

KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council

CASE N° 247/004/2014

Of June 13, 2014

Decision N° 149/003/2014 CC.D

Of July 02, 2014

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the letter N° 253 N.A dated 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 Organization of the Judicial Body, adopted by the National Assembly on May 22, 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 3th legislature on June 12, 2014, letter received by the Secretariat General of the Constitutional Council on June 13, 2014 at 16:03;

Having heard the rapporteur,

Having deliberated in compliance with the Law,

- Whereas the National Assembly and the Senate have duly implemented the procedures stipulated in Article 113 (New) of the Constitution for reviewing and adopting the Law on the Organization of the Judicial Body;
- 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 Organization and the Functioning of the Constitutional Council, is therefore admissible;
- Whereas the form in drafting and adopting the Law on the Organization of the Judicial Body has nothing contrary to the Constitution;

- Whereas at the invitation of the Constitutional Council, the clarification given by the Minister of Justice and his colleagues on certain points of the Law on the Organization of the Judicial body in the session of the Constitutional Council on July 01, 2014 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 General Provision, consisting of 11 Articles—Article 1 to Article 11—stipulating the objective, purpose and structure of the Courts, has nothing contrary to the Constitution;
- Whereas Chapter 2 on the Court of First Instance and its Prosecution divided into 3 parts and 2 sub-parts, consisting of 23 Articles—Article 12 to Article 34—stipulating the Organization and the Functioning of the Court of First Instance, the establishment of Specialized Courts such as Civil Court, Criminal Court, Commercial Court and Labor Court, the competence of the Court of First Instance and of each Specialized Courts, the composition and the function of the prosecution of the Court of First Instance, the Administrative Secretariat of the Court of First Instance, the duty of the Administrative Secretariat of the Court of First Instance, the appointment and management structure of the Administrative Secretariat, has nothing contrary to the Constitution;
- Whereas Chapter 3 on the Appellate Court and its General Prosecution divided into 3 parts and 2 sub-parts, consisting of 20 Articles—Article 35 to Article 54—stipulating the Organization and the Functioning of the Appellate Court, the establishment of the Phnom Penh Appellate Court, the regional Appellate Court and Specialized Chamber in each Appellate Court such as Criminal Chamber, Civil Chamber, Investigation Chamber, Commercial Chamber and Labor Chamber, the composition of each Chamber and the management measure of the Functioning of the Appellate Court, the competence of the Appellate Court, the competence of each Specialized Chamber and the competence of the mixed Chamber, the composition and the function of the General Prosecution of the Appellate Court, the Administrative General Secretariat of the Appellate Court, the duty of the Administrative General Secretariat of the Appellate Court and the management structure of the Administrative General Secretariat of the Appellate Court, has nothing contrary to the Constitution;
- Whereas Chapter 4 on the Supreme Court and its General Prosecution divided into 3 parts and 2 sub-parts, consisting of 19 Articles—Article 55 to Article 73—stipulating the Organization and the Functioning of the Supreme Court, the establishment of specialized chambers within the

Supreme Court such as Criminal Chamber, Civil Chamber, Commercial Chamber, and Labor Chamber, the composition of each Chamber, the management measure of the Functioning of the Supreme Court and the directive of the Supreme Court to all Chambers, the composition and function of the General Prosecution of the Supreme Court, the Administrative General Secretariat of the Supreme Court, the duty of the Administrative General Secretariat of the Supreme Court and the management structure of the Administrative General Secretariat of the Supreme Court, has nothing contrary to the Constitution;

- Whereas Chapter 5 on the Incompatibility, consisting of 5 Articles—Article 74 to Article 78—stipulating the function to public action, the clear separation between the function to investigation and the function to trial, the principle of participation in the trial by the judge and the procedure of the complaint for annulment, has nothing contrary to the Constitution;
- Whereas Chapter 6 on the Budget of the Courts and their Prosecutions, consisting of 1 Article—Article 79 stipulating the Budget of the Court of First Instance and its Prosecution, the Appellate Court and its General Prosecution as well as the Supreme Court and its General Prosecution, has nothing contrary to the Constitution;
- Whereas Chapter 7 on the Transitional Provision, consisting of 11 Articles—Article 80 to Article 90—stipulating the maintaining of the provision in force relating to the Military Court and its Prosecution as well as the organization of the transitional provision concerning the competence of the Phnom Penh Appellate Court in case the regional Appellate Court is yet in place, the competence of the Civil Chamber of the Supreme Court in case the Commercial Chamber and Labor Chamber of Supreme Court cannot be implemented for lack of judges and the competence of the Civil Court of the Court of First Instance and the Civil Chamber of the Supreme Court in case of there is neither Administrative Court, Provision on Commercial Procedure, on Labor Procedure nor on Administrative Procedure, has nothing contrary to the Constitution;
- Whereas Chapter 8 on the Final Provision, consisting of 1 Article—Article 91—stipulating the abrogation of the Provision on the Court System, Criminal Law, Criminal Procedure for implementation in Cambodia during the transitional period dated September 10, 1992 and the abrogation of the Law on the appointment and activities of the Courts of the State of Cambodia promulgated by Kret N^o 06 Kret dated February 08, 1993 and the abrogation of any provision contrary to present Law, has nothing contrary to the Constitution;

- Whereas the entire essence of 8 Chapters, 91 Articles of the Law on the Organization of the Judicial Body, has nothing contrary to the Constitution;

Decides:

Article 1: The Law on the Organization of the Judicial Body, adopted by National Assembly on May 22, 2014 at the 2nd Session of its 5th Legislature and reviewed and entirely approved on the legal form and substance by the Senate at 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 2, 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 2, 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