG Yaing Keuk	M	1981	R 1.627.793	
344	VEANG Yaing Ben	M	1975	4.578.985	

345	VEANG Yaing Bearn	M	1982	R 1.627.786	
346	VEANG Yaing Baing	M	1926	R 1.627.701	
350	VEANG Yaing Vann	M	1928	R 1.627.783	
352	VEANG Yaing Veung	M	1935	4.578.979	
469	LÉ Yaing Dàng	M	1985	R 1.627.784	

Bureau 0534

N°	NAMES	SEX	DATE OF BIRTH	RECEIPT NUMBERS	MISCELLANEOUS
38	HVEANG Yaing Keun	M	1950	R 1.627.891	
39	HVEANG Yaing Hôu	M	1948	R 1.627.897	
51	CHAING Thy Neù	F	1980	R 1.627.944	
54	CHAING Thy Va	F	1979	R 1.627.943	
55	CHAING Thy Siv	F	1982	R 1.627.945	
68	CHEAM Yaing Chrong	M	1943	R 1.627.913	
71	CHEUNG Yaing Thor	M	1940	4.579.365	
105	DO Yaing Sok	M	1976	R 1.627.904	
156	BUY Thy Keung	F	1958	R 1.627.903	
172	PHAME Yaing Chrong	M	1944	R 1.627.858	
263	VEN Yaing Hourn	M	1926	R 1.627.899	
265	VEANG Chi Ching	F	1947	R 1.627.892	
352	LÉ Thy Yé	F	1961	4.579.250	