KINGDOM OF CAMBODIA
Nation Religion King



The Constitutional Council
CASE Nº 257/004/2015
Of July 28, 2015
Decision Nº 156/004/2015 CC.D
Of August 12, 2015

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia;
- …
- Seen the letter Nº 525 N.A of July 28, 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 Associations and Non-Governmental Organizations, adopted by the National Assembly on July 13, 2015 in the 4th session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 7th session of its 3rd legislature on July 24, 2015, letter received by the Secretariat General of the Constitutional Council on July 28, 2015 at 16:05;
- Seen the 12-page request dated July 30, 2015 of a group of 13 co-signers Members of the National Assembly from the National Rescue Party, requesting the Constitutional Council to examine the constitutionality of the Law on the Associations and Non-Governmental Organizations (NGOs), letter received by the Secretariat General of the Constitutional Council on July 31, 2015 at 08:36;

Having heard the rapporteur,
Having heard the clarification of representatives of the Royal Government,
Having heard the clarification of representatives of the co-signers
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 Associations and NGOs;

- Whereas the request of Samdech Akka Moha Ponhea Chakrei **Heng Samrin**, President of the National Assembly, and the request of 13 co-signers Members of the National Assembly from the National Rescue Party having only one subject, made in accordance with Article 140 (New) of the Constitution and Article 17 (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 Association and NGOs is in conformity with the Constitution;
- Whereas Chapter 1 on the General Provisions, consisting of 4 Articles—Article 1 to Article 4—stipulating the aims of safeguarding the rights to create the Associations and NGOs in the Kingdom of Cambodia in order to safeguard their legitimate interests and public interests as well as to promote partnership cooperation between Associations and/or NGOs with public authorities, determining the formalities to legally recognize the Associations and NGOs with the public authorities for the development of Cambodian society and giving the definition of 5 terms used in this law. All Associations and NGOs don't generate profits for sharing among their members.

  Chapter 1 complies with the provisions of Articles 31 and 42 Paragraph 1 of the Constitution which states that "*Khmer citizens shall have the right to create associations and political parties. This right shall be determined by law*". All provisions of this Chapter are in conformity with the Constitution;
- Whereas Chapter 2 on the Establishment and Registration of local Associations and NGOs, consisting of 7 Articles—Article 5 to Article 11—stipulating the procedures to fulfill the conditions of the establishment and registration of local Associations and NGOs, including three founding members aged over 18, documents mentioning 4 key points for establishment and registration, the local Associations and NGOs' statute comprising of 8 key points, the report of opening an account to the Ministry of Interior and the Ministry of Economy and Finance, and the report of the main modifications within the local Associations and NGOs. The Ministry of Interior shall issue Prakas to determine the conditions, modalities and procedures of the establishment and registration of local Associations and NGOs for legal person and foreigners, including the Associations for minors. All provisions of Chapter 2 are in conformity with the Constitution;
- Whereas Chapter 3 on the Registration of foreign Associations and NGOs, consisting of 6 Articles—Article 12 to Article 17—stipulating foreign Associations and NGOs shall register at the Ministry of Foreign Affairs and

International Cooperation as Memorandum of Understanding (MOU) comprising of 6 documents, 3-year validity of MOU, report of opening the bank account in the Kingdom of Cambodia to the Ministry of Foreign Affairs and International Cooperation and the Ministry of Economy and Finance, and main modifications within the foreign Associations or NGOs.
This chapter complies with Article 1, Paragraph 2 of the Constitution which states that *"The Kingdom of Cambodia is an independent, sovereign, peaceful, permanently neutral and non-aligned State.",* and complies with Article 53, paragraph 1, sentence 2 of the Constitution which states that *"The Kingdom of Cambodia coexists peacefully with its neighbors and with all other countries throughout the world".* All provisions of Chapter 3 are in conformity with the Constitution;

- Whereas Chapter 4 on Resources and Assets of Associations and NGOs, consisting of 2 Articles—Article 18 to Article 19—stipulating the legal sources of assets of the local Associations and NGOs and the resources and assets of the foreign Associations and NGOs. All provisions of Chapter 4 are in conformity with the Constitution;
- Whereas Chapter 5 on the Rights, Benefits and Obligations of Associations and NGOs, consisting of 6 Articles—Article 20 to Article 25—stipulating the associations and NGOs which have been registered or signed the Memorandum of Understanding (MoU) shall be subject to be under the existing law on taxation and receive incentives and enjoy exemptions in accordance with the existing laws and provisions, and shall have the rights to contract, to cooperate with partners for exercising project activities, to recruit staff or workers for employment. Foreign staff shall not grant the immunities and privileges bestowed to diplomats as stipulated in the 1961 Vienna Convention. Local NGOs, foreign NGOs or foreign Associations shall maintain a neutral position toward all political parties in the Kingdom of Cambodia. Local Associations and NGOs shall provide the reports of their annual activities and financial report to the Ministry of Interior. The foreign NGOs shall submit their reports on their annual activities and financial report to the Ministry of Foreign Affairs and International Cooperation and the Ministry of Economy and Finance. If necessary, the Ministry of Economy and Finance or National Audit Authority can examine and audit the Associations and NGOs. All provisions of Chapter 5 are in conformity with the Constitution;
- Whereas Chapter 6 on the Activity Suspension, Dissolution, Termination of MoU Validity, Assets Management of Associations and NGOs, consisting of 4 Articles—Article 26 to Article 29—stipulating the local Associations and NGOs may suspend its activities by providing a written notification to the Ministry of Interior. Prior to dissolution, local Associations and NGOs shall

report and clear their obligations in accordance with the existing procedures and laws. Foreign Associations and NGOs may suspend their activities by providing a written notification to the Ministry of Foreign Affairs and International Cooperation. Prior to termination of MoU validity, foreign Associations and NGOs shall report and clear their obligations in accordance with the existing procedures and laws. All provisions of Chapter 6 are in conformity with the Constitution;

- Whereas Chapter 7 on the Administrative Measure and Penalty, consisting of 7 Articles—Article 30 to Article 36—stipulating the local associations and NGOs that fail to comply with Article 10 or Article 24 or paragraph 1 or paragraph 2 of Article 25 and Chapter 2 of this law shall be imposed administrative measures such as a written notification of the Ministry of Interior on temporary suspension on their activities, fine and removal from the registration list. The Ministry of Interior shall decide to remove from the registration list any local associations or NGOs that conduct activities endangering security, stability and public order, or jeopardizing national security, national unity, culture, tradition and good custom of Cambodian society, regardless of other criminal penalties. Local associations or NGOs shall have the rights to appeal to the court against the decision of the Ministry of Interior concerning the denial of registration, suspension of the activities, removal from the registration list and fine. Foreign associations or NGOs that fail to comply with Article 17 or Article 24 or Paragraph 3 of Article 25 and Chapter 3 of this law shall be imposed administrative measures by the Ministry of Foreign Affairs and International Cooperation such as a written notification, a written warning, a written decision on terminating the validity of the memorandum, and expulsion in compliance with the Law on Immigration. The Ministry of Foreign Affairs and International Cooperation may terminate the validity of the memorandum in case the foreign associations and NGOs that conduct activities endangering the security, stability, and public order, or jeopardizing the national security, national unity, culture, tradition, good custom of the Cambodian society. Any association or NGO that conduct its activity endangering the national security, or involving money laundering, terrorist financing or terrorist crimes or other criminal offenses shall be punished in accordance with the existing criminal Law of the Kingdom of Cambodia. This Chapter 7 is inconformity with Article 52 of the Constitution stating that "*The Royal Government of Cambodia shall commit itself resolutely to preserve and defend the independence, sovereignty, and territorial integrity of the Kingdom of Cambodia, implement a policy of national reconciliation to ensure national unity, and protect the good mores and custom of the nation. The Royal Government of Cambodia shall defend*

legality and ensure public order and security. The State shall give priority to the improvement of the living conditions and welfare of citizens." All provisions of Chapter 7 are in conformity with the Constitution;

- Whereas Chapter 8 on the Transitional Provisions, consisting of 2 Articles—Article 37 and Article 38—stipulating that after this law enters into force, any local association and NGO that has already deposited its application dossiers at the Ministry of Interior shall be considered as registered and automatically gain the status as a legal entity in accordance with this law. Any foreign association and NGO that has already signed the memorandum with the Ministry of Foreign Affairs and International Cooperation shall be considered as legally registered in accordance with this law and can conduct its activities until the expiry date of the memorandum. All provisions of Chapter 8 are in conformity with the Constitution;
- Whereas Chapter 9 on the Final Provision consisting of 1 Article—Article 39 —stipulating any provision contrary to this Law shall be abrogated. The provision of Chapter 9 is in conformity with the Constitution;
- Whereas the essences of the 9 Chapters, 39 Articles of the law on Associations and NGOs are in conformity with the Constitution;

Decides:

Article 1: The Law on the Associations and Non-Governmental Organizations, adopted by the National Assembly on July 13, 2015 in the 4th session of its 5th legislature and reviewed and entirely approved by the Senate on the legal form and substance in the 7th plenary session of its 3rd legislature on July 24, 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 August 12, 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**,** August 12, 2015

On behalf of the Constitutional Council

The President,

Signed and Sealed**: EK SAM OL**