

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 087/010/2004

Of October 11, 2004

Decision

N° 064/006/2004 CC.D

Of October 11, 2004

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia of 1993;
- Seen Preah Reach Kram N° CS/RKM/0498/06 of April 8, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen the letter n° 255NA of October 11, 2004 of Samdech HENG SAMRIN, Acting President of the National Assembly, requesting the Constitutional Council to review the constitutionality of the law on the Organization and the Functioning of the Royal Council of the Throne;

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas Samdech HENG SAMRIN; Acting President of the National Assembly, by the letter n° 255 NA of October, 2004 to the President of the Constitutional council requesting the Constitutional Council to review the constitutionality of the law on the Organization and the Functioning of the Royal Council of the Throne, which was received by the Secretariat General on the same day at 11:15 AM; that therefore the Constitutional Council can examine this request in accordance with the Articles 136 N and 140 N of the Constitution and the Articles 15 and 16 of the law on the Organization and the Functioning of the Constitutional Council promulgated by Preah Reach Kram n° CS/RKM/0498/06 of April 8, 1998;
- Whereas the Law on the Organization and the Functioning of the Royal Council of the Throne was legislated after the King sent his Royal Message of October 06, 2004 to the Buddhist monks and the people requesting their permission for his retirement and by virtue of this Royal Message and the consecutive once to retire means to abdicate. The Message of His Majesty the King has the highest authority;

- Whereas the Law on the Organization and the Functioning of the Royal Council of the Throne has 5 chapters divided into 18 articles:

1- Chapter I

This chapter has 2 articles stipulating the general provision related to the objectives of the law and the competence of the Royal Council of the Throne which is the elector of the New king; that this chapter conforms to the Article 10 paragraph 1 of the Constitution, stipulating that “*the Cambodian Monarchy shall be an elective one*”, and to the Article 13N paragraph 3 of the Constitution stipulating that “*the Organization and the Functioning of the Royal Council of the Throne shall be determined by law*”; that chapter 1 is therefore constitutional;

2- Chapter II

This Chapter contains 5 articles relating to the Organization and the composition of the Council of the Throne and determines the role and the competence of the President, Vice President and the Minister of the Royal Palace who must keep secret all minutes and documents of the Royal Council of the Throne. The Royal Council of the Throne consists of the President of Senate as President, the President of the National Assembly as first Vice President and the Prime Minister as second Vice President; that besides there are 6 other members as stipulated in the Article 13N of the Constitution; that therefore Chapter II conforms to the Article 13N of the Constitution;

3- Chapter III

This Chapter, which relates to the functioning of the Royal Council of the Throne, such as the modalities of meeting, the quorum, the secret of deliberation, the adoption, the secret vote, the election of the King among members of the royal family as stipulated in the Article 14 of the Constitution, the oath taking, the dissemination of the decision on the election of the New King as well as the coronation, contains 8 articles. Concerning, the Article 10 because retirement means abdication as clarified in the above mentioned motives, chapter III is therefore constitutional;

4- Chapter IV and V

These two Chapters contain no provision contrary to the Constitution.

Decides:

Article 1: The Law on the Organization and the Functioning of the Royal Council of the Throne consisting of 5 Chapters and 18 Articles is declared constitutional

Article 2: The decision made in the plenary session of the Constitutional Council in Phnom Penh on October 11, 2004 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, October 11, 2004
For the Constitutional Council
The President

Signed and Sealed

BIN CHHIN