



LUXEMBOURG

TRIBUNAL DE PRIMERA INSTANCIA DE LAS COMUNIDADES EUROPEAS
SÚD PRVÉHO STUPNĚ EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABETS RET I FØRSTE INSTANS
GERICHT ERSTER INSTANZ DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROPA ÜHENDUSTE ESIMES ASTIME KOHUS
ΠΡΩΤΟΒΑΘΜΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES
TRIBUNAL DE PREMIÈRE INSTANCE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT CHÉADCHÉIME NA GCOMHÉIBAL EORPACH
TRIBUNALE DI PRIMO GRADO DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU PIRMĀS INSTANCES TIESA

1/8
EUROPOS BENDRIJŲ PIRMOSIOS INSTANCIJOS TEISMAS
EURÓPAI KÖZÖSSÉG EK ELSŐFOKÚ BÍRÓSÁGA
IL-QORTI TAL-PRIMĪSTANZA TAL-KOMUNITAJET EWROPEJ
GERECHT VAN EERSTE AANLEG VAN DE EUROPESE GEMEENSCHAPPEN
SĄD PIERWSZEJ INSTANCIJ WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE PRIMEIRA INSTÂNCIA DAS COMUNIDADES EUROPEAS
SÚD PRVÉHO STUPNĚ EVROPSKÝCH SPOLEČENSTEV
SODIŠČ PRVE STOPNJE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN ENSIMMÄISEN OIKEUSASTEEN TUOMIOKISTUIN
EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

BY FAX

- 299686 -

20 June 2006

T-47/03 -205

Mr Bernard Tomlow
Prins Hendriklaan 21
3583 EB, PO. Box 85016
NL-3508 Utrecht
The Netherlands

In Case T-47/03

Jose Maria Sison

against

Council of the European Union

Interveners:

Kingdom of the Netherlands

United Kingdom of Great Britain and Northern Ireland

Negotiating Panel of the National Democratic Front of the Philippines

the Registrar of the Court of First Instance encloses herewith a certified copy of the applicant's request to modify its conclusions (reg n° 299494). This document has been interpreted by the Court as containing a request to reopen the oral procedure with a view to the adoption of a measure of organisation of the procedure. Under that measure, the applicant would be given the opportunity to modify its conclusions, pleas in law and arguments in the light of the Council decision 2006/379/EC of 29 May 2006.

The Registrar informs you that the President of the Chamber has decided to reserve his decision on the aforementioned requests until a later stage in the procedure.




E. COULON
Registrar

Certified true copy

Brussels, 5 June 2006

TO THE PRESIDENT AND THE MEMBERS
OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

AMENDMENT OF THE PLEADINGS
IN LIGHT OF THE NEW COUNCIL DECISION 2006/379/EC

Lodged pursuant to Article 48 (2) of the Rules of Procedure of the Court of First Instance

In Case T-47/03

Jose Maria SISON, born 8/2/1939 in Cabugao, Ilocos Sur, Philippines, whose domicile is Rooseveltlaan 778, 3526 BK Utrecht, Netherlands.

Represented by

Jan FERMON, Chaussée de Haecht 55, 1210 Brussels, Belgium

Antoine COMTE, Rue de Rivoli 48 bis, 75004 Paris, France

Hans Eberhard SCHULTZ, Lindenstrasse 14, 28755 Bremen, German Federal Republic

Dundar GURSES, Schoolplein 5A, 3581 PX Utrecht, Netherlands

against

THE COUNCIL OF THE EUROPEAN UNION

Represented by Messrs. Micael VITSENTZATOS and Michael BISHOP.

(Original received on 07/06/2006)
(Fax/Mail received on 05/06/2006)
REGISTERED AT THE COURT OF
FIRST INSTANCE
Under no 299494
Luxembourg, 16/06/2006
The Registrar:
(Signature)

1. According to Article 48 (2) of the Rules of Procedure, the applicant has to amend his pleadings because of a new fact, which comes to light in the course of the procedure. On 29 May 2006, the Council adopted the Council Decision 2006/379/EC of 29 May 2006 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC (O.J. L 144 , 31/05/2006, p.21 – 23)
2. This new Council Decision 2006/379/EC is indubitably a new fact within the meaning of Article 48 (2) of the Rules of Procedure.
3. It is settled case-law that a decision which replaces a previous decision having the same subject-matter while an action is in progress must be regarded as a new fact or matter which allows the applicant to amend his pleadings. It would not be in the interest of the due administration of justice and the requirements of procedural economy to oblige the applicant to make a new application to the court. Moreover, it would be inequitable if the institution were allowed, in order to counter criticisms of a decision contained in an application to the court, to amend the contested decision or to substitute another for it and to rely in the proceedings on such an amendment or substitution in order to deprive the other party of the opportunity of extending his original pleadings to the later decision or of submitting supplementary pleadings directed against that new decision. (Case C-14/81, *Alpha Steel Ltd. v Commission*, 3 March 1982, ECR 1982, p 749 ; Case C-103/85, *Stahlwerke Peine-Salzgitter AG v Commission*, 14 July 1988, ECR 1988, p 4131 ; Joined cases C-351/85 and C-360/85, *Fabrique de fer de Charleroi SA and Dillinger Hüttenwerke AG v Commission*, 29 September 1987, ECR 1987, p 3639.)
4. By the aforementioned decision 2006/379/EC, the Council repealed the decision 2005/930/EC, which is the subject of the pending application and now updated by the latest observations of the applicant. In this specific case, the amendment is absolutely indispensable to preserve the rights of the applicant and the jurisdiction of the Court. If the amendment of the pleadings of the applicant was not admitted, it would anomalously allow the Council to escape totally from the Court's exercise of judicial

review by the simple expedient of unilaterally adopting periodically new decisions in the course of the procedure.

5. The application and the reply should be regarded as continuously challenging the legality of all the lists that include the applicant as allegedly a “person committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism”. All the arguments and grounds provided by the applicant in his application and in his reply and other written submissions must be fully considered as integrally contributing to the annulment of the aforementioned Council decision 2006/379/EC.

CONCLUSION

The applicant submits, for the reasons given above, that the Court should:

- declare the amendment of the pleadings admissible and regard the application for annulment as directed to decision 2006/379/EC.
- partially annul as specified hereafter, on the basis of art. 230 of EC Treaty Council Decision 2006/379/EC of 29 May 2006 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC (O.J. L 144 , 31/05/2006, p.21 – 23) and more specifically:
- to annul article 1 point 1.25 of said decision which reads:

"Article 1
25. SISON, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of the Communist Party of the Philippines including NPA) born 8.2.1939 in Cabugao, Philippines"
- to annul partially article 1 point 2.7 of said decision insofar it mentions the name of the applicant
- to declare illegal, on the basis of Art. 241 of EC treaty, COUNCIL REGULATION (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed

against certain persons and entities with a view to combating terrorism (OJ L 344 of 28 December 2001, p. 70-75)

- To require the Community to compensate the applicant on the basis of Article 235 and 288 al. 2 in an amount to be fixed *ex aequo et bono* of not less than 100.000 euros.
- To require the Council to bear the costs of suit.

The applicant confirms, repleads, reincorporates and reiterates all his grounds and arguments of the application lodged on 6 February 2003, of the reply lodged on 15 July 2003 of his observations lodged on 5 February 2004 and 17 December 2005, and exposed at the hearing of 30 May 2006.

Brussels, 5 June 2006.

For the applicant,

His counsel,

Jan FERMON

Annex

Council Decision 2006/379/EC of 29 May 2006 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC (O.J. L 144 , 31/05/2006, p.21 – 23)

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 29 May 2006

implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/930/EC

(2006/379/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

(1) On 21 December 2005 the Council adopted Decision 2005/930/EC implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2005/848/EC ⁽²⁾.

(2) It has been decided to adopt an updated list of the persons, groups and entities to which Regulation (EC) No 2580/2001 applies,

HAS DECIDED AS FOLLOWS:

Article 1

The list provided for in Article 2(3) of Regulation (EC) No 2580/2001 shall be replaced by the following:

1. Persons

1. ABOU, Rabah Naami (a.k.a. Naami Hamza; a.k.a. Mihoubi Fayçal; a.k.a. Fellah Ahmed; a.k.a. Dafri Rêmi Lahdi), born 1.2.1966 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)

2. ABOUD, Maisi (a.k.a. The Swiss Abderrahmane), born 17.10.1964 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)

3. AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim), born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen of Saudi Arabia

4. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen of Saudi Arabia

5. AL YACOUB, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen of Saudi Arabia

6. ARIOUA, Azzedine, born 20.11.1960 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)

7. ARIOUA, Kamel (a.k.a. Lamine Kamel), born 18.8.1969 in Costantine (Algeria) (Member of al-Takfir and al-Hijra)

8. ASLI, Mohamed (a.k.a. Dahmane Mohamed), born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)

9. ASLI, Rabah, born 13.5.1975 in Ain Taya (Algeria) (Member of al-Takfir and al-Hijra)

10. ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen of Lebanon

⁽¹⁾ OJ L 344, 28.12.2001, p. 70. Regulation as last amended by Commission Regulation (EC) No 1957/2005 (OJ L 314, 30.11.2005, p. 16).

⁽²⁾ OJ L 340, 23.12.2005, p. 64.

11. DARIB, Noureddine (a.k.a. Carreto; a.k.a. Zitoun Mourad), born 1.2.1972 in Algeria (Member of al-Takfir and al-Hijra)
 12. DJABALI, Abderrahmane (a.k.a. Touil), born 1.6.1970 in Algeria (Member of al-Takfir and al-Hijra)
 13. EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali), born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen of Saudi Arabia
 14. FAHAS, Sofiane Yacine, born 10.9.1971 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
 15. IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, Ahmed; a.k.a. SA-ID; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen of Lebanon
 16. LASSASSI, Saber (a.k.a. Mirmiche), born 30.11.1970 in Constantine (Algeria) (Member of al-Takfir and al-Hijra)
 17. MOHAMMED, Khalid Shaikh (a.k.a. ALI, Saleem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Abdul), born 14.4.1965 alt. 1.3.1964 in Pakistan, passport No 488555
 18. MOKTARI, Fateh (a.k.a. Ferdi Omar), born 26.12.1974 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
 19. MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon)
 20. NOUARA, Farid, born 25.11.1973 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
 21. RESSOUS, Hoari (a.k.a. Hallasa Farid), born 11.9.1968 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
 22. SEDKAOUL, Noureddine (a.k.a. Nounou), born 23.6.1963 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
 23. SELMANI, Abdelghani (a.k.a. Gano), born 14.6.1974 in Algiers (Algeria) (Member of al-Takfir and al-Hijra)
 24. SENOUCI, Sofiane, born 15.4.1971 in Hussein Dey (Algeria) (Member of al-Takfir and al-Hijra)
 25. SISON, Jose Maria (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of the Communist Party of the Philippines including NPA) born 8.2.1939 in Cabugao, Philippines
 26. TINGUALI, Mohammed (a.k.a. Mouh di Kouba), born 21.4.1964 in Blida (Algeria) (Member of al-Takfir and al-Hijra)
- 2. Groups and entities**
1. Abu Nidal Organisation (ANO), (a.k.a. Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September and Revolutionary Organisation of Socialist Muslims)
 2. Al-Aqsa Martyrs' Brigade
 3. Al-Aqsa e.V.
 4. Al-Takfir and Al-Hijra
 5. Aum Shinrikyo (a.k.a. AUM, a.k.a. Aum Supreme Truth, a.k.a. Aleph)
 6. Babbar Khalsa
 7. Communist Party of the Philippines, including New Peoples Army (NPA), Philippines, linked to Sison Jose Maria C. (a.k.a. Armando Liwanag, a.k.a. Joma, in charge of the Communist Party of the Philippines, including NPA)
 8. Gama'a al-Islamiyya (Islamic Group), (a.k.a. Al-Gama'a al-Islamiyya, IG)
 9. Great Islamic Eastern Warriors Front (IBDA-C)
 10. Hamas (including Hamas-Izz al-Din al-Qassem)
 11. Hizbul Mujahideen (HM)
 12. Holy Land Foundation for Relief and Development
 13. International Sikh Youth Federation (ISYF)
 14. Kahane Chai (Kach)
 15. Khalistan Zindabad Force (KZF)
 16. Kurdistan Workers' Party (PKK), (a.k.a. KADEK; a.k.a. KONGRA-GEL)
 17. Liberation Tigers of Tamil Eelam (LTTE)

18. Mujahedin-e Khalq Organisation (MEK or MKO) [minus the "National Council of Resistance of Iran" (NCRI)] (a.k.a. The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Students' Society)
19. National Liberation Army (Ejército de Liberación Nacional)
20. Palestine Liberation Front (PLF)
21. Palestinian Islamic Jihad (PIJ)
22. Popular Front for the Liberation of Palestine (PFLP)
23. Popular Front for the Liberation of Palestine — General Command (a.k.a. PFLP — General Command)
24. Revolutionary Armed Forces of Colombia (FARC)
25. Revolutionary People's Liberation Army/Front/Party (DHKP/C) (a.k.a. Devrimci Sol (Revolutionary Left), Dev Sol)
26. Shining Path (SL) (Sendero Luminoso)

27. Stichting Al Aqsa (a.k.a. Stichting Al Aqsa Nederland, a.k.a. Al Aqsa Nederland)
28. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia).'

Article 2

Decision 2005/930/EC is hereby repealed.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

It shall take effect on the day of its publication.

Done at Brussels, 29 May 2006.

For the Council
The President
M. BARTENSTEIN