

**CONSTITUTIONAL COUNCIL
OF THE KINGDOM OF CAMBODIA**

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I. INTRODUCTION

1. History

The system of Constitutionality control did not exist in the history of Cambodia. The Constitution of May 6, 1947, which had been modified successively until March 31, 1964, provided for the competence to interpret constitutional texts in its article 119 but did not state the constitutionality control. The competence to final interpretation was left to the National Assembly.

The system of constitutionality control was established for the first time in the Khmer Republic Constitution of April 30, 1972 under the name of "the Constitutional Court". Despite its name, the Constitutional Court is a body apart from the judiciary power. This bore western influence.

The advent of the Communist regime in 1975 swept away the influence of Western democracy, and by historical coincidence, Cambodia returned to its ancient tradition. It means that constitutionality control was absent since April 1975 until May 1993.

The new Constitution, adopted in September 21, 1993, by the Constituent Assembly after the 1993 elections organized by the United Nations, was promulgated in September 24, 1993. Western influence was back again and the return was made possible by United Nations Transitional Authority in Cambodia (UNTAC). The Chapter XII (new) of the Constitution provides for the **Constitutional Council** which recalls, in many respects, the French Constitutional Council.

2. Hierarchical position in the judicial system

Chapter XI (new) of the current constitution provides for "**the judicial power**" which does not deal with the Constitutional Council. This means that the Constitutional Council does not belong to the judicial power. Thus, it is apart from the judicial hierarchy which comprises only, from bottom to top, the Court of First Instance, the Appeal Court, and the Supreme Court.

In term of control of the constitutionality, the Constitutional Council is an internal regulating body (*au jeu des pouvoirs*), and it is not a veritable jurisdiction. It exercises its impartial controls and limits itself to the constitutionality matters. The other aspects of legality control fall within the competence of the lower and upper courts in the judiciary hierarchy.

In term of litigations relating to legislative and senatorial elections, the Constitutional Council exercises an exclusive judicial function which is an exception to the judicial power. As mentioned above, it is not within the judicial hierarchy.

The Cambodia legal system differs from the Anglo-Saxon system which the constitutionality control is integrated into the judicial power.

II. BASIC TEXTS

1. Extract of the Constitution of September 24, 1993 modified, Article 92 and Chapter XII (new);
2. Law on the Organization and the Functioning of the Constitutional Council.

III. COMPOSITION AND ORGANIZATION

1. Composition

- **Total number of members: 9**
- **Appointing and electing authorities**
 - The King shall appoint three members by Royal Decree;
 - The Supreme Council of Magistracy shall elect three members who shall later be appointed by Royal Decree;
 - The National Assembly shall elect three members who shall later be appointed by Royal Decree.
- **The President of the Constitutional Council**

The president of the Constitutional Council shall be elected every 3 years at the absolute majority of all its members. The outgoing President may be re-elected for the function.
- **The qualifications of the members**

The members of the Constitutional Council shall be chosen among the high ranking personalities who:

 - are Khmer by birth;
 - have at least 45 years of age;
 - have at least 15 years of professional experiences;
 - Possess degree of higher education in the areas of law, administration, diplomacy, or economics.
- **Mandate: 9 years**
- **Re-appointment and Re-election (1/3):** Every three years, three members shall be renewed. One shall be appointed by the King, one elected by the Supreme Council of Magistracy and one elected by the National Assembly for its first mandate; the Constitutional Council is composed of 3 members assigned for a mandate of 3 years, 3 others for a mandate of 6 years, 3 others for a mandate of 9 years. A replacement for a member of the Constitutional Council whose mandate has a duration equal or less than three years, the substitute member can be re-appointed or re-elected for a new mandate.
- **Incompatibilities with any activities in the public function and other functions:**

- Member of the Government;
- Member of the Senate;
- Member of the National Assembly;
- President or Vice-President of a political party;
- President or Vice-President of a trade-union;
- Magistrates in office

Members of the Constitutional Council must not exercise any other function or profession during their mandate.

- **Immunities**

Members of the Constitutional Council shall not be liable to civil or penal sanctions for decisions taken while fulfilling their functions of members of the Council.

- **Rank and prerogatives**

- The President of the Constitutional Council has rank and prerogatives equal to those of the President of the National Assembly;
- The members of the Constitutional Council have rank and prerogatives equal to those of the Vice-President of the National Assembly.

- **Dismissal**

The decision for the dismissal of any member of the Council shall be taken by 2/3 of majority vote of the whole members of the Council in closed door hearing with his/her presence. The motives for dismissal of any member can be incompatibility, absence over three consecutive meetings without prior notification to the Council or cannot fulfill his/her duties due to physical or mental disabilities.

2. Procedures

- **Quorum:** absolute majority of all its members.

Sessions of the Constitutional Council are valid only if at least five out of nine members participate, and if convened by its President or, in case of his absence, convened by its eldest member. The first session of the Constitutional Council shall be convened by the eldest member.

- **Rules of Procedures**

Rules of Procedure shall be determined and adopted by an absolute majority of all its members. The Rules of Procedure also define the internal procedure of the Constitutional Council. Members of the Constitutional Council shall be divided into 3 groups of 3 members. Each group shall consist of one member appointed by the King, one member elected by the Supreme Council of Magistracy and another

member elected by the National Assembly. The President shall appoint a Rapporteur of any group for each case.

- **Preliminary and plenary sessions**
 - The concerned group of the Constitutional Council shall discuss and analyze the point of view submitted by the Rapporteur. After a complete debate, the Rapporteur shall submit his/her report, even controversial, to the preliminary session scheduled by the President;
 - The preliminary session is a preparatory meeting to a decision in which each member expresses his/her opinion without adoption. In this session one may perceive tendencies, favorable or not, to the question examined;
 - The plenary session is the final phase in which the Constitutional Council shall make the decision by an absolute majority of all its members. This plenary session, in some cases, could become a public hearing as stipulated in the Law on the Elections of the Members of the National Assembly;
 - All the debates in the meeting shall be recorded in minutes by a group of secretaries led by Secretary General or Deputy Secretary General.
- **Secrecy of deliberation**

Members of the Constitutional Council shall keep deliberations and votes in secret.
- **Validity of decisions**

All decisions of the Constitutional Council, except the dismissal of any member, shall be made by an absolute majority of all its members.
- **The contradictory procedure:** is only used in the Public hearing.
- **Means of defense:** Oral or written means.
- **All complaints lodged with the Constitutional Council** are gratis

3. Organization

In its activities, the Constitutional Council is assisted by a Secretariat General which shall be under the authority of the President of the Constitutional Council.

- **Secretariat General**

Led by a Secretary General and assisted by a Deputy-Secretary General, both nominated by Preah Reach Kret (Royal Decree) following the proposal of the President of the Constitutional Council. The Secretary General and Deputy-Secretary General shall be chosen among senior officials who have a minimum of 10 years experiences in administration and shall not be leaders of any political party.

The Secretary General and Deputy-Secretary General shall have the ranks and prerogatives of Secretary of State and Undersecretary of State respectively.

IV. COMPETENCES

1. Control of acts

The nature of acts

Laws

A. a priori control

- *Constitutional Law*
The King consults the Constitutional Council on any proposal aiming at amending the Constitution. Constitutional Law may be sent to the Constitutional Council for review, before its promulgation, as provided for ordinary laws.
- *Organic laws*
Organic law must be sent to the Constitutional Council for review before its promulgation.
- *Laws on the Ratification of treaties and international conventions and ordinary laws*
Before their promulgation, Laws on the Ratification of treaties and international conventions and ordinary laws may be sent to Constitutional Council for review by the King, the Prime Minister, the President of the Senate, $\frac{1}{4}$ of the Senators, the President of the National Assembly or $\frac{1}{10}$ of the National Assembly Members.

B. a posteriori control

- After a law has been promulgated, the King, the President of the Senate, $\frac{1}{4}$ of the Senators, the President of the National Assembly, $\frac{1}{10}$ of the National Assembly members, or the Prime Minister can request the Constitutional Council to examine the constitutionality of that law;
- All laws in force may be raised by parties in court cases, through interlocutory question, for the unconstitutionality review. In this case, should the Supreme Court find the complaint valid, it shall forward the complaint to the Constitutional Council.

- **Rules of Procedure**
Rules of Procedure of the Senate and of the National Assembly must be sent to the Constitutional Council for review before their implementation.
- **The adoptions of the National Assembly**
The Constitutional Council is the only competent institution having the authority to nullify any vote by the National Assembly that is contrary to the principle of safeguarding the independence, sovereignty, territorial integrity, and that undermines the political unity of the nation.

A Decision

- a. *Concerning political parties*
The Constitutional Council examines and decides on the complaint of any political party concerning the refusal of its registration by the Ministry of Interior.
- b. *Interlocutory question*
After receiving complaint, through the interlocutory question, from the Supreme Court, the Constitutional Council shall decide on the constitutionality or unconstitutionality, raised by parties in a court case, of laws or decisions of any institution.

2. Other competences

- **Interpretation of the Constitution and Laws**
The Constitutional Council possesses the competence not only to interpret the Constitution and but also Laws. In this case, one may ask whether the interpretation of law by the Supreme Court can be annulled by the Constitutional Council. This case has not existed so far.
- **Competence with regard to elections**
 - Concerning only elections of the Members of the National Assembly and of the Senate;
 - The Constitutional Council shall play its judicial role as either the first and the last resort, or the appeal level (and the last resort), depending on cases stipulated by law.
- **Referendum**
The Constitution does not stipulate referendum.

3. Entitlement to complaints

- General principles

In principle, the Constitutional Council cannot examine any matter on its own initiative. So far, the Constitutional Council never deviates from this principle.

- *Who are entitled to complain?*
 - The King, the President of the Senate, the President of the National Assembly, the Prime Minister, $\frac{1}{4}$ of the Senators and $\frac{1}{10}$ of the Members of the National Assembly are entitled to complain on matter concerning the constitutionality of law;
 - The Supreme Court, through interlocutory question, is entitled to complain on matter concerning the constitutionality of law;
 - Political Parties are entitled to complain on matter concerning the refusal of their registration by the Ministry of Interior;
 - Individuals or Political Parties, according to the law on the election of the Members of the National Assembly and the law on the election of the Senators, are entitled to lodge complaints against the decision of the National Election Committee.

Apart from these cases, individual or public bodies are not entitled to lodge a complaint with Constitutional Council directly.

V. NATURES AND EFFECTS OF JUDGEMENTS

1. Nature of judgments

Judgments of the Constitutional Council shall take the form of decisions.

There shall be a variety of decisions:

- Rejections due to inconformity with legal form;
- Inadmissibility due to incompetence;
- Annulment of decision on the refusal of political party registration;
- Declaration of either conformity or inconformity with the Constitution, full or partial rejection of Law etc.

2. Effect of judgments

Decisions of the Constitutional Council shall be final and without recourse.

These decisions shall have authority over all the instituted powers as stipulated in the Constitution.

Any provision of law declared unconstitutional by the Constitutional Council shall not be promulgated or implemented.

VI. NOTIFICATIONS AND PUBLICATION OF DECISIONS

- The decisions of the Constitutional Council shall be submitted to the King, to the President of the Senate, to the President of the National Assembly, to the Prime Minister, to the President of the Supreme Court, and shall be published in the Royal Gazette.

The President of the Senate shall inform all the Senators about these decisions.

The President of the National Assembly shall inform the National Assembly members about these decisions.

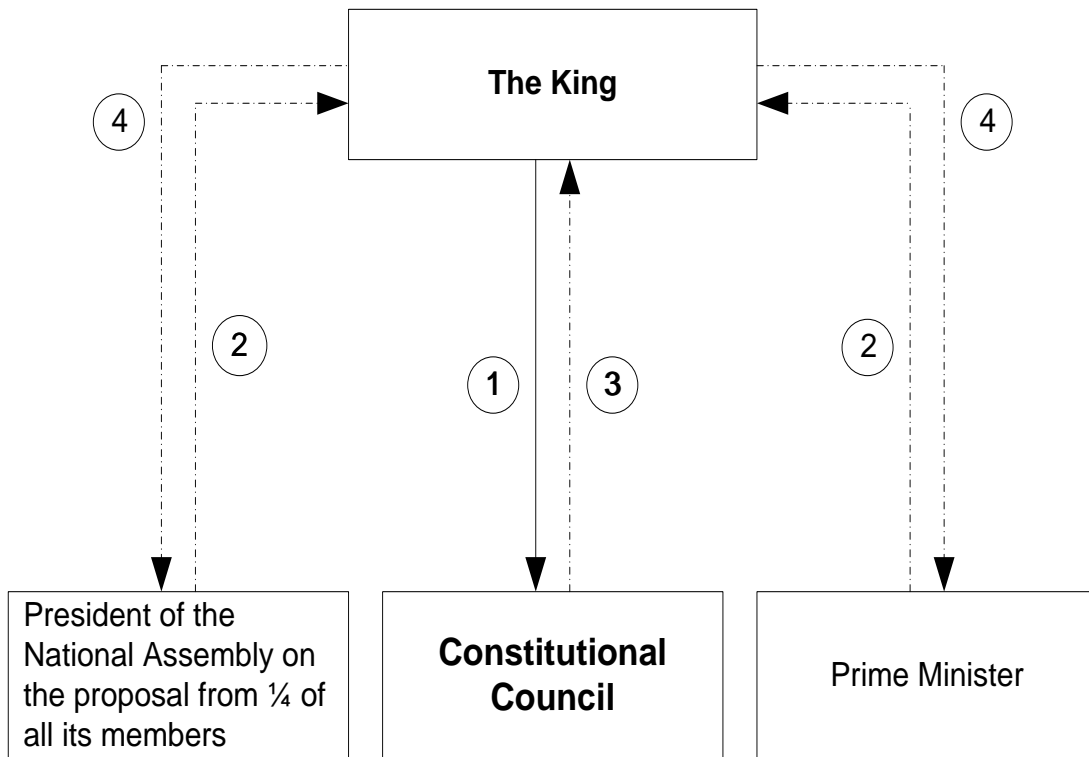
The Prime Minister shall inform all the members of the Royal Government about these decisions.

The President of Supreme Court shall inform the concerned courts about these decisions.

- The decisions of the Constitutional Council are published in:
 - Royal gazette;
 - Compilation of decisions of the Constitutional Council shall be published by the Secretariat General of the Constitutional Council and be posted on website <http://www.ccc.gov.kh>.

ANNEXES

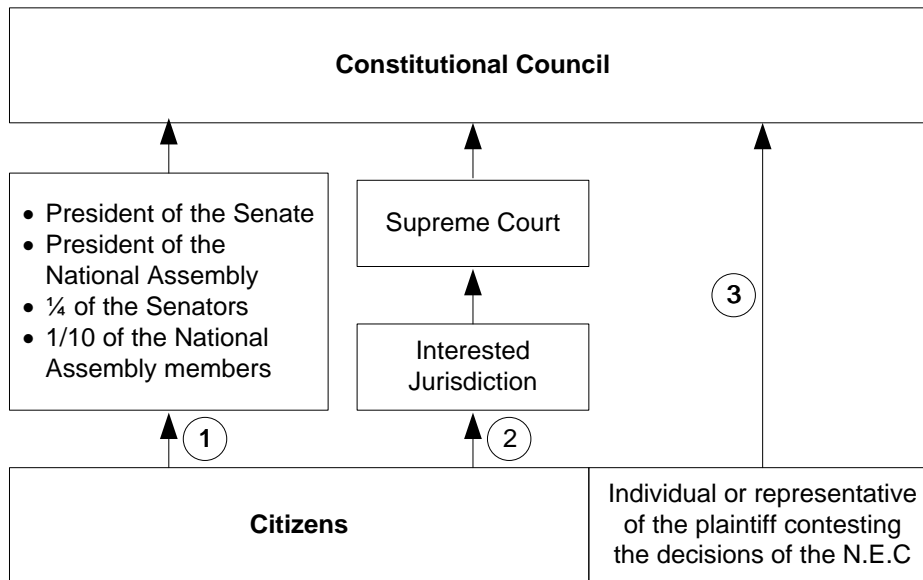
Annex 1: The King and the Constitutional Council



Notes

- ① The King consults the Constitutional Council on any proposal aiming at amending the constitution.
- ② Proposals of the amendment submitted to the King who consults Constitutional Council.
- ③ View of the Constitutional Council submitted to the King.
- ④ Royal Message to the author of the proposals.

Annex 2: The Constitutional Council and the Citizens

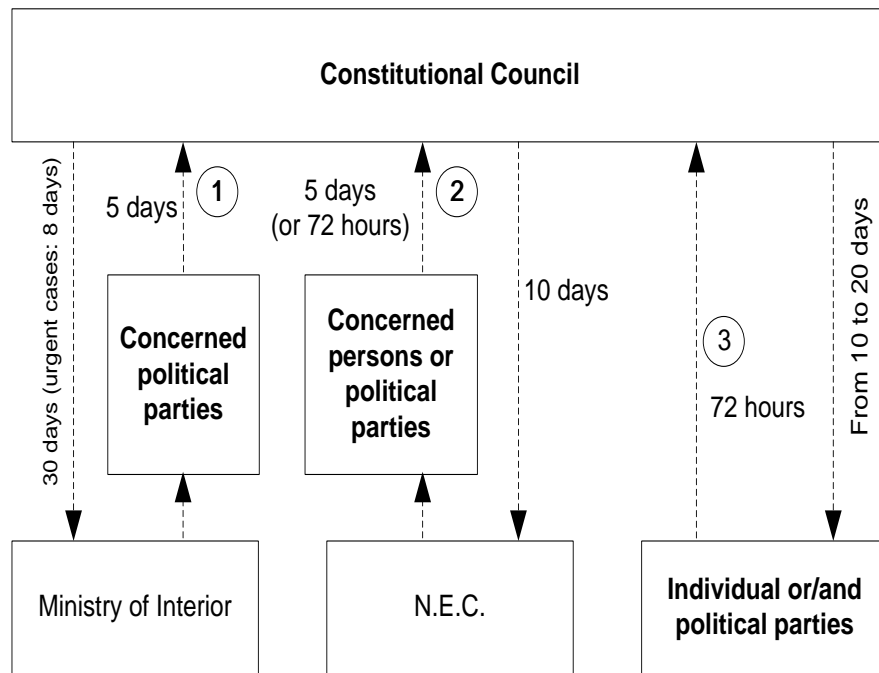


- Complaints related to the constitutionality of the laws;
- Interlocutory questions;
- Complaints related to the elections of members of the National Assembly and the elections of the Senators.

Notes

- ① Rights to request for the review of the constitutionality of the laws already promulgated;
- ② Questions of unconstitutionality raised through the intermediary of the concerned courts;
- ③ Complaints against the decisions of the N.E.C., lodged directly to the Constitutional Council.

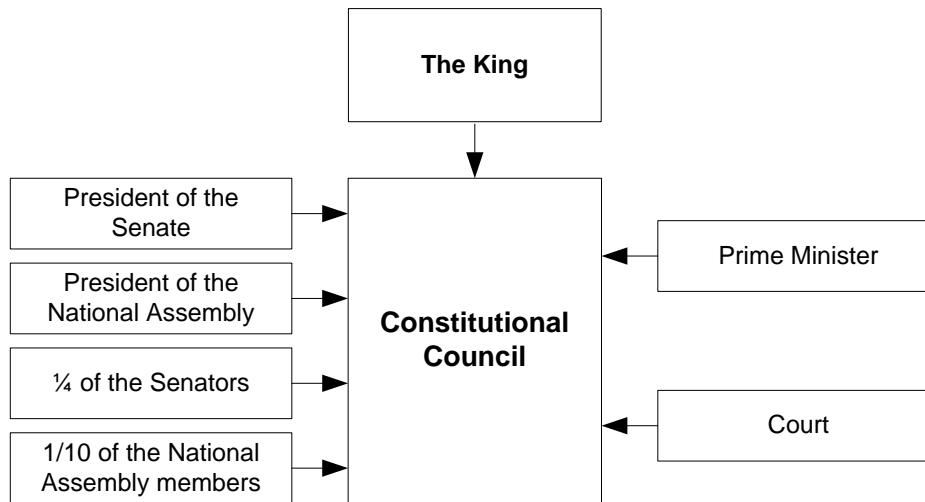
Annex 3: The Constitutional Council and Political Parties



Notes

- ① Complaints of political parties, the registration of which is rejected by the Ministry of Interior.
- ② Appeal contesting the decision of N.E.C. (during 5 days or 72 hours depending on each case).
- ③ Direct complaints to the Constitutional Council contesting the provisional election results announced by N.E.C.

Annex 4: The Constitutional Council and the Interpretation of the Norms



- The Constitutional Council interprets the Constitution and the laws, in the framework of the examination of the constitutionality, when requested by the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the senators, one-tenth of the National Assembly members or by the court (for promulgated laws only).
- Within the above-mentioned conditions, the Constitutional Council can examine the constitutionality of the laws *before* or *after* their promulgation, except the organic laws, the rules of procedures of the Senate and of the National Assembly which shall be examined before their promulgation (or their implementation).

CONSTITUTION OF THE KINGDOM OF CAMBODIA

Extracts from the amended Constitution of September 24, 1993

Article 92._

Any adoption by the National Assembly contrary to the principles of safeguarding the independence, the sovereignty, the territorial integrity of the Kingdom of Cambodia, and affecting the political unity or the administrative management of the nation, is reputed to be null. The Constitutional Council is the sole organ competent to pronounce this nullity.

CHAPTER XII *new* ON THE CONSTITUTIONAL COUNCIL

Article 136 *new*._

The Constitutional Council shall have the competence to guarantee the respect of the Constitution, to interpret the Constitution and the Laws adopted by the National Assembly and definitively reviewed by the Senate.

The Constitutional Council has the right to examine and to decide on litigations related to the elections of the Members of the National Assembly and to the elections of the Senators.

Article 137 *new* (former Article 118)._

The Constitutional Council is composed of nine Members whose mandate is limited to nine years. One-third of its Members shall be renewed every three years. Three Members shall be appointed by the King, three elected by the National Assembly and three others elected by the Supreme Council of Magistracy.

The President is elected by the Members of the Constitutional Council. In case of a tie in the voting, the voice of the President prevails.

Article 138 *new* (former Article 119)._

The Members of the Constitutional Council shall be chosen among the high ranking personalities holding high diplomas in law, administration, diplomacy or economics and having extensive professional experience.

Article 139 *new*._

The functions as member of the Constitutional Council are incompatible with the functions as senator, as member of the National Assembly, as member of the Royal Government, as incumbent magistrate, as personnel in the public function, as President or Vice-President of a political party or as President or Vice-President of a trade union.

Article 140 *new.*__

The King, the Prime Minister, the President of the National Assembly or one-tenth of the National Assembly's Members, the President of the Senate or one-fourth of the Senators, may send the laws adopted by the National Assembly to the Constitutional Council for examination before their promulgation.

The rules of procedure of the National Assembly, the rules of procedure of the Senate and the organic laws must be sent to the Constitutional Council for examination before their promulgation. The Constitutional Council shall pronounce within the time frame of thirty (30) days at the latest, whether the laws, the rules of procedure of the National Assembly and those of the Senate are or not in conformity with the Constitution.

Article 141 *new.*__

After a law has been promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators, one-tenth of the National Assembly's Members, or the Courts can request the Constitutional Council to examine the constitutionality of that law.

Any citizen has the right to raise the unconstitutionality of the laws through the intermediary of the National Assembly's Members or that of the President of the National Assembly or of the Senators or of the President of the Senate, as provided in the aforementioned paragraph.

Article 142 *new* (former Article 123).__

A provision of any article, declared by the Constitutional Council not in conformity with the Constitution, cannot be promulgated or implemented.

The decision of the Constitutional Council is final without recourse.

Article 143 *new* (former Article 124).__

The King consults the Constitutional Council on any proposal aiming at amending the Constitution.

Article 144 *new* (former Article 125).__

The organization and the functioning of the Constitutional Council are subject to an organic law.

Law on the Organization and the Functioning of the Constitutional Council promulgated on 8 April 1998, amended on 31 January 2007

**CHAPTER I
THE ORGANIZATION OF THE CONSTITUTIONAL COUNCIL**

Article 1 *new.*_

This law aims at creating and determining the Organization and the Functioning of the Constitutional Council in order to ensure the respect of the Constitution, to interpret the Constitution and the laws, to examine and to rule on the litigations related to the elections of the Members of the National Assembly and to the elections of the Senators.

Article 2 *new.*_

The Constitutional Council is a neutral and independent institution while exercising its functions.

The Constitutional Council is composed of nine members appointed by Preah Reach Kret.

The mandate of the Constitutional Council's Members is limited to nine years.

Article 3 *new.*_

All the nine Members of the Constitutional Council shall be chosen among the high-ranking personalities of Khmer nationality by birth, aged at least 45 years old, holding high diplomas in law, administration, diplomacy, or economics and having professional experiences of at least 15 years.

Three Members of the Constitutional Council shall be appointed by the King, three elected by the Supreme Council of Magistracy, and three others elected by the National Assembly at the absolute majority of all its Members.

Their elections by the National Assembly can be done in two rounds of ballot.

For the first mandate, if the election did not provide an absolute majority for the first round of ballot, the National Assembly shall proceed by selecting no more than five persons who obtain the highest result to be presented for the second round of ballot. The relative majority rule shall be applied for this second round of ballot. The candidate who obtains the highest number of votes shall be appointed for 9 years, the second highest for 6 years and the third one for 3 years.

For the consecutive mandates, if the first round of ballot cannot provide an absolute majority, the second round shall be held by selecting two candidates obtaining the highest result to be presented for the election. The relative majority rule shall be applied for this second round of ballot.

In case the votes result in a tie, the eldest candidate shall prevail.

The candidates for the election by the National Assembly must receive, beforehand, endorsement signed by one tenth of all the Members of the National Assembly. Each member of the National Assembly can endorse only one candidate at a time.

Article 4 new._

Every three years, three members shall be renewed: one appointed by the King, one elected by the Supreme Council of Magistracy and the other one elected by the National Assembly.

The President of the Constitutional Council shall be elected every 3 years at the absolute majority of all its Members, after the three new members have assumed their function.

The outgoing President of the Constitutional Council can be re-elected.

The President of the Constitutional Council shall be appointed by Preah Reach Kret.

The President of the Constitutional Council has rank and prerogatives of those of the President of the National Assembly.

Members of the Constitutional Council have rank and prerogatives of those of Vice-Presidents of the National Assembly.

The former Members of the Constitutional Council are entitled to the monthly retirement pension under the same conditions and calculation formulas of the retirement pension applied to the former Members of the National Assembly.

Article 5 new._

The function as Member of the Constitutional Council is incompatible with the functions as Member of the Government, Senator, Member of the National Assembly, President or Vice-President of a political party, President or Vice-President of a trade union and incumbent magistrate.

The Members of the Constitutional Council shall not exercise any other official position or professional activities during their mandate.

The appointed Members of the Constitutional Council shall, before assuming their function, provisionally leave all their official positions or professional activities as stipulated in the aforementioned paragraph.

The President of the Constitutional Council shall inform in writing the Members exercising any official position and professional activities as stipulated above, to immediately leave these official position or professional activities.

The Members of the Constitutional Council shall request a leave from all activities involving their personal interest. The request to leave or the obligation to leave shall be decided by the Constitutional Council at an absolute majority of all its Members.

Article 6._

The Member of the Constitutional Council shall be appointed within 30 days at the latest to replace the outgoing Member before the latter's mandate comes to an end.

In case of resignation, dismissal, or demise of a Member, a new Member shall be appointed to replace in accordance with the conditions stipulated in Article 4 within 30 days at the latest.

Article 7._

Before taking office, the members of the Constitutional Council shall take an oath.

The Members of the Constitutional Council shall keep confidential their deliberations and votes, and shall not make any comment outside the meeting.

Article 8._

The new Member of the Constitutional Council, appointed in replacement of the one who leaves his/her function before the end of the normal term, will have to complete the remaining period of that mandate.

However, if this duration period equal to or less than three years comes to an end, this member can be reappointed or re-elected for a new mandate.

Article 9._

Any Member of the Constitutional Council can resign by merely informing the Constitutional Council in writing.

Article 10._

The Constitutional Council can dismiss any member who has infringed the dispositions of Articles 5 and 7 of this law or who has not attended more than 3 consecutive meetings without prior notification, or unable to normally perform his/her function due to permanent physical or mental disabilities.

The decision for dismissal of any Member of the Constitutional Council must be approved by a two third majority of all its Members.

Any Member of the Constitutional Council who has been sentenced by the court to imprisonment for misdemeanor or felony shall be automatically dismissed.

Article 11._

The Members of the Constitutional Council shall not be liable to any penal or civil sanction for decisions taken while fulfilling their function as Members of the Constitutional Council.

**CHAPTER II
THE FUNCTIONING OF THE CONSTITUTIONAL COUNCIL**

Section 1: Common Provisions

Article 12 *new.*_

The Constitutional Council shall draft its own Rules of Procedure.

The Rules of Procedure of the Constitutional Council shall be adopted at the absolute majority by all its Members.

The Constitutional Council is assisted by a Secretariat General.

The organization and the functioning of the Secretariat General shall be determined by Anukret.

Article 13._

The Constitutional Council shall have its own budget allocated by the national budget.

The President of the Constitutional Council shall be the prime authority responsible for the expenditure.

Article 14 *new.*_

The meeting of the Constitutional Council shall be convened by the President or by the eldest Member, in case the President being prevented.

The meeting of the Constitutional Council is valid, when over half of its Members attend.

Section 2: The competence of the Constitutional Council regarding the constitutionality of the laws

Article 15 *new.*_

The Constitutional Council shall have the competence to guarantee the respect of the Constitution, to interpret the Constitution and the Laws adopted by the National Assembly and definitely reviewed by the Senate, in the framework of the control of the constitutionality of the Laws.

Article 16 *new.*_

The organic laws and their amendments, once adopted by the National Assembly and definitely reviewed by the Senate, must be sent by the President of the National Assembly to the Constitutional Council for the control of their constitutionality, before their promulgation.

The Senate's Rules of Procedure and their amendments, after their adoption by the Senate, must be sent by the President of the Senate to the Constitutional Council for the control of their constitutionality, before their enforcement.

The National Assembly's Rules of Procedure and their amendments, once adopted by the National Assembly, must be sent by the President of the National Assembly to the Constitutional Council for the control of their constitutionality, before their enforcement.

Article 17 *new.*_

The King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators or one-tenth of the National Assembly's Members may send the laws adopted by the National Assembly and definitely reviewed by the Senate to the Constitutional Council for examination before their promulgation.

Article 18 *new.*_

After a law has been promulgated, the King, the President of the Senate, the President of the National Assembly, the Prime Minister, one-fourth of the Senators, one-tenth of the National Assembly's Members or the Courts can request the Constitutional Council to examine the constitutionality of that law.

Any citizen has the right to raise the unconstitutionality of the law or to ask the Constitutional Council to interpret it through the intermediary of the President of the National Assembly, of the National Assembly's Members or of the President of the Senate or of the Senators, as provided in the aforementioned paragraph.

Article 19._

Any individual engaged in a legal proceeding, who considers that a provision of a law or a decision of any institution violates any of his/her fundamental rights and liberties may raise the unconstitutionality of this law with the court.

The court, when finding the question raised grounded, shall submit the case to the Supreme Court within 10 days at the latest.

The Supreme Court shall examine and refer that case to the Constitutional Council within 15 days at the latest, except when it deems the case inadmissible.

Article 20._

The Constitutional Council decides any provision of the law inconsistent with the Constitution in the following cases:

- a. if that provision cannot be separated from the remaining text, the law in its totality can neither be promulgated nor applied;
- b. if that provision can be separated from that remaining text, only the provision which is inconsistent with the Constitution can neither be applied nor promulgated.

Article 21 *new.*_

The Constitutional Council has the right to invite any or several persons for clarifications or for providing related documents.

Every person, State, or private institutions shall respect and comply with the invitations and with the requests made by the Constitutional Council.

Article 22 *new.*_

The Constitutional Council shall rule in writing on all cases that have been submitted to it, within 30 days. In case of urgency, this period of time is reduced to 8 days.

The Constitutional Council shall examine the constitutionality of the law or interpret the law on the basis of the report by the Member assigned the task to do so by the President of the Constitutional Council. The reporting member shall be a Member of the Constitutional Council's Groups as provided in Article 30 new of this law.

The decision of the Constitutional Council shall be taken at an absolute majority of all its Members. In case of a tie in the voting, the vote of the President prevails.

The decision of the Constitutional Council shall state the motives.

Article 23._

The decisions of the Constitutional Council shall be final, without recourse and shall have authority over all the instituted powers, as stipulated in the Constitution.

Article 24 *new.*_

The decisions of the Constitutional Council shall be submitted to the King, forwarded to the President of the Senate, to the President of the National

Assembly, to the Prime Minister, to the President of the Supreme Court, and shall be published in the Royal Gazette.

The President of the Senate shall inform all the Senators about these decisions.

The President of the National Assembly shall inform all National Assembly's Members about these decisions.

The Prime Minister shall inform all the Members of the Royal Government about these decisions.

The President of the Supreme Court shall inform the concerned courts about these decisions.

Section 3: The Competence of the Constitutional Council relating to the Elections of the Members of the National Assembly

Article 25 *new.*

The Constitutional Council has the right to examine and to decide on litigations related to the elections of the Members of the National Assembly and to the elections of the Senators.

Article 26 *new.*

The Constitutional Council shall examine and decide on:

1. Any petition from a political party or a candidate who contests the decision of the National Election Committee rejecting the complaint related to the candidacy or to the list of registered candidates. This petition shall be filed within 7 days at the latest after receiving the notification from the National Election Committee;
2. Any petition of a person contesting the decision of the National Election Committee rejecting his/her request for registration on the voters' list. This petition shall be filed within 5 days at the latest after receiving the notification from the National Election Committee;
3. Any petition by an individual or his/her representative against the decision of the National Election Committee rejecting the complaint about his/her missing name, or the objection to the registration of names or the upholding on the voters' list of the name of any individual whose conditions are considered inconsistent with the law on the elections. The petition shall be made within 5 days at the latest after receiving the notification from the National Election Committee.

The Constitutional Council shall decide on the aforementioned case within 10 days at the latest after receiving the petition;

4. Any petition of political party contesting its registration on the list of political parties being refused. The petition shall be filed within 5 days at the latest after receiving the notification from the Ministry of Interior;

The Constitutional Council shall decide on the case within 30 days at the latest after receiving the petition.

Article 27 *new.*_

The Constitutional Council shall examine and decide on:

1. Any direct petition against the results of the elections by an individual or a political party candidate to the elections. This petition shall be filed within 72 hours at the latest after the proclamation of the preliminary results;
2. Any petition from an individual or a political party contesting the decision of the National Election Committee rejecting their petition against the results of the elections. This petition shall be filed within 72 hours at the latest after receiving the notification from the National Election Committee.

The Constitutional Council shall decide on the aforementioned case within 20 days at the latest after receiving the petition.

Article 28 *new.*_

Any individual or political party contesting the decision of the National Election Committee or contesting the results of the elections shall write recourse to the Constitutional Council. This recourse shall specify:

- The name of the contesting individual or political party;
- The legal status of the plaintiff (registered on voters' list as candidate or as representative of a political party);
- The name of the contested constituency;
- The name of the individual or the political party announced as elected, but contested;
- All documents or evidences supporting the claim.

The Constitutional Council, due to its discretion, may extend the time limit of 5 days for the plaintiff or for the political party to provide evidences.

The Constitutional Council may decide not to make any investigation of the case, if after consideration it does not meet the conditions required in this article.

All petitions lodged with the Constitutional Council are free of charge.

Article 29 *new.*_

The petition shall have no effect in delaying the implementation. However, pending a final decision, the Constitutional Council, if it deems necessary, can issue a preliminary order to temporarily suspend the result of the elections concerning a Member of the National Assembly or a Senator or a political party contested. The effect of this order shall end upon the final decision of the Constitutional Council.

Article 30 new._

For the researches and investigations on litigations related to the elections of the Members of the National Assembly and those of the Senators, as well as for the examination of the constitutionality or the interpretation of the laws, the Constitutional Council shall be divided into 3 groups. Each group has three members, one being a member appointed by the King, one being a member elected by the National Assembly, and the other one being a member elected by the Supreme Council of Magistracy.

The Members of these 3 groups shall be selected by drawing lots, under the chairmanship of the President of the Constitutional Council.

Article 31 new._

After receiving the petition, the President of the Constitutional Council shall delegate the power to one of the groups responsible for the investigations. This group shall immediately inform in writing the plaintiff and the contested person or party that they have only ten days to examine the petition and the evidences provided by the plaintiff to the Constitutional Council, and to prepare a written reply.

Article 32._

After receiving the aforementioned reply or after the expiration of the time period of ten days and after having completed the investigations, the group in charge shall submit the results of the investigations as well as its views to the Plenary Session of the Constitutional Council. The Constitutional Council may request further investigations, and may directly hear the plaintiffs and the defendants.

Article 33._

During the investigations, the Constitutional Council or one of its groups can make the inquiries on all subjects, ask for other documents and reports, and summon all persons involved in the elections.

The Constitutional Council or one of its groups may appoint its own personnel or other individuals to assist in the investigations, especially in recording the answers of witnesses under oath. The written minutes of the witnesses' depositions shall be kept available for all parties. If the investigator or the member of a group knows that the witness is afraid of retaliation, the latter's name shall be kept secret from anyone's knowledge, except from the Constitutional Council's, only the substance of the deposition being accessible.

Article 34 new._

The Constitutional Council decides on the cases contesting the regularity of the elections, the eligibility of a candidate for the elections and the eligibility of a candidate declared elected.

The Constitutional Council may agree or disagree with the decisions of the National Election Committee, declare the nullity of the elections that have been contested, or declare the candidate as duly elected.

The Constitutional Council shall take its decisions at the absolute majority of all its members.

The decisions of the Constitutional Council shall be founded on motives.
The decision of the Constitutional Council shall be final without recourse.
These decisions shall be submitted to the King, sent to the Senate, to the National Assembly, to the Royal Government and shall be published in the Royal Gazette.

Article 35 new._

The Constitutional Council has the right to forward any petition that does not fall within its competence to the competent organization.

**CHAPTER III
THE PENALTIES**

Article 36._

Any witness guilty of perjury or subornation of perjury in the framework of investigations by the Constitutional Council, or any person who fails to respect the decisions of the Constitutional Council or interferes with the activities of the Constitutional Council shall be subject to imprisonment for a term of 1 month to 1 year and to a fine of 100,000 to 600,000 riels, or either one of the two penalties.

Article 37._

The Members of the Constitutional Council who do not respect the dispositions of this law shall be subject to disciplinary sanctions, regardless of any other criminal penalty. This disciplinary regulation shall be determined by the Rules of procedure of the Constitutional Council.

**CHAPTER IV
THE TRANSITIONAL PROVISIONS**

Article 38._

For its first mandate, the Constitutional Council shall have 3 members appointed for a term of 3 years, 3 for a term of 6 years and 3 others for a term of 9 years.

The King shall appoint one member for 3 years, one member for 6 years, and one member for 9 years.

The Supreme Council of Magistracy shall elect one member for 3 years, one member for 6 years and one member for 9 years.

The National Assembly shall elect one member for 3 years, one member for 6 years and one member for 9 years.

Article 39._

The first convening of the Constitutional Council shall be made within 7 days at the latest after the appointment of its Members by Preah Reach Kret. The convening of and the presiding over the first Session shall be entrusted to the eldest of the attending members, in order to elect the President of the Constitutional Council.

CHAPTER V
THE FINAL PROVISIONS

Article 40._

Any provision that is contrary to this law shall be abrogated.

Article 41._

This law is declared as urgent.

**List of Presidents of the Constitutional Council elected by the
Members of the Constitutional Council and appointed by the King
since 1998**

| No | Name and Surname | Mandate |
|-----------|-------------------------|-------------------------------------|
| 1 | Mr. CHAN Sok | 1998-2001 |
| 2 | Mr. BIN Chhin | 2001-2004 2004-2007 |
| 3 | Mr. EK Sam Ol | 2007-2010 2010-2013 2013-2016 |

List of Members serving on the Constitutional Council

| N° | Members | Mandate | Date of appointment | End of mandate | Born / Deceased | Elected / Appointed |
|-----------|---|--------------------|-----------------------------|------------------------------|------------------------------|----------------------------------|
| 1 | Mr. CHAN Sok | 9 years | 23 May 1998 | 15 July 2007 | 16 Nov 1929/ 15 July 2004 | Supreme Council of Magistracy |
| 2 | Samdech Chau Sen Cocsal CHHUM | 9 years | 24 Feb 1997 | 15 June 2007 | 01 Sept 1905/ 22 Jan 2009 | King |
| 3 | Mr. THOR Peng Leath | 6 years | 23 May 1998 | 15 June 2004 | 25 Feb 1935 | Supreme Council of Magistracy |
| 4 | Mr. SAY Bory | 6 years | 25 June 1998 | 15 June 2004 | 29 Jan 1940 | King |
| 5 | Mr. SON Soubert | 3 years 9 years | 11 Aug 1998 10 May 2001 | 15 June 2001 15 June 2010 | 20 June 1942 | King |
| 6 | Mr. YANG Sem | 6 years | 24 May 1998 | 15 June 2004 | 01 Feb 1943 | National Assembly |
| 7 | Mr. PRAK Sok | 3 years 9 years | 23 May 1998 07 June 2001 | 15 June 2001 15 June 2010 | 18 Dec 1943 | Supreme Council of Magistracy |
| 8 | Mr. TOP Sam | 3 years 9 years | 24 May 1998 01 June 2001 | 15 June 2001 15 June 2010 | 21 April 1947 | National Assembly |
| 9 | Mr. BIN Chhin | 9 years | 24 May 1998 | 15 June 2007 | 17 Aug 1949 | National Assembly |
| 10 | Mr. PENN Thol | 9 years | 14 Aug 2004 | 15 June 2013 | 06 Feb 1934 | National Assembly |
| 11 | Mrs. SUM Nipha | 9 years | 24 May 2004 | 15 June 2013 | 05 Sept 1938 | King |
| 12 | Mr. CHHOUR Leang Huot | 9 years | 03 July 2004 | 15 June 2013 | 08 Jan 1941 | Supreme Council of Magistracy |
| 13 | Mr. PROM Nhean Vicheth | 3 years 9 years | 12 Aug 2004 26 May 2007 | 15 June 2007 15 June 2016 | 01 Jan 1944 | Supreme Council of Magistracy |
| 14 | Mr. EK Sam Ol | 9 years | 02 June 2007 | 15 June 2016 | 25 July 1944 | National Assembly |
| 15 | H.H. SISOWATH Phandaravong | 9 years | 16 May 2007 | 15 June 2016 | 04 June 1932 | King |
| 16 | Samdech NORODOM Sirivudh | 9 years | 05 May 2010 | 15 June 2019 | 08 June 1951 | King |
| 17 | Mr. MIN Sean | 9 years | 29 May 2010 | 15 June 2019 | 15 April 1945 | National Assembly |
| 18 | Mrs. CHEM Veyrith | 9 years | 08 June 2010 | 15 June 2019 | 04 May 1957 | Supreme Council of Magistracy |
| 19 | Samdech Preah Mohessara NORODOM Chakropong | 9 years | 14 Feb 2013 | 15 June 2022 | 21 Oct 1945 | King |

| | | | | | | |
|----|------------------|---------|-------------|--------------|---------------|----------------------------------|
| 20 | Mr. PIT Taingsan | 9 years | 10 May 2013 | 15 June 2022 | 01 March 1942 | National Assembly |
| 21 | Mr. UTH Chhorn | 9 years | 06 May 2013 | 15 June 2022 | 02 Jan 1948 | Supreme Council of Magistracy |

