



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

**The Constitutional Council**

**CASE** N° 255/002/2015

Of March 23, 2015

**Decision** N° 154/002/2015 CC.D

Of March 24, 2015

**The Constitutional Council**

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the letter N° 262 N.A of March 23, 2015 of Samdech Akka Moha Ponhea Chakrei **Heng Samrin**, President of the National Assembly, requesting the Constitutional Council to examine the constitutionality of the Law on the Elections of the Members of the National Assembly, adopted by the National Assembly on March 19, 2015 in the extraordinary session of its 5<sup>th</sup> legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 6<sup>th</sup> session of its 3<sup>rd</sup> legislature on March 23, 2015, letter received by the Secretariat General of the Constitutional Council on March 23, 2015 at 11:30;

**Having heard the rapporteur,**

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

- Whereas the National Assembly and the Senate have duly implemented the procedure stipulated in Article 113 (New) of the Constitution for reviewing and adopting the Law on the Elections of the Members of the National Assembly;
- Whereas the request of Samdech Akka Moha Ponhea Chakrei **Heng Samrin**, President of the National Assembly, made in accordance with Article 140 (New) of the Constitution and Article 16 (New) of the Law on the Amendment of the Law on the Organization and the Functioning of the Constitutional Council, is therefore admissible;
- Whereas the form in drafting and adopting the Law on the Elections of the Members of the National Assembly is in conformity with the Constitution;

- Whereas Chapter 1 on the General Provisions, consisting of 4 Articles—Article 1 to Article 4—stipulating the Objective, the Modality and the Functioning of the Elections of the Members of the National Assembly, the Elections of Members of the National Assembly shall be implemented in accordance with the principles of liberal multi-party democracy, and shall be held every five years, the date of polling shall be determined and proclaimed by the Prime Minister upon the request of the Minister of Interior, the Elections shall be held only one day on Sunday, the Administration of the Elections of the Members of the National Assembly shall be within the competence of the National Election Committee. All provisions of the 4 Articles of the Chapter 1 are in conformity with the Constitution;
- Whereas Chapter 2 on the Electoral System and Determination of Seats, consisting of 2 Articles—Article 5 and Article 6—stipulating the Members of the National Assembly shall be elected by a general, universal, free, accurate, fair, equal, direct suffrage and secret ballot, the electoral system shall be proportional representation, the seat of the National Assembly is 125 distributed among 25 municipal/provincial constituencies. All provisions of the 2 Articles of the Chapter 2 are in conformity with the Constitution;
- Whereas Chapter 3 on the Political Party Agents and Election Observers, consisting of 16 Articles—Article 7 to Article 22—stipulating each political party standing for the election has the rights to appoint its representatives to observe the election and ballot counting in the polling stations, the modality of registration as full right and substitute agents; Khum/Sangkat Election Commissions shall issue identity documents to political party agents; The associations and non-governmental organizations can send their representatives to be observers; the National Election Committee shall issue identity documents to associations and non-governmental organizations; the rights to object or protest of the political party agents, the modality of objection or protest, the prohibition against political party agents and observers in the observation of the electoral and ballot counting process, the invitation of the representatives of foreign non-governmental organizations, representatives of other countries and international organizations to join the observation of the electoral process, and the drafting of regulations for political party agents and observers. All provisions of 16 Articles of the Chapter 3 are in conformity with the Constitution;
- Whereas Chapter 4 on the Registration of Political Parties and Lists of Candidates, consisting of 15 Articles—Article 23 to Article 37—stipulating the condition of Khmer citizens of both sexes who are eligible and wishes

to stand as candidates in an election of the members of the National Assembly, the registration of political parties shall start ninety (90) days before the polling day. To officially register for participation in the election, a political party shall fill out the 10 points of the application forms and shall submit to the National Election Committee no later than 70 days before the polling day. Meanwhile, there are provisions of an appeal to the Constitutional Council. The Constitutional Council shall examine and decide on the appeal within ten (10) days of receipt of the appeal. In case, the National Assembly is dissolved before the end of its mandate, the Constitutional Council shall urgently examine and decide on the appeal.

All provisions of 15 Articles of the Chapter 4 are in conformity with the Constitution;

- Whereas Chapter 5 on the Polling Stations, consisting of 6 Articles—Article 38 to Article 43—stipulating the establishment of the Polling Stations in accordance with the decision of the National Election Committee, each polling station shall have at maximum 750 registered voters, all polling and counting stations shall have inside and outside perimeters marked by the National Election Committee. The names and locations of marked polling stations shall be posted in public.

All provisions of 6 Articles of the Chapter 5 are in conformity with the Constitution;

- Whereas Chapter 6 on the Voter Registration and Voter Lists, consisting of 23 Articles—Article 44 to Article 66—stipulating the voter registration and voter lists shall ensure the rights to vote of all Khmer citizens who fulfilled the conditions in accordance with this law. The National Election Committee shall ensure the voter list for each polling station. The voters list shall contain the following information: surname, name, sex, date of birth, address or residence in the Khum/Sangkat where concerned persons shall cast their ballots, and the indication of the identity of each voter as photo and fingerprint or/and other indications recommended by the National Election Committee. All data shall be extracted from the national Khmer identity card of the voter. The National Election Committee shall validate and issue the official voter lists at least 90 days before the polling day. The period of reviewing the voter list and voter registration and providing validity to the voter lists shall begin from the 1<sup>st</sup> of May to 31<sup>st</sup> of July every year. In this Chapter, there are provisions of the appeal to the Constitutional Council.

All provisions of 23 Articles of the Chapter 6 are in conformity with the Constitution;

- Whereas Chapter 7 on the Electoral Campaign, consisting of 25 Articles—Article 67 to Article 91—stipulating the dissemination of political platforms of political parties and standing candidates during the electoral campaign, the electoral campaign activities, the display of the political party's panels, the duration of the electoral campaign, the respect of rules, provisions and principles complied with the law on the Elections of the Members of the National Assembly, with the Code of Conduct and the Regulations and Procedures of the National Election Committee during the electoral campaign. The electoral campaign period lasts 21 days and all activities of the electoral campaign shall be finished 24 hours before the polling day. During the electoral campaign, the parades of political parties can be held up to 4 times. All surveys and dissemination of the result related to the elections shall be completed 7 days before the polling day. The local non-governmental organizations or associations and international associations or international organizations working in Cambodia or foreigners shall be neutral towards the elections of the Members of the National Assembly. Foreigners present in the Kingdom of Cambodia are forbidden to act directly or indirectly in the electoral campaign in order to support or against any political party or candidate.  
All provisions of 25 Articles of the Chapter 7 are in conformity with the Constitution;
- Whereas Chapter 8 on the Polling, ballot Counting and Consolidation of the Election Results, consisting of 46 Articles—Article 92 to Article 137—stipulating the Polling shall last for one day from 7 a.m. to 3 p.m., except directed by the National Election Committee. The ballots shall be counted in each polling station in Khum/Sangkat. The polling officers in each polling station shall be responsible for the ballot counting in their own polling stations; in this case, the polling stations become the ballot counting stations. Political party agents, national and international observers may monitor during polling and ballot counting. After the ballot counting, the election commission of the polling stations shall prepare the minutes on the ballot counting and submit it to Khum/ Sangkat election commission by attaching with the voter lists, the valid and invalid ballots, unused ballots, the appeal or objection (if any), and shall post other documents in the polling station and distribute to political party agents who are present. This chapter also states the proclamation of preliminary election results and the appeal on the election results, the allocation of seats in the municipality/provinces and the proclamation of the official election results.  
All provisions of 46 Articles of the Chapter 8 are in conformity with the Constitution;

- Whereas Chapter 9 on the Loss of Seat and Replacement of the members of the National Assembly consisting of 2 Articles—Article 138 and Article 139—stipulating the seat abandonment by the political parties after the proclamation of the official election results by the National Election Committee and the loss of the Membership of the National Assembly.  
All provisions of 2 Articles of the Chapter 9 are in conformity with the Constitution;
- Whereas Chapter 10 on the Penalties consisting of 27 Articles—Article 140 to Article 166—stipulating the fine, the removal of name from the voter list, or removal of candidacy regardless of any other possible criminal penalty, and the written appeal to the Constitutional Council by person who is directly affected by the decision of the National Election Committee.  
All provisions of 27 Articles of the Chapter 10 are in conformity with the Constitution;
- Whereas Chapter 11 on the Transitional Provisions, consisting of 3 Articles—Article 167 to Article 169—stipulating the preparation of new voter list for the Elections of Khum/Sangkat Councils for the 4<sup>th</sup> mandate as well as the updated voter list and 2017 voter registration for the Elections of the Members of National Assembly for the 6<sup>th</sup> legislature.  
All provisions of 3 Articles of the Chapter 11 are in conformity with the Constitution;
- Whereas Chapter 12 on the Final Provisions, consisting of 2 Articles—Article 170 and Article 171—stipulating any provision contrary to this Law shall be abrogated and replaced by this Law. This Law shall be declared as urgent.  
All provisions of 2 Articles of the Chapter 12 are in conformity with the Constitution;
- Whereas the essences of the 12 Chapters, 171 Articles of the law on the Elections of the Members of the National Assembly are in conformity with the Constitution;

### **Decides:**

**Article 1:** The Law on the Elections of the Members of the National Assembly adopted by the National Assembly on March 19, 2015 in the extraordinary session of its 5<sup>th</sup> legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 6<sup>th</sup> plenary session of its 3<sup>rd</sup> legislature on March 23, 2015 is declared in conformity with the Constitution.

**Article 2:** This decision made in the Plenary Session of the Constitutional Council in Phnom Penh on March 24, 2015 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, March 24, 2015  
**On behalf of the Constitutional Council**  
**The President,**

Signed and Sealed: **Ek Sam Ol**

## Glossary

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CC.D	Decision of the Constitutional Council
N.A	The National Assembly
Khum/Sangkat	Commune/quarter