

[Unofficial English translation provided by OHCHR Cambodia]

Kingdom of Cambodia
Nation Religion King

Constitutional Council

Case-file No. 131/003/2007 Dated 26 June 2007

Decision No. 092/003/2007 Dated 10 July 2007

The Constitutional Council

- having seen the Constitution of the Kingdom of Cambodia;
- having seen Royal Kram No. 0498/06 dated 08 April 1998 promulgating the law on the organization and functioning of the Constitutional Council;
- having seen Royal Kram No. 0107/005 dated 13 January 2007 promulgating the amendment of the law on the organization and functioning of the Constitutional Council;
- having seen the royal message dated 20 June 2007 of King Sihamoni asking the Constitutional Council for the constitutional review of article 8 of the law on the aggravating circumstances of felonies, received by the Constitutional Council on 26 June 2007 at 14h30.

After having heard the report from the *rapporteur*,

After having discussed properly according to the law

- Understands that the royal message of King Sihamoni dated 20 June 2007 is submitted properly according to article 141-new of the Constitution and article 18-new of the law on the organization and functioning of the Constitutional Council;
- Understands that article 8 of the law on the aggravating circumstances of felonies stated that "The Judge shall not consider attenuating circumstances or reduction of sentence to below the minimum term or suspension of the sentences, for sentences of imprisonment for felonies or felonies with forced labour. For misdemeanours, the sentences may be suspended partly or totally. In this case, the convicted persons shall not serve out the whole of the sentence, provided that he/she has not committed one of the offences as provided for in the preceding articles within a period of five (5) years of his/her judgment."
- Understands that [although] **article 8 modifies article 70 [68?] of UNTAC law, it does not affect [undermine] the rights and interests of children.** The provision of article 8 of the law on the aggravating circumstances above is not unconstitutional.
- Understands that at case trial, in principle, a judge shall not only rely on article 8 of the law on the aggravating circumstances, but also relies on law. The term law here refers to the national law including the Constitution which is the supreme law and other applicable laws as well as the international conventions that Cambodia has recognized, especially the Convention on the Rights of the Child.

Hereby decides

Article 1: article 8 of the law on the aggravating circumstances promulgated by Royal Kram No. 0102/004 dated 07 January 2002 is declared to be in conformity with the Constitution.

Article 2: this decision is made in Phnom Penh on 10 July 2007 at the plenary session of the Constitutional Council regarded as final and binding decision and is applicable to all authorities stipulated in the Constitution and shall be published in the Royal Gazette.

Phnom Penh, 10 July 2007

Stamped and sealed

Chairman

Ek Sam Ol