

Constitutional Council **Kingdom of Cambodia**
Nation Religion King

Case

No. 042/005/2001

Dated 27 August 2001

Decision

No. 043/005/2001 KBT.DH

Dated 7 August 2001

Constitutional Council

- Having taken into account the Constitution of the Kingdom of Cambodia
- Having taken into account Reach Kram CS/RKM/0498/06 of 8 April 1998 concerning the Promulgation of the Law on the Organization and Functioning of the Constitutional Council
- Having taken into account Letter 489 R.S dated 27 August 2001 of President of the National Assembly requesting the Constitutional Council to review the constitutionality of the regularisation of Article 3 of the Law on the Establishment of Extraordinary Chambers within Cambodian Courts for Prosecution of Crimes committed during Democratic Kampuchea, which the National Assembly adopted on 11 August 2001 in its sixth session, second legislature, and which was then reviewed by the Senate as to its entire form and legal content on 23 August 2001 in its fifth session, first legislature, and which the Constitutional Council received on 27 August 2001.
- Having taken into account Decision of the Constitutional Council 040/002/2001 KBDH.C of 12 February 2001 stating that : *“the Law on the Establishment of Extraordinary Chambers within Cambodian Courts for Prosecution of Crimes committed during Democratic Kampuchea is hereby declared to be in accordance with the Constitution, except for any mention of ‘third-degree criminal penalty’ (which is the death sentence) in Articles 209, 500, 506 and 507 of the 1956 Penal Code, referred to in Article 3 of this Law.”*

Having listened to reports

Having duly discussed

- Considers that the National Assembly and the Senate have duly adopted and reviewed the Regularisation of Article 3 of this law in consistency with new Article 113 of the Constitution.
- Considers that the National Assembly had submitted this Law to the Constitutional Council before it was promulgated, which is consistent with new Article 140 of the Constitution, paragraph 2.

- Considers that the Regularisation of Article 3 of the Law on the Establishment of Extraordinary Chambers within Cambodian Courts for Prosecution of Crimes committed during Democratic Kampuchea reflects the Constitutional Council's intention in its Decision 040/002/2001 KBDH dated 12 February 2001

Hereby decides

Article 1 : Based on the above consideration, Article 3 of the Law on the Establishment of Extraordinary Chambers within Cambodian Courts for Prosecution of Crimes committed during Democratic Kampuchea, which the National Assembly approved of regularisation on 11 August 2001 in its sixth session, second legislature, and then reviewed by the Senate on its entire form and legal content on 23 August 2001 in its fifth session, first legislature, is declared constitutional.

Article 2 : This Decision is made in Phnom Penh on 7 August 2001 in the plenary session of the Constitutional Council and is the final decision subject to no further appeal, and shall have be binding on all the authorities mentioned in the Constitution; and it shall be published in Royal Gazette.

Phnom Penh, 7 August 2001
For Constitutional Council
President

(Signed and sealed)

Bin Chhin