

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE N° 248/005/2014

Of June 13, 2014

Decision N° 147/001/2014 CC.D

Of July 02, 2014

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
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- Seen the letter N° 254 N.A of June 13, 2014 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 statute of the judges and the prosecutors, adopted by the National Assembly on May 23, 2014 in the 2nd plenary session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 5th session of its 3rd legislature on June 12, 2014, letter received by the Secretariat General of the Constitutional Council on June 13, 2014 at 16:04;

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 in reviewing and adopting the Law on the Statute of the Judges and the Prosecutors;
- 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) paragraph 1 of the Law on the Amendment of the Organization and the Functioning of the Constitutional Council, is therefore admissible;
- Whereas the form in drafting and adopting the Law on the Statute of the Judges and the Prosecutors has nothing contrary to the Constitution;

- Whereas the clarification given by the Minister of Justice and his colleagues on certain points of the Law on the Statute of the Judges and the Prosecutors in the session of the Constitutional Council on July 01, 2014, at the invitation of the Constitutional Council, is held in accordance with Article 21 of the Law on the Organization and the Functioning of the Constitutional Council;
- Whereas Chapter 1 on the Common Regulation, consisting of 7 Articles—Article 1 to Article 7—stipulating the purposes of ensuring the independence of the Judicial Power, the scope of the implementation, persons shall be selected to perform the function as judges and prosecutors, and all judges and prosecutors shall be part of the central administration of the Ministry of Justice, has nothing contrary to the Constitution;
- Whereas Chapter 2 on the Judges, divided into 14 parts and consisting of 66 Articles—Article 8 to Article 73—stipulating the general provisions, the rank and grade, the uniform, the salary, the allowance, the bonus, and annual leave, the judge recruitment, the internship and tenure of judges, the promotion in grade and in rank, the nomination, the transfer, the discharge, the removal from the cadre, the leave without pay, the removal from duty as judge, the duties as judges, the disciplinary sanction, the judicial charges, the retirement, the honorary title, and the oath taking, has nothing contrary to the Constitution;
- Whereas Chapter 3 on the Prosecutors, divided into 14 parts and consisting of 32 Articles—Article 74 to Article 105—stipulating the general provisions, the rank and grade, the uniform, the salary, the allowance, the bonus, and the annual leave, the prosecutor recruitment, the internship and tenure of prosecutors, the promotion in grade and in rank, the nomination, the transfer, the discharge, the removal from the cadre, the leave without pay, the removal from duty as prosecutor, the duties as prosecutor, the disciplinary sanction, the judicial charge, the retirement, the honorary title, and the oath taking, has nothing contrary to the Constitution;
- Whereas Chapter 4 on the Incompatibility, consisting of 2 Articles—Article 106 and Article 107—stipulating the Incompatibility of the functions of the Judges and the Prosecutors, has nothing contrary to the Constitution;
- Whereas Chapter 5 on the Transitional Provision, consisting of 3 Articles—Article 108 to Article 110—stipulating the Integration of the Judges and the Prosecutors in the management framework of the Supreme Council of Magistracy shall be integrated into the cadres of the judges and the prosecutors in accordance with the provision of this Law except the

Judges of Military Court and Prosecutors attached to the Military Court, has nothing contrary to the Constitution;

- Whereas Chapter 6 on the Final Provision, consisting of 1 Article—Article 111—stipulating any provision that is contrary to this law shall be abrogated, has nothing contrary to the Constitution;
- Whereas the entire essences of the 6 Chapters, 111 Articles of the Law on the Statute of the Judges and the Prosecutors, have nothing contrary to the Constitution;

Decides:

Article 1: The Law on the Statute of the Judges and the Prosecutors, adopted by the National Assembly on May 23, 2014 in the 2nd session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 5th session of its 3rd legislature on June 12, 2014, is declared in conformity with the Constitution.

Article 2: This decision made in the Plenary Session of the Constitutional Council in Phnom Penh on July 02, 2014, 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, July 02, 2014

**On behalf of the Constitutional Council
The President,**

Signed and Sealed: **EK SAM OL**

Glossary

- CC.D Decision of the Constitutional Council
- N.A National Assembly