

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 084/007/2004

Of September 15, 2004

Decision

N° 062/004/2004 CC.D

Of October 04, 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 08, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen the letter of September 15, 2004 of 13 deputies requesting the Constitutional Council to examine the constitutionality of the Law on Demonstrations;

Having heard the rapporteur,

Having deliberated in compliance with the law,

- Whereas the letter of September 15, 2004 of 13 deputies to the President of the Constitutional Council, requesting the Constitutional Council to examine the constitutionality of the Law on Demonstrations, which was received by the Secretariat General of the Constitutional Council at 10:00 AM of the same date; that the number of the 13 deputies satisfies the provision of the Article 141N of the Constitution; that therefore, the Constitutional Council can examine this request in accordance with the Articles 136N and 141N of the Constitution and the Articles 15 and 18 of law on the Organization and the Functioning of the Constitutional Council promulgated by Preah Reach Kram N° CS/RKM/0498/06 of April 08, 1998;
- Whereas the demonstration is the action of a group of people to express their feelings, view points, or will to the public; that the rights to demonstration and to strike are the rights of citizens stipulated in the Constitution; however, the citizens shall exercise their rights peacefully and shall not impinge the rights of others, public order, environment, public welfare and public security; that only the law can determine the framework of the demonstration that is to say the law requires public authority to take measures to guarantee not only the rights of demonstrators but

also the public order, environment, welfare, and public security; that the Article 37 of the Constitution stated that *“rights to strike and to non-violent demonstration shall be implemented in the framework of the law”*;

- Whereas if the framework which the law requires the public authority to take such or such measures cease to respond to the present situation of the country, only the National Assembly can amend the provisions of that law in order to comply with the new situation; otherwise, the provisions of the law remain enforced; that the Article 158N (the Article 139 Old) of the Constitution stipulates that *“ All laws and the other normative acts in Cambodia that safeguard State properties, rights and freedoms and legal private properties, and in conformity with the national interests, shall continue to be effective until amended or abrogated by new texts, except the provisions that are contrary to the spirit of this Constitution ”*;
- Whereas the 13 deputies who requested the review of the constitutionality of the Law on Demonstration adopted by the National Assembly of the former State of Cambodia on December 27, 1991, consider that the substance of some articles of the law is contrary to the spirit of the Article 37 of the Constitution, but they did not specify the unconstitutional articles ;
- Whereas based on its substance, the Law on Demonstration adopted on December 27, 1991 by the National Assembly of the former State of Cambodia is not contrary to the spirit of the Constitution,

Decides:

Article 1: The Law on Demonstration of December 27, 1991 adopted by the National Assembly of the former State of Cambodia is declared constitutional.

Article 2 The decision made in the plenary session of the Constitutional Council in Phnom Penh on October 04, 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 04, 2004
For the Constitutional Council
The President
Signed and Sealed

BIN CHHIN