



KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE N° 254/001/2015

Of March 23, 2015

Decision N° 153/001/2015 CC.D

Of March 24, 2015

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen the letter N° 261 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 Organization and the Functioning of the National Election Committee, adopted by the National Assembly on March 19, 2015 in the extraordinary session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 6th session of its 3rd 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 Organization and the Functioning of the National Election Committee;
- 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 Organization and the Functioning of the National Election Committee has nothing contrary to the Constitution;

- Whereas Chapter 1 on the General Provision, consisting of 3 Articles—Article 1 to Article 3—stipulating the Objective, the Organization and the Functioning of the National Election Committee, abbreviated Name “NEC”, Structure, the implementation of its competence with independence and neutrality in order to ensure free, accurate and fair election in accordance with the principles of liberal multi-party democracy. The National Election Committee and all levels of the Election Commissions shall be neutral and impartial in carrying out the election process. All provisions of the 3 Articles of the Chapter 1, have nothing contrary to the Constitution;
- Whereas Chapter 2 on the National Election Committee divided into 4 parts and consisting of 38 Articles—Article 4 to Article 41:
 - Part 1 stipulating the National Elections Committee composing of 9 members—1 Chairman, 1 Vice-chairman and other 7 members—shall be elected by the National Assembly and have 5-year mandate. The qualification for being elected, the modality and the procedures, the rank, the prerogative, the incompatibility, the loss of position are also stipulated in this part;
 - Part 2 on the Organization of Municipal/Provincial Election Commissions consisting of 12 Articles—Article 14 to Article 25—stipulating the composition of 1 Chairman, 1 Vice-chairman and 3 or 5 members, the rank, prerogative, working condition, role, duty and responsibility to the National Election Committee and the secretariat for ensuring the sustainable process of the Municipal/Provincial Election Commissions;
 - Part 3 on the Organization of Khum/Sangkat Election Commissions consisting of 8 Articles—Article 26 to Article 33—stipulating the composition of 1 Chairman, 1 Vice-chairman, 3 or 5 members who are responsible to the National Election Committee;
 - Part 4 on the Organization of Polling Station Commissions consisting of 8 Articles—Article 34 to Article 41—composing of 1 Chairman, 1 Vice-chairman, 1 secretary and 3 members who are responsible to the National Election Committee. All provisions of the 38 Articles of Chapter 2 have nothing contrary to the Constitution;
- Whereas Chapter 3 on the Functioning of the National Election Committee divided into 3 parts and consisting of 16 Articles—Article 42 to Article 57:
 - Part 1 on the Competence of the National Election Committee consisting of 28 attributions—the Chairperson of the National Election Committee shall have 5 attributions, the vice-chairperson shall assist the chairperson according to the tasks allocated by the Chairperson and when the Chairperson is absent or unable to come to work, the Vice-chairperson substitutes the Chairman as the Acting Chairperson through the power of attorney. The National

- Election Committee shall have the rights to determine the remuneration and other benefits for its members, officials and staff;
- Part 2 on the Working Modalities and Procedures of the National Election Committee consisting of 4 Articles—Article 48 to Article 51;
 - Part 3 on the Secretariat General of the National Election Committee consisting of 6 Articles—Article 52 to Article 57. Officials/staffs of the Secretariat General of the National Election Committee shall be under a particular statute. All provisions of the 16 Articles of Chapter 3 have nothing contrary to the Constitution;
- Whereas Chapter 4 on the Budget of the National Election Committee consisting of 2 Articles—Article 58 and Article 59. The National Election Committee has an autonomous budget for its operation. The National Election Committee manages and uses the budget for the election according to the Law on the Public Finance System. All provisions of the 2 Articles of the Chapter 4 have nothing contrary to the Constitution;
 - Whereas Chapter 5 on the Penalty consisting of 1 Article—Article 60. Members of the National Election Committee, officials and staff, who do not respect the provisions of this Law, are subject to disciplinary sanctions, without prejudice to criminal penalty. The disciplinary sanctions shall be stipulated in the Rules of Procedure of the National Election Committee. The provision of Article 60 of Chapter 5 has nothing contrary to the Constitution;
 - Whereas Chapter 6 on the Transitional Provision consisting of 4 Articles—Article 61 to Article 64—stipulating the working continuity of the Chairperson, Vice-Chairperson and Members of the National Election Committee as well as the Secretary-General, Deputy Secretaries-General, officials and staff until the new Chairperson, Vice-Chairperson, Members, Secretary-General, Deputy Secretaries-General, officials and staff are appointed and integrated. All provisions of the 4 Articles of Chapter 6 have nothing contrary to the Constitution;
 - Whereas Chapter 7 on the Final Provisions consisting of 2 Articles—Article 65 and Article 66—stipulating any provision that is contrary to this Law shall be abrogated and replaced by this Law; this Law shall be declared as urgent. All provisions of the 2 Articles of Chapter 7 have nothing contrary to the Constitution;
 - Whereas the entire essence of the 7 Chapters, 66 Articles of the Law on the Organization and the Functioning of the National Election Committee, has nothing contrary to the Constitution;

Decides:

Article 1: The Law on the Organization and the Functioning of the National Election Committee, adopted by the National Assembly on March 19, 2015 in the extraordinary session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 6th plenary session of its 3rd 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

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