

COUR EUROPEENNE
DES
DROITS DE L'HOMME
CONSEIL DE L'EUROPE
STRASBOURG

EUROPEAN COURT
OF
HUMAN RIGHTS
COUNCIL OF EUROPE
STRASBOURG

Mr. G.J.H. VAN HOOF
Bos-Veterman van As & De Vries
Advocaten
Postbus 237
NL - 3430 AF NIEUWEGEIN

ECHR-P2
AVS/rk

8 November 2001

Application no. 43157/98
SISON v. the Netherlands

Dear Sir,

Acting On general instructions from the Court, I should draw your attention to possible obstacles to the admissibility of the above application. On the basis of the material you have Submitted, it appears that the Court would have to declare the application inadmissible for the following reason:

You complain under Article 3 of the Convention that the Dutch authorities failed to acknowledge the absolute character of this Provision which, in your submission, militates against a balancing of interests of the State against those of the applicant.

However, I recall that an expulsion may involve a violation of Article 3 where there is a serious risk of a person being exposed to treatment contrary to that provision. In the present case, the authorities have expressly stated that the applicant will not be expelled to the country where he fears treatment contrary to Article 3. The balancing exercise carried out by the Dutch authorities only related to the question whether the applicant should be granted a residence permit. However, the right of an alien to reside in a particular country is not as such guaranteed by the Convention (cf. *Hilal v. the United Kingdom*, no. 4S276/99, § 59, to be reported in ECHR 2001). Therefore, the Court will most likely find that no issue arises under Article 3 in respect of the balancing exercise.

In these circumstances the application seems to have no prospects of success. However, if you wish to submit to the Court reasons why you disagree with the above assessment, you should set these out in writing, before 30 November 2001.

Yours faithfully,
For the Registrar



Agnes van Steijn