

KINGDOM OF CAMBODIA
Nation Religion King

The Constitutional Council

CASE

N° 058/002/2003

Of February 3, 2003

Decision

N° 052/003/2003 CC.D

Of February 21, 2003

The Constitutional Council

- Seen the Constitution of the Kingdom of Cambodia
- Seen Preah Reach Kram N° CS/RKM/0498/06 of April 8, 1998 on the Organization and the Functioning of the Constitutional Council;
- Seen the request N° 117 AN of January 30, 2003 of Samdech Krom Preah, President of the National Assembly, to the Constitutional Council for reviewing the constitutionality of the Amendment of articles 36 and 38 of the Internal Regulations of the National Assembly, which was recorded by the Constitutional Council Secretariat General on February 3, 2003;
- Seen the texts of articles 36 and 38 of the Internal Regulations of the National Assembly transmitted to the Constitutional Council by the Secretariat General of the National Assembly on February 20, 2003, and received by the Constitutional Council Secretariat General on the same date;

Having heard the reporting member,

Having deliberated in compliance with the law,

- Whereas following the article 140 N, paragraph 2, sentence 1 of the Constitution which states: “The Internal Regulations of the National Assembly, the Internal Regulations of the Senate, and the Organic laws shall be submitted to the Constitutional Council for review before the promulgation” and following the article 16 of the law on the Organization and the Functioning of the Constitutional Council, the request to review the constitutionality of the Amendment of articles 36 and 38 of the Internal Regulations of the National Assembly by Samdech Krom Preah, President of the National Assembly, is in conformity with the Constitution;
- Whereas the decision on the constitutionality of the Internal Regulations of the National Assembly is the competence of the Constitutional Council by virtue of the article 140 N, paragraph 2, sentence 2 of the Constitution which stipulates:

“The Constitutional Council shall decide within 30 days at the most on whether or not the laws, the Internal Regulations of the National Assembly, and the Internal Regulations of the Senate are in compliance with the Constitution”;

- Whereas article 36 N is different from article 36 old of the Internal Regulations of the National Assembly with a new paragraph, which states: “The modality to express opinion by raising hand or by open vote can be made through electronic system”;
- Whereas article 38 N is different from article 38 old of the Internal Regulations of the National Assembly with the change of the position of the word, white ballot “Yes” before the word blue ballot “No” the whole meaning remains the same; that the change of the position of the word “Yes”, “No”, and “abstention”, in order to obtain coherence and harmony is not at all contrary to the Constitution;
- Whereas the article 36 N has not clearly indicated the procedures for using electronic system in open vote; that the absence of this procedure may affect article 38 N which states: “The Clerk of the National Assembly holds a ballot box and collects ballot papers from Members of the National Assembly”; that despite advance technology, yet there are always difficulties to fulfill this condition;
- Whereas in order to comply with article 5 of the Constitution, it would be better to use the Khmer word for the word “Electronic”;

Decides

Article 1: The Amendment of the articles 36 and 38 of the Internal Regulations of the National Assembly adopted by the ninth session, second legislature on January 29, 2003 is declared constitutional.

Article 2: This decision made in the plenary session of the Constitutional Council in Phnom Penh on January 21, 2003 shall be final without recourse, shall have authority over all instituted powers stipulated in the Constitution and shall be published in the “Journal Officiel”.

Phnom Penh, January 21, 2003
For the Constitutional Council
The President

Signed and Sealed

BIN CHHIN

