

KINGDOM OF CAMBODIA  
Nation Religion King

**The Constitutional Council**

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**CASE**

N° 068/012/2003

Of July 2, 2003

**Decision**

N° 053/004/2003 CC.D

Of July 11, 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 Preah Reach Kram N° NS/RKM/0902/017 of September 17, 2002 on the Amendment of the law on the Elections of the Members of the National Assembly;
- Seen the letter N° 390 AN of June 30, 2003 of the President of the National Assembly, requesting the Constitutional Council to examine the complaint N° 182/03 COFRELL of June 25, 2003 of Mr. KUL PANHA, Executive Director of Committee for Free and Fair Election of Cambodia (CMFREL) which was received by Secretariat General of the Constitutional Council on July 1, 2003;

**Having heard the reporting member,  
Having deliberated in compliance with the law,**

- Whereas the request by the President of the National Assembly of June 30, 2003 for examining Mr. KUL PANHA's complaint N° 182/03 COMFREL of June 25, 2003, asking to interpret the article 137 N, paragraphs 1 and 2 of the law dated September 17, 2002 is admissible following the article 141 N paragraph 2 of the Constitution and article 18 of the April 8, 1998 law on the Organization and the Functioning of the Constitutional Council;
- Whereas the paragraph 1 of the article 137 N of the law on the Amendment of the law on the Elections of the Members of the National Assembly of September 17, 2002 focuses on the place where ballot counting shall be normally performed at the Commune Electoral Committee Office, but in case of necessity, the National Electoral Committee (NEC) shall have the right to choose any other secured places;

- Whereas the paragraph 2 of the same article 137 N did not elaborate the modality on the transportation of the ballot boxes or on the ballot counting and thus has left all latitude to NEC in researching the possibilities responding to the legal condition of transparency, security, absence of threat, and intimidation, freedom, fairness and justice; furthermore, in the spirit of law there is no indication concerning the modalities of the ballot mixing from different boxes;
- Whereas the secrecy of the vote serves, in principle, to defend the rights of the voters and their personal safety; that presently this principle cannot cover in any case the geographic agglomerations and communities; that in the current electoral law, there is not yet any principle to protect the secrecy of the vote in collectivity by geographic community;

### **Decides**

**Article 1:** The paragraphs 1 and 2 of the article 137 N of the law on the Amendment of the law on the Elections of the Members of the National Assembly shall be interpreted in compliance with the above-mentioned motives.

**Article 2:** This decision made in the plenary session of the Constitutional Council in Phnom Penh on July 11, 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, July 11, 2003  
**For the Constitutional Council  
The President**

**Signed and Sealed**

**BIN CHHIN**

( Non-official translation )