

**KINGDOM OF CAMBODIA**  
**Nation Religion King**



**The Constitutional Council**

**CASE**

N° 180/003/2011

Of May 06, 2011

**Decision**

N° 115/003/2011 CC.D

Of May 20, 2011

**The Constitutional Council**

- Seen the Constitution of the Kingdom of Cambodia;
- ...
- Seen Preah Reach Kram N° NS/RKM/0410/004 of April 17, 2010 promulgating Anti-Corruption Law;
- Seen the letter N° 360 N.A. of May 06, 2011 of His Excellency **Nguon Nhel**, Acting President of the National Assembly, requesting the Constitutional Council to examine the constitutionality of the Law on the Amendment of Anti-Corruption Law, adopted by the National Assembly on April 01, 2011 in the 6<sup>th</sup> plenary session of its 4<sup>th</sup> legislature, and reviewed and entirely approved by the Senate on the legal form and substance in the 9<sup>th</sup> plenary session of its 2<sup>nd</sup> legislature on May 03, 2011, letter received by the Secretariat General of the Constitutional Council on May 06, 2011 at 16:40.

**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 Amendment of Anti-Corruption Law;
- Whereas the request of His Excellency **Nguon Nhel**, Acting 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, promulgated by Preah Reach Kram N° NS/RKM/0107/005 of January 31, 2007, is therefore admissible;

- Whereas the form in drafting and adopting the Law on the Amendment of Anti-Corruption Law has nothing contrary to the Constitution;
- Whereas the Law on the Amendment of Anti-Corruption Law, consisting of **two Articles**, and having essences as follows:
  - Article one.**- Shall be added Article 10 (bis), amended Article 16 and deleted Article 57 of Anti-Corruption Law promulgated by Preah Reach Kram N° NS/RKM/0410/004 of April 17, 2010;
  - Article two.**- This Law shall be declared as urgent.
- Whereas the aforementioned amendment was made only **three Articles** ÷
  - 1- Article 10 (bis) stipulates that *“The President of the National Council Against-Corruption issues Prakas organizing the structure of the Anti-Corruption Unit from sub-level department and appointing, transferring, and dismissing officials of Anti-Corruption Institution from sub-level head of department through the proposal of the Chairperson of the Anti-Corruption Unit”*. Article 10 (bis) has nothing contrary to the Constitution;
  - 2-Article 16 (New) states that *“The Anti-Corruption Institution has a separate Budget package for its operation and the package is within the national budget. The Anti-Corruption Institution receives any necessary resources from the Government and has the rights to receive donations or aids from any national and international organizations. The Anti-Corruption Institution shall not accept any aid which leads to interest conflict.*  
*The Chairperson of the Anti-Corruption Unit shall be the prime authority responsible for the expenditure.*  
*The budget management and expenditure of the Anti-Corruption Institution shall be determined by sub-decree (Anukret).*  
 The word **“Government”** written in the second sentence of the first Paragraph of Article 16 (New) is not in conformity with Chapter 10 (New) of the Constitution. Therefore, the provision of Paragraph 1 of Article 16 is declared unconstitutional. But the provisions of Paragraph 2 and 3 of Article 16 (New) have nothing contrary to the Constitution;
  - 3-**Article 57** is deleted. This Article has nothing contrary to the Constitution;
- Whereas all provisions of the Law on the Amendment of Anti-Corruption Law have nothing contrary to the Constitution except Paragraph 1 of Article 16 (New) in Article One.

### **Decides:**

**Article 1:** The Law on the Amendment of Anti-Corruption Law adopted by the National Assembly on April 01, 2011 in the 6<sup>th</sup> plenary session of its 4<sup>th</sup> legislature, and reviewed and entirely approved by the Senate on the legal form and substance in the 9<sup>th</sup> plenary session of its 2<sup>nd</sup> legislature on May

03, 2011 is declared in conformity with the Constitution except Paragraph 1 of Article 16 (New) in **Article One**.

**Article 2:** This decision made in the plenary session of the Constitutional Council in Phnom Penh on May 20, 2011 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, May 20, 2011

**On behalf of the Constitutional Council  
The President,**

**Signed and Sealed: EK SAM OL**

## **Glossary**

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CC.D	Decision of the Constitutional Council
Preah Reach Kram	Royal Kram (the legal act signed by His Majesty the King for promulgating the Constitution or Law)
NS	Norodom Sihamoni (His Majesty the King of the Kingdom of Cambodia)
RKM	Royal Kram
Anukret	Sub-decree (the legal act signed by the Prime Minister)
Prakas	Ministerial Decision