

Voir Note explicative
See Explanatory Note

Numéro de dossier
File-number

11578/06
SISON v. THE NETHERLANDS

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

Conseil de l'Europe – *Council of Europe* Strasbourg, France

REQUÊTE

APPLICATION

présentée en application de l'article 34 de la Convention européenne des Droits de l'Homme, ainsi que des articles 45 et 47 du règlement de la Cour

under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules of Court

IMPORTANT: La présente requête est un document juridique et peut affecter vos droits et obligations.
This application is a formal legal document and may affect your rights and obligations.

I. LES PARTIES
THE PARTIES

A. LE REQUÉRANT/LA REQUÉRANTE
THE APPLICANT

(Renseignements à fournir concernant le/la requérant(e) et son/sa représentant(e) éventuel(le)
(Fill in the following details of the applicant and the representative, if any)

1. Nom de familleSISON..... 2. Prénom(s) JOSE MARIA
Surname First name(s)
- Sexe : masculin / féminin Sex: male / female
3. NationalitéFILIPINO..... 4. Profession (Former) PROFESSOR
Nationality *Profession*
OF POLITICAL SCIENCE
5. Date et lieu de naissance 8 FEBRUARY 1939 CABUGAO, PHILIPPINES
Date and place of birth
6. Domicile
Permanent address ROOSEVELTLAAN 778 3526 BK UTRECHT
7. Tel. N° 00-31-30-2805781
8. Adresse actuelle (si différente de 6.)
Present address (if different from 6.)
9. Nom et prénom du/de la représentant(e)
*Name of representative*¹* DUNDAR GURSES, J. M. LANGENBERG & W. BOELENS
10. Profession du/de la représentant(e) LAWYERS
Occupation of representative
11. Adresse du/de la représentant(e) SCHOOLPLEIN 5A, 3581 PX UTRECHT
Address of representative
12. Tel. N° 31-30-2313646..... Fax N° 31-30-2342995

B. LA HAUTE PARTIE CONTRACTANTE
THE HIGH CONTRACTING PARTY

(Indiquer ci-après le nom de l'Etat/des Etats contre le(s)quel(s) la requête est dirigée)
(Fill in the name of the State(s) against which the application is directed)

13. THE KINGDOM OF THE NETHERLANDS

*Si le/la requérant(e) est représenté(e), joindre une procuration signée par le/la requérant(e) et son/sa représentant(e). If the applicant appoints a representative, attach a form of authority signed by the applicant and his or her representative.

II. EXPOSÉ DES FAITS STATEMENT OF THE FACTS

(Voir chapitre II de la note explicative)
(See Part II of the Explanatory Note)

14. STATEMENT OF THE FACTS

1. The Applicant submits this application against the September 28, 2005 decisions of the Administrative Law Division of the Council of State of The Netherlands (“the Contracting Party”) in the cases of *Sison vs. Minister of Finance* and *Sison vs. Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht*. (Annexes 1 and 2)
2. Prof. Jose Maria Sison (“the Applicant”) is a well-known Filipino political leader, essayist, poet and scholar in political science. He opposed the Marcos dictatorship and was severely tortured and imprisoned, mostly in solitary confinement, from 10 November 1977 to 5 March 1986. For his torture, he won in 1998 a final judgment (including moral and material damages) from the US federal court system in the world famous human rights case against the Marcos estate. After his release by the Aquino government in 1986, he was employed by the state-run University of the Philippines in Quezon City as a professor of social and political science. He chaired the Preparatory Commission to form the People’s Party (*Partido ng Bayan*) in 1986 but declined to become its Chairperson because of his academic position.
3. In the course of a global university lecture tour, the Applicant came to The Netherlands on 23 January 1987 with a visitor’s visa. When he became a consultant for social science research on Southeast Asia at the State University in Utrecht, he was subsequently granted a residence permit with a period of validity from 3 February 1988 until 14 July 1989. After pressure exerted by Philippine military authorities, who publicly complained about his lectures and speeches abroad, the Aquino government cancelled his Philippine passport on 16 September 1988 in order to force his return to the Philippines. Therefore, he applied for political asylum in The Netherlands on 26 October 1988.
4. The Applicant has been staying for more than 18 years in The Netherlands. He is a recognized refugee under Article 1A of the United Nations Convention relating to the Status of Refugees (“the Refugee Convention”). In 1992 and 1995, the highest court of the Contracting Party, the Administrative Law Division of the Council of State (“the Council of State”), recognized the Applicant’s status as a refugee. In reaching these decisions, the Council of State fully adopted the standpoints of the Representatives of the High Commissioner of the United Nations for Refugees and Amnesty International in The Netherlands that the Applicant is a refugee within the meaning of Article 1A of the Refugee Convention.

4.1 In its 17 December 1992 judgment (Annex 3), the Council of State recognized the Applicant as a political refugee with a well-grounded fear of persecution under Article 1A of the Refugee Convention. It considered confidential pieces of information presented by the Contracting Party in the procedure as a violation of the general juridical principles of fair administration: “since this lack of clarity, considering the confidential character of the pieces of information, cannot be taken away through hearing both sides of the argument, insofar as this is unclear, cannot be interpreted to the disadvantage of the appellant.”

The Council of State went on to find that, “Considering the above, the Division is of the judgment that the contested decision regarding this part is in violation of the principle alive in the general juridical consciousness of fair administration, that a decision must be supportable by the

underlying motivation which is knowable by the concerned. This decision must also be thus nullified to that extent on the ground cited in Article 8, first paragraph, under d, of the Administrative Decisions Appeals Act.”

4.2 The Council of State issued a decision on the Applicant’s asylum application on 21 February 1995 (Annex 4). In this judgment, the Council of State reiterated its recognition of the Applicant as a refugee within the meaning of Article 1A of the Refugee Convention. Moreover, the Council of State declared that Article 1F of the Refugee Convention did not apply to the Applicant and thus, the Convention applies to him. Additionally, the Council of State determined that the Applicant enjoys the protection against treatment that would constitute a violation of the absolute prohibition against torture enshrined in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the ECHR”). The Council of State declared that, “...on the basis of the facts known to the [Council of State], it establishes that the appellant has a well-grounded reason to fear persecution in the Philippines, and therefore must be accepted as a refugee in the meaning of Article 1(A), under 2, of the Convention.”

Furthermore, the Council of State declared that:

“The [Council of State] comes to its judgment that the real danger for which the appellant fears concerns inhuman or degrading treatment or punishment on the basis of a “fair balance” as presented by the European Court for Human Rights in its decision of 7 July 1989, RV 1989, 94, in the *Soering* case. Once the conclusion is reached that there is real danger for inhuman or degrading treatment or punishment, then there is no more room for further weighing between the interest of the appellant to be guaranteed to stay and the interest put forward by the Dutch state for not allowing entry, considering the absolute character of the prohibition stipulated in Article 3 of ECHR, which is stressed in the same decision in the *Soering* case.”

Finally, the Council of State concluded that, if no third country was found for him, to continue to deny the Applicant entry to The Netherlands is a violation of Article 3 of the ECHR. The Council of State declared that “...if it is not guaranteed that the appellant will be allowed entry in another country other than the Philippines this cannot lead to a justified invocation of Article 15, second paragraph, of the Aliens Law. Standing in the way is the reality that such a refusal to allow entry to the appellant must be judged as a violation of Article 3 of ECHR.”

5. In an official 4 June 1996 letter to the Contracting Party’s Minister of Foreign Affairs, Hans van Mierlo, the Contracting Party’s State Secretary of Justice, Elisabeth Schmitz stated: “Since the negotiations with the Chinese government concerning the admittance of Mr. Sison have not produced any results and there are no reference points for his admittance elsewhere, I have decided to take a new decision on the asylum applications of Mr. Sison and his wife.” (Annex 5) This was an express admission by the Contracting Party that there was no other country to send the Applicant to without putting him at risk of treatment that would run afoul of the absolute prohibition against torture in Article 3 of the ECHR. And yet the Contracting Party did not grant him admittance and residence despite the ruling of the Council of State that he should be granted such. In a 4 June 1996 decision, the Contracting Party again rejected the Applicant’s application for admittance as a refugee and denied him a permit to stay.

6. On the appeal submitted against the decision of the Contracting Party, the Legal Uniformity Division (“the REK”) in The Hague issued a ruling on 11 September 1997 (Annex 6). In its decision, the REK declared that: “On the basis of this [21 February 1995 decision of the Council of State] it must be accepted as certainly established in law, that the provision of Article 1F of the Refugee Convention cannot be used against the plaintiff, that the plaintiff has a well-grounded

fear of persecution within the meaning of Article 1A of the Refugee Convention and Article 15 of the Aliens Law and that Article 3 of the ECHR stands in the way that the plaintiff – directly or indirectly – be removed to his country of origin.”

However, in direct contradiction with the 1992 and 1995 decisions of the Council of State, the REK stated that the Contracting Party has the freedom of policy or discretion to deny the Applicant entry as a refugee and deny him a permit to stay. In reaching this conclusion, the REK weighed the interest of the Contracting Party against that of the appellant.

By undertaking the exercise of balancing these interests, the REK rejected the Applicant’s argument that the Court must not engage in such an exercise, once it is established that the individual is at risk of torture in violation of the absolute protection of Article 3 ECHR against torture and other inhuman or degrading treatment or punishment. The Applicant cited as authority for its argument the judgments of this Court in the *Soering* and *Chahal* cases.

Yet, while it denied the Applicant’s entry and residence, the REK decision affirmed the Contracting Party’s decision not to expel the Applicant.

The Applicant notes that the REK did not consider the issue of the Applicant’s access to housing and social security, which are guaranteed in Articles 21 and 24 of the Refugee Convention. Instead, the REK advised the Applicant that he could return to the court for a ruling on the issue when it arose. As a recognized refugee within the meaning of Article 1A of the Refugee Convention, the Applicant received social benefits until October 2002 when these were arbitrarily terminated by the Contracting Party.

7. In the meantime, derogatory information against the Applicant, originating from Philippine authorities and contained in the intelligence dossiers of the Contracting Party, were nullified by Philippine authorities themselves. The charge of subversion was invalidated by the repeal of the Anti-Subversion Law in 1992. The charge of multiple murder in the 1971 Plaza Miranda bombing was dismissed by Resolution of the City of Manila prosecutors office on 2 March 1994. In its dismissal of this charge, the prosecutors office admitted that the charge was without basis as it described it as “sheer speculation.” Most significantly, the Philippines Secretary of Justice officially certified on 20 April 1998 that there were no pending criminal charges against the Applicant. (Annex 7)

The Applicant argues that there has never been any basis and there continues to be no basis to start any criminal investigation against the Applicant in The Netherlands or anywhere else, particularly on the charge of “terrorism”. The Philippine government recently laid politically-motivated, baseless and fabricated charges of rebellion (not terrorism) against the Applicant. Given that the Applicant has resided in The Netherlands for 18 years as a recognized refugee, he submits that he is no longer under the jurisdiction of the Philippine government and, thus, cannot be charged with a criminal offence under Philippine law. The Applicant has publicly urged the Philippine government to resolve its internal problems and desist from extreme repression in order that the peace negotiations between the Philippine government and the National Democratic Front of the Philippines (“the NDFP”) can be resumed as soon as possible. He has made these statements in his capacity as the Chief Political Consultant of the NDFP’s Negotiating Panel.

8. Since his application for political asylum in October 1988 until October 2002, the Applicant received social benefits intended for an asylum seeker. Even after the 11 September 1997

denial by the REK of his appeal for admittance as a refugee and a permit to reside, the Applicant continued to receive social benefits.

The Applicant has had to receive social benefits as it is patently clear from the decisions of the Contracting State that he is prohibited from working and has no other source of income. He applied for a permit to work in 1998 but in a 28 November 2002 decision, the District Court of The Hague ruled that he could not be granted a permit to work because he had no permit to reside in The Netherlands. (Annex 8)

9. The Applicant has continuously resided in The Netherlands for more than 18 years. The Contracting Party is prohibited from expelling him because he must be afforded the absolute protection of Article 3 of the ECHR against torture and other inhuman treatment. He is not in possession of a valid travel document to leave The Netherlands. Furthermore, no other country would admit him into its territory, considering the fact that he is on the "terrorist blacklist" of the Council of the European Union. The Council of State in its 28 September 2005 decision made an error of fact by relying upon the erroneous claim that the Applicant has a valid travel document and could go to another country of his choice. The Applicant has repeatedly declared in written submissions that he is not in possession of a valid travel document.

10. As a consequence of the publication of the "terrorist list" of the Contracting Party on 13 August 2002 and of the Council of the European Union on 28 October 2002, the Contracting Party terminated all social benefits being provided to the Applicant, specifically:

10.1 His bank account was frozen under the apparent authority of the Contracting Party's 13 August 2002 sanction regulations against terrorism.

10.2 The termination of housing and social security including a living allowance, medical insurance, and liability insurance again under the apparent authority of the sanction regulations.

11. As a result of the Council of State's 28 September 2005 decisions, the detrimental effects of the actions of the Contracting Party under the sanction regulations remain. The Applicant submits that these detrimental effects, which systematically rob the Applicant of the basic and essential means of human existence, were reasonably foreseeable by the Contracting Party.

By depriving him of the basic means of human existence and by relying on the false premise that the Applicant has a travel document, the Applicant submits that the Contracting Party seeks to force the Applicant to leave The Netherlands. By misrepresenting that the Applicant has the legal means to voluntarily leave the Netherlands at anytime and, thus, by further misrepresenting that the Applicant can waive the absolute protection afforded to him under Article 3 of the ECHR, the Applicant is at risk of expulsion or deportation by the Contracting Party at anytime.

The Applicant complains against the following acts of the Contracting Party, which he submits are violations of his rights under the ECHR and its protocols:

11.1 By misrepresenting the Applicant as having the legal means to voluntarily leave the Netherlands at anytime, the Contracting Party creates the legal fiction that it can, thus, expel or deport the Applicant at anytime as he can voluntarily waive the protection of Article 3 of the ECHR. This is clear violation of Article 3 of the ECHR and the general principle in international law of *non-refoulement*, which protects refugees from being returned to places where their lives or freedom could be threatened, provided for under, among other

international instruments, Article 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

11.2 The Applicant submits that the Contracting Party violates the absolute prohibition in Article 3 of the ECHR against inhuman and degrading treatment. The Applicant argues that the Contracting Party's actions to deprive him of the essential means of human existence and the resulting negative impacts on his physical and mental health is a form of torture and inhuman and degrading treatment within the meaning of Article 3 of the ECHR. This treatment is also in violation of Article 3 of the Universal Declaration of Human Rights, which declares that, "Everyone has the right to life, liberty and security of person."

11.3 The Applicant further submits that the Contracting Party violates Article 2 of the ECHR by threatening the Applicant's right to life. By depriving the Applicant of the essential means of human existence and by the incitement of public hatred and violence against him in being identified by his full name as a terrorist, the Contracting Party is in clear violation of Article 2 of the ECHR. Furthermore, the Contracting Party's acts are violations of Article 12 of the Universal Declaration of Human Rights which states that, "No one shall be subjected to attacks upon his honour and reputation. Everyone has the right to the protection of law against such interference or attacks."

11.4 The Applicant's right to the peaceful enjoyment of possessions is violated by his being deprived of money in his bank account, consisting of a living allowance, savings for dental expenses not covered by his health insurance policy and insurance reimbursements. This is a violation of Article 1 of Protocol 1 of the ECHR.

11.5 The Applicant's right to due process is violated by his being deprived of his property without advance notice and a full and thorough hearing where he would have an opportunity to know the case against him and to present his case. Moreover, the Applicant is stigmatized as a terrorist by publication of his full name without any kind of criminal investigation by the Contracting Party. Due process of law is provided for by Article 6 of the ECHR, Articles 10 and 11.1 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights.

11.6 The Applicant submits that the Contracting Party discriminates against him on the basis of his political beliefs and thus, this interferes with the enjoyment of his rights under the ECHR. The Applicant submits that the Contracting Party's acts violate Article 14 of the ECHR and Article 7 of the Universal Declaration of Human Rights which afford an individual equal protection of the law. Specifically, the Applicant argues that he is deprived of the essential or minimal means of human existence, such as food and medical care, which a Contracting Party must provide even to convicted criminals. By seeking to justify its actions on the basis of the Applicant's listing as a "terrorist," the Contracting Party discriminates against him. Article 11 of the International Covenant on Economic, Social and Cultural Rights is also, thus, violated.

11.7 The Applicant's right to respect for private and family life under Article 8 of the ECHR is violated by the continuing order to evict him from his current residence and expel him from The Netherlands on the basis of the misrepresentation that the Applicant has a valid travel document. The Contracting Party has stated in court hearings that the Applicant can be immediately expelled and that he is now in so-called "injury time". Furthermore, the Contracting Party publicly declared that the Applicant's wife has made herself guilty and criminally liable by harboring in her home the Applicant, who is branded a "terrorist".

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III. EXPOSÉ DE LA OU DES VIOLATION(S) DE LA CONVENTION ET/OU DES PROTOCOLES ALLÉGUÉE(S), AINSI QUE DES ARGUMENTS À L'APPUI

STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS

(Voir chapitre III de la note explicative)
(See Part III of the Explanatory Note)

15. STATEMENT OF VIOLATIONS

1. As established in the *Soering* and *Chahal* cases, the Applicant has a specific right to be protected against torture and other inhuman treatment guaranteed by Article 3 and other rights contained in other provisions of the ECHR. The Applicant also argues that his fundamental rights and freedoms under the ECHR are reinforced by those also enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), the EU Charter of Fundamental Rights and related laws in the European Union and The Netherlands.

2. The European Court of Human Rights (ECHR) declared in the *Chahal* case (15 November 1996; 70/1995/576/662):

“Paragraph 88 of the Court’s above-mentioned *Soering* judgment, which concerned extradition to the United States, clearly and forcefully expresses the above view. It should not be inferred from the Court’s remarks concerning the risk of undermining the foundations of extradition, as set out in paragraph 89 of the same judgment, that there is any room for balancing the risk of ill-treatment against the reasons for expulsion in determining whether a State’s responsibility under article 3 is engaged.”

(Consideration 81)

In violation of Article 3 of the ECHR, the Contracting Party commits two kinds of grave offenses against the applicant:

2.1 It imposes on the Applicant the obligation to leave the Netherlands, deprives him of social benefits and proceeds to falsely claim that he has a travel document to go to another country and that he has thus decided to leave the Netherlands by having acquired such a document, thus negating and violating the absolute protection of Article 3 of ECHR, especially the guarantee against expulsion. It is thereby disregarded that he in 1987 indeed had a valid national passport with which he could travel to The Netherlands but that passport was declared invalid by the Philippine government on 16 September 1988. Moreover, even the previous validity period of that travel document lapsed in 1992.

2.2 The Contracting Party subjects the applicant to inhuman and degrading treatment and mental torture by the following:

2.2.1 depriving him of the essential means of daily human existence to which even the suspects and convicts for the gravest crimes are entitled to as a matter of respect for their fundamental right to life and human dignity;

2.2.2 targeting him for deportation in line with 2.1 above.

2.2.3 depriving him of all opportunity for employment and practice of his profession.

2.2.4 endangering his life and ruining his reputation by publicly labeling and demonizing him as a “terrorist” by full name and inciting public hatred and violence against his personal integrity.

3. The Contracting Party violates Article 2 of the ECHR, which guarantees to the Applicant the right to life, the essential means of human existence and to security from public incitement to hatred and violence against his physical and moral integrity.

4. The Contracting Party violates Article 1 of Protocol 1 of the ECHR, which guarantees the right to the peaceful enjoyment of his possessions or to own and use his legitimate property. The Applicant has been arbitrarily deprived of social benefits and the amount of money in his frozen personal bank account. The amount in said bank account came from previous social payments for living allowance, savings for dental expenses not covered by his health insurance policy and reimbursement of expenses for health care and medicine. The Applicant submits that he is made to bear an excessive and disproportionate burden, considering that he is totally deprived of the social benefits he had been receiving on a regular basis for 14 years. (See this Court’s 12 October 2004 decision in *Kartan Asmundssen vs. Iceland*. (Annex 9)

5. The Contracting Party violates Article 6 of the ECHR which guarantees due process, in the determination of civil rights as well as with regard to sanctions or punitive measures arising from the allegation of the purported crime of terrorism and with regard to the disposition of private property by the state in an administrative or civil case. To this day, the Contracting Party has not specified whatever acts of terrorism are alleged against the Applicant and has not allowed him access to dossiers used against him.

5.1 The grave charge of terrorism is imputed to the Applicant publicly by his full name in a blacklist promulgated by the Contracting Party and the Council of the European Union, thus, depriving him of his bank account and social benefits, exposing him to a presumption of guilt rather than of innocence, trial by publicity, public hatred and possible violence to his person. And yet until now, the Applicant has never been investigated for any single act of terrorism within the jurisdiction of The Netherlands or anywhere else in the world. The Applicant has not been informed of the factual basis of the accusation against him. He is thus unjustly and unfairly prevented from defending himself against the accusation.

5.2 The Applicant is deprived of his property and social payments without any prior hearing of his side in connection with the charge of terrorism or for any reason.

6. The Contracting Party violates Article 8 of the ECHR which guarantees the right to privacy and family life. It does so by taking away from him the essential means to human existence and

ordering his eviction from his house and by misrepresenting the Applicant as already having a travel document and having decided to leave The Netherlands.

6.1 The order to evict the Applicant from his home still stands and can be carried out anytime if the 28 November 2005 decisions of the Council of State remain unchallenged.

6.2 Worse, he can be forced to leave the Netherlands and be separated from his wife (who has a residence permit) and two children who are naturalized Dutch citizens.

The Applicant cannot exercise his family life anywhere outside The Netherlands.

6.2.1 The 4 June 1996 letter of the Contracting Party's State Secretary of Justice shows the failure of the Dutch government to secure guarantees from China or any other country to grant residence to the appellant without his being put at risk of ill treatment in violation of Article 3 of the ECHR.

6.2.2 The terrorist listing by the Contracting Party and then by the Council of the European Union has created further impediments to any possibility of the Applicant seeking entry and residence in another country without being put at risk of ill treatment in violation of Article 3 of ECHR.

7. The Contracting Party violates Article 14 of the ECHR, which prohibits discrimination and the related provisions of the International Covenant on Civil and Political Rights requiring respect for the fundamental right to the equal protection of the law in several ways.

The Contracting Party describes as non-obligatory the provision of social benefits for asylum seekers, admitted refugees and non-admitted refugees who cannot be expelled, like the Applicant, because of the protection of Article 3 of ECHR. This position then means that the benefits provided in the past, at present and in the future are an arbitrary and nonaccountable disposition of public funds, which from one day to the other can be withdrawn. In that way, the Contracting Party seeks to deny that the Applicant has received social benefits because of the principle of equal protection of the law and general application of social laws or regulations and on the basis of the fact that those receiving social benefits are prohibited from regular compensated work or professional practice and are entitled to the fundamental rights to life and the essential means of human existence. Moreover, this position of the Contracting Party violates Article 24 of the Refugee Convention.

7.1 The Contracting Party advances the position that, in accordance with UN Security Council Resolution No. 1452 (Annex 10) and the implementing regulations thereof promulgated by the European Union (Annex 11) and the Netherlands, only Osama bin Laden and members of Al Qaida and Taliban identified by the United Nations can be allowed access to the essential means of human existence on humanitarian grounds. The Contracting Party denies the Applicant's right to be free from discrimination and the right to the equal protection of the law. The Applicant submits that the Contracting Party goes so far as to assert that even Osama bin Laden and members of the Al Qaida have rights superior to the Applicant.

7.2 The Contracting Party practices discrimination and violates the right to equal protection of the law by terminating the social benefits of the Applicant but providing the same to others.

8. The Contracting Party violates the fundamental right of the Applicant to be secure from any presumption of guilt rather than innocence, trial by publicity and public incitation of hatred and violence against his personal integrity, both moral and physical. Those accused of specific acts of terrorism have the right not to be identified by full name in order to be protected from trial by publicity as well as from grave threats to their life and limb. But the Applicant is made the target of official incitement of hatred and violence by being labeled and stigmatized as a terrorist. The name of the Applicant is bandied about as a so-called terrorist even though there is no basis even to initiate a criminal investigation against him. Grave moral and material damage has been inflicted on the Applicant.

9. The Applicant has suffered mental torture in the form of anguish, anxiety and distress due to his being unjustly branded a “terrorist” by the Dutch state, being deprived of the essential basic means of human existence and being subjected to so many violations of his rights. The mental torture suffered by the Applicant has resulted in medical problems since 1992 to the present. In its decision in the case of *Kartan Asmundsson vs. Iceland* on 12 October 2004, the European Court of Human Rights takes into account the infliction of mental anxiety and distress in connection with a finding that there had been a violation of the right of the applicant to the peaceful enjoyment of his possessions guaranteed under Article 1 of Protocol 1.

10. In both 28 September 2005 rulings (*Sison vs. The Minister of Finance* and *Sison vs. Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht*), the Council of State concedes that “it cannot be excluded that termination of the benefits under exceptional circumstances can lead to a treatment in violation of Article 3 of ECHR.” But it unjustly fails to consider as “exceptional circumstances” those of the Applicant who is a recognized political refugee but is not an admitted one, who is without residence permit but cannot be expelled under Article 3 of ECHR and who is subjected to inhuman and degrading treatment and mental torture by being banned from work and at the same time not given social benefits.

11. Some citations of case law and arguments made by the Contracting Party sought to advance an interpretation of Article 3 of the ECHR that it does not specifically impose an obligation upon a Contracting Party to provide any standard of living for anyone. But neither does Article 3 of the ECHR prohibit the provision of the essential means of human existence. In fact, the Contracting Party is prohibited from depriving the Applicant of the essential means of human existence and thereby inflicting on him torture, inhuman and degrading treatment.

IV. EXPOSÉ RELATIF AUX PRESCRIPTIONS DE L'ARTICLE 35 § 1 DE LA CONVENTION STATEMENT RELATIVE TO ARTICLE 35 ¶ 1 OF THE CONVENTION

(Voir chapitre IV de la note explicative. Donner pour chaque grief, et au besoin sur une feuille séparée, les renseignements demandés sous les points 16 à 18 ci-après)
(See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 on a separate sheet for each separate complaint)

16. Décision interne définitive (date et nature de la décision, organe – judiciaire ou autre – l’ayant rendue)

The final judgment in this case was rendered by the Administrative Law Division of the Council of State of the Netherlands in its twin judgments dated 28 September 2005 in *Sison v. The Minister of Finance* and *Sison v. The Municipal Executive of Mayor and Aldermen of Utrecht*.

The twin judgments confirmed the two contested rulings of the Utrecht Court dated 26 November 2004. They confirmed the decision of the Municipal Executive of the Mayor and Aldermen of the Municipality of Utrecht dated 14 April 2004, which declared the complaint of the Applicant not grounded against the decision of said Municipal Executive of 23 May 2003 to terminate the benefits given to the Applicant. The Utrecht Court in its decision of 26 November 2004, declared the appeal of the Applicant not grounded. The Council of State declared the higher appeal of the Applicant not grounded.

The Minister of Finance, in his decision of 16 May 2003, declared the Applicant's complaint against the decision of the Minister of Finance dated 7 March 2003, not grounded. The decision of the Minister of Finance dated 7 March 2003, rejected the request of the Municipality of Utrecht for authorization as meant in Article 6, First Paragraph of the Regulation (EC) 2580/ 2001 of 27 December 2001, the regulation of the Council of the European Union with the purpose of granting benefits on the basis of providing benefits for asylum seekers.

The Utrecht Court in its decision of 26 November 2004, declared the appeal submitted by the Applicant not grounded. The Council of State in higher appeal confirmed this decision of the Utrecht Court.

17. Autres décisions (énumérées dans l'ordre chronologique en indiquant, pour chaque décision, sa date, sa nature et l'organe – judiciaire ou autre – l'ayant rendue)

Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them).

Decision of the Minister of Finance dated 7 March 2003 rejected the request of the Municipality of Utrecht for authorization to grant benefits to the applicant. (Annex 12)

Decision of the Minister of Finance dated 16 May 2003 declared the complaint made by the Applicant against the decision of the Minister of Finance dated 7 March 2003 not grounded. The Applicant filed a complaint against the Minister of Finance's rejection of the request of the Utrecht Municipality for authorization to grant benefits to the Applicant in accordance with Article 6, 1st paragraph of the Regulation (EC) 2580/2001 of 27 December 2001. (Annex 13)

Decision of the Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht dated 23 May 2003 terminated the benefits given to the Applicant consisting of an allowance of Euro 201.93 for personal expenses, an insurance for medical care and legal liability and provision for accommodation. (Annex 14)

Decision of the Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht dated 14 April 2004 declared the complaint of Applicant against the decision of said Municipal

Executive of 23 May 2003 to terminate the benefits given to the Applicant not grounded. (Annex 15)

Utrecht Court ruling dated 26 November 2004 declared the appeal of the Applicant against the decision of the Minister of Finance dated 16 May 2003 not grounded. (Annex 16)

Utrecht Court ruling dated 26 November 2004 declared the appeal of the Applicant against the decision of the Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht dated 14 April 2004 not grounded. (Annex 17)

The other relevant decisions in the present case are listed under question 21.

18. Dispos(i)ez-vous d'un recours que vous n'avez pas exercé? Si oui, lequel et pour quel motif n'a-t-il pas été exercé?

Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it.

There is no other appeal or remedy available to the applicant.

Si nécessaire, continuer sur une feuille séparée
Continue on a separate sheet if necessary

V. EXPOSÉ DE L'OBJET DE LA REQUÊTE
STATEMENT OF THE OBJECT OF THE APPLICATION

(Voir chapitre V de la note explicative)
(See Part V of the Explanatory Note)

19. The object of the application is to seek the Court's meticulous and thorough judgment on the complaints in the framework of the ECHR and other international conventions considering the great interest which is at stake for the Applicant. Moreover the Applicant is of the view that the two rulings of the Council of State have unjustly not taken into account the very exceptional circumstances of the Applicant and the Applicant is of the opinion that the impugned decisions of the Council of State have not taken into account or at least not sufficiently taken into account the provisions of the articles of the ECHR and pertinent International Conventions.

The Applicant is of the view that the Council of State unjustly did not consider adequately the position that a democratic state, observing the rule of law, on the basis of humanitarian grounds, must prevent the infringement of fundamental rights.

The Applicant pleads to the Court to undertake the following:

1. To uphold and protect the rights of the Applicant in accordance with Article 3 and other articles of the ECHR and prohibit the violations thereof.
2. To prohibit the expulsion of the Applicant on the basis of the erroneous claim of the Council of State that he has acquired a travel document to go anywhere as he pleases and that by implication he has given up the absolute protection of Article 3 of the ECHR.
3. To guarantee and protect the Applicant's right to the absolute prohibition of Article 3 against torture, inhuman and degrading treatment and prohibit his subjection to inhuman and degrading treatment as well as such forms of mental torture as severe anxiety and distress due to his being deprived of the essential means of human existence and due to all other violations of his rights.
4. To protect his right to life under Article 2 and prohibit his deprivation of the essential means of human existence and the incitation of public hatred and violence against his physical and moral integrity.
5. To protect his right to the peaceful enjoyment of his possessions under Article 1 of Protocol 1 and prohibit the termination of his social benefits and the freezing of his money, which consisted entirely of his living allowance from the Contracting Party, savings for dental expenses not covered by his health insurance and the reimbursements of his medical bills.
6. To protect his right to a fair hearing in civil and criminal matters under Article 6 and prohibit his criminalization as a "terrorist" without any criminal investigation and the deprivation of his social benefits and other possessions without any prior criminal or civil procedure.
7. To protect his right to respect for private and family life under Article 8 and prohibit the order to deprive him of the essential means to human existence and evict him from his house and his expulsion on the false claim that he has a travel document.
8. To protect his right to the equal protection of the law or against discrimination in the enjoyment of rights and freedoms in the ECHR under Article 14 and prohibit such discriminatory acts against the Applicant as the taking away of the essential means of human existence and other matters.

9. To affirm the right to life, to human dignity, to equal protection of the law and other fundamental rights as superior to the position of the Contracting Party that humanitarian considerations are a matter of arbitrary and nonaccountable action.

10. To require the Contracting Party to provide just satisfaction under Article 46(1) of the ECHR and pay for pecuniary and non-pecuniary damages to the Applicant, pay for the Applicant's costs and expenses and pay for interest on such an award.

**VI. AUTRES INSTANCES INTERNATIONALES TRAITANT OU AYANT TRAITÉ L'AFFAIRE
STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS**

(Voir chapitre VI de la note explicative)
(See Part VI of the Explanatory Note)

20. Avez-vous soumis à une autre instance internationale d'enquête ou de règlement les griefs énoncés dans la présente requête? Si oui, fournir des indications détaillées à ce sujet.
Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.

The Applicant has not submitted the present complaint to any other procedure of international investigation or settlement.

VII. PIÈCES ANNEXÉES	(PAS D'ORIGINAUX, UNIQUEMENT DES COPIES ;PRIÈRE DE N'UTILISER NI AGRAFE, NI ADHÉSIF, NI LIEN D'AUCUNE SORTE)
LIST OF DOCUMENTS	(NO ORIGINAL DOCUMENTS, ONLY PHOTOCOPIES, DO NOT STAPLE, TAPE OR BIND DOCUMENTS)

(Voir chapitre VII de la note explicative. Joindre copie de toutes les décisions mentionnées sous ch. IV et VI ci-dessus. Se procurer, au besoin, les copies nécessaires, et, en cas d'impossibilité, expliquer pourquoi celles-ci ne peuvent pas être obtenues. Ces documents ne vous seront pas retournés.)
(See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you.)

21. List of Documents

Annex 1: Uitspraak Afdeling Bestuursrechtspraak Raad van State d.d. 28 September 2005 (Sison v. de Minister van Financien).

Annex 2: Uitspraak Afdeling Bestuursrechtspraak Raad van State d.d. 28 September 2005 (Sison v. het College van Burgemeester en Wethouders van Utrecht)

Annex 3: Uitspraak Afdeling Bestuursrechtspraak Raad van State d.d. 17 December 1992

(Sison v. de Staatssecretaris van Justitie)

Annex 4: Uitspraak Afdeling Bestuursrechtspraak Raad van State d.d. 21 Februari 1995 (Sison v. de Staatssecretaris van Justitie)

Annex 5: Official letter of State Secretary of Justice Elisabeth Schmitz to Foreign Minister Hans van Mierlo dated 4 June 1996.

Annex 6: Uitspraak Rechtseenheidkamer (REK) d.d. 11 September 1997 (Sison v. Staatssecretaris van Justitie)

Annex 7: Certification of the Philippine government's Secretary of Justice, Silvestre H. Bello III, dated 20 April 1998.

Annex 8: Uitspraak Rechtbank te 's-Gravenhage d.d. 28 November 2002 (Sison v. de Minister voor Vreemdelingenzaken en Integratie, voheen de Staatsecretaris van Justitie)

Annex 9: ECHtR decision on 12 October 2004 (no. 60669/00) in the Kartan Asmundssen v. Iceland case

Annex 10: United Nations Security Council Resolution No. 1452 of 20 December 2002

Annex 11: Regulation (EC) of the Council No. 561/2003 of 27 March 2003

Annex 12: Decision of the Minister of Finance dated 7 March 2003.

Annex 13: Decision of the Minister of Finance dated 16 May 2003

Annex 14: Decision of the Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht_dated 23 May 2003

Annex 15: Decision of the Municipal Executive of Mayor and Aldermen of the Municipality of Utrecht dated 14 April 2004

Annex 16: Ruling of the Court in Utrecht dated 26 November 2004 on the decision of the Minister of Finance of 16 May 2003.

Annex 17: Ruling of the Court in Utrecht dated 26 November 2004 on the decision of the Municipal_Executive of Mayor and Aldermen of the Municipality of Utrecht dated 14 April 2004.

Annex 18: Introductory Submission to the Registrar of the European Court of Human Rights dated 24 March 2006 presented by Atty. D. Gurses, Atty. J.M. Langenberg and Atty. W. Boelens, lawyers in The Netherlands at Schoolplein 5 A, 3581 PX Utrecht, The Netherlands, on behalf of Mr. J.M. Sison, Applicant. This was acknowledged received by the Registry of the European Court of Human Rights in a communication dated 27 March 2006 and given the file number: 11578/06, Sison v. The Netherlands.

Annex 19: Authorization dated 24 March 2005 given by Mr. J.M. Sison, Applicant, to Atty. Dundar Gurses, Atty. J.M. Langenberg and Atty. W. Boelens, signed by Mr. J.M. Sison and

signed in agreement by Atty. Gurses, Atty. Langenberg and Atty. Boelens.

VIII. DÉCLARATION ET SIGNATURE
DECLARATION AND SIGNATURE

(Voir chapitre VIII de la note explicative)
(See Part VIII of the Explanatory Note)

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

Lieu/*Place*

Date/*Date*

(Signature du/de la requérant(e) ou du/de la représentant(e))
(*Signature of the applicant or of the representative*)