

**THE CASE OF PROF. JOSE MARIA SISON :**  
**LABELING DISSENT AS “TERRORISM” BY THE EU**

So called anti-terrorist legislation brings back the procedural rules of the Spanish inquisition and punishments of the Ancien Regime like “civil death” in a witch-hunt against progressive forces and dissent

By Jan FERMON et Mathieu BEYS <sup>1</sup>  
Lawyers at the Brussels Bar (Belgium)  
Members of Progress Lawyers Network

And

Hans Eberhard Schultz, Lawyer at the bar of Bremen (FRG)  
Antoine Comte, Lawyer at the bar of Paris (France)  
Dundar Gurses, Lawyer at the bar of Utrecht (Netherlands)

Contribution to the Congress of the International Association of Democratic Lawyers  
Paris June 7 – 11, 2005

Commission 2 : « Terrorism, Human Rights and Right of Resistance »

---

<sup>1</sup> Contact : [jan.fermon@progresslaw.net](mailto:jan.fermon@progresslaw.net) et [mathieu.beys@progresslaw.net](mailto:mathieu.beys@progresslaw.net)

## **Some basic facts**<sup>2</sup>:

In August 2002 Prof. Jose Maria Sison, a Filipino refugee living in the Netherlands since 1987, was informed that his bank had not paid the bills of his dentist and his grocery store.

Prof. Sison contacted his bank and was informed, by the bank and not by any public authority, that the assets on his account had been frozen because his name had been included by the Dutch authorities in a list of persons suspected of committing or facilitating terrorism.

Prof. Sison was not the subject of any criminal charges brought against him and was not at all involved in terrorism.

He found out that the Netherlands had included him in an “assets freezing list”<sup>3</sup> one day after the United States did the same<sup>4</sup>.

He was deprived of all income (a social allowance of 201.50€ for subsistence) which he had received from the Dutch authorities). He was ordered to leave the house rented for him by the local authorities. He was deprived of health insurance as well as the insurance for third party liability.

He challenged the decision of the Dutch authorities in a national Court but before the judicial proceeding could start the Dutch authorities repealed his name in the list. But he was included in an assets freezing list by the European Council<sup>5</sup>. The Dutch court was therefore no longer competent.

Sison applied to the Court of First Instance of the European Union for annulment of the decision to include him in the list<sup>6</sup>.

He also applied for access to the documents that were at the basis of this decision but the European Council made a decision to refuse access. He appealed this decision also before the Court of First Instance of the EU. This Court confirmed in a very troubling and chilling decision dated April 26, 2005 the refusal of the Council to give access to the files<sup>7</sup>.

The application for annulment of the inclusion in the list is still pending.

Three years after being labelled as a “terrorist”, Prof. Sison still has not a single element of information why the EU Council decided to label him so. In the meantime, he is deprived of his most basic rights, targeted as a “terrorist”, and totally excluded from economical and social life.

---

<sup>2</sup> For more detailed information on the background of the case please go to [http://www.kalayaancentre.net/content/kc\\_camps/joma\\_conf\\_articles.html](http://www.kalayaancentre.net/content/kc_camps/joma_conf_articles.html)

<sup>3</sup> Sanctieregeling terrorisme 2002, III, August 13, 2002, Staatscourant, 153.

<sup>4</sup> Comprehensive List of identified terrorists and groups under Executive Order 13224 issued by the Office of the coordinator of the Counterterrorism, October 23, 2002.

<sup>5</sup> Council decision 2002/848/EC of 28 October 2002.

<sup>6</sup> See the full text of the application for annulment on the website [www.defendsison.be](http://www.defendsison.be)

<sup>7</sup> Judgment of 26 April 2005 available on the website of the court <http://curia.eu.int/jurisp/cgi-bin/gettext.pl?lang=en&num=79949573T19030110&doc=T&ouvert=T&seance=ARRET&where=%28txtdoc=C ONTAINS=%27jose%27%7D%27maria%27%7D%27sison%27%29#Footnote>

It is very clear that the aim of the measure is to criminalise the progressive movement in the Philippines. Prof. Sison has been active since several years ago as chief political consultant of the Negotiating Panel of the National Democratic Front of the Philippines, engaged in peace negotiations with the Government of the Republic of the Philippines.

It is not a coincidence that the listing of Prof. Sison is done at a time that:

- The Government of the Republic of the Philippines is putting pressure, with the help of the US, on the National Democratic Front of the Philippines to accept a capitulation agreement, violating earlier agreements that a final settlement of the conflict should be preceded by effective measures to address the root causes of the conflict through basic reforms.
- The Bush administration is negotiating to reoccupy the military bases in the Philippines that were abandoned in 1992 by US military forces under the pressure of a strong popular movement
- A campaign of extra-judicial killings of many progressive activists by death squads is developing in the Philippines and many progressive leaders and activists are labelled as “terrorists” or at least “allies of terrorism”.

### **Who is Sison ?**

- He was Chairman of the Central Committee of the Communist Party of the Philippines (hereafter CPP) from 26 December 1968 to 10 November 1977, on which date he was arrested by the dictatorial regime of Marcos.
- For more than 8 years he was subjected to various forms of physical and mental torture.
- He was detained until March 5, 1986
- On 31 August 1986, Sison left for abroad to start a global lecture tour in universities, first in the Asia-Pacific region from 1 September 1986 to 22 January 1987 and then in Europe from 23 January 1987 to the time that he applied for asylum in 1988.
- Since 1990, Sison has been the chief political consultant of the National Democratic Front of the Philippines in the peace negotiations with the government. He is as witness a signatory in all the major bilateral agreements since the Joint Declaration of The Hague of 1992. As NDFP chief political consultant, he is covered by the GRP-NDFP Joint Agreement on Safety and Immunity Guarantees (JASIG) as well as related agreements thereto, which provide that the role of consultant on any side in the peace negotiations shall at no time be considered by the other side as a criminal act. In its resolutions in 1997 and 1999, the European Parliament has supported the peace negotiations. The governments of The Netherlands, Belgium and Norway have facilitated these negotiations.
- He has been living in Holland since 1987 with residence permit as research consultant of the Department of Socialization and Development of Utrecht University until he applied for political asylum in 1988.

### **The process of designation of Sison as a “terrorist”.**

- The US Secretary of State designated on 9 August 2002 the Communist Party of the Philippines/New People’s Army (CPP/NPA) as a “foreign terrorist organisation”. The US Treasury Department, particularly its Office of Foreign Assets Control, listed on 12 August 2002 the CPP/NPA and Sison as “terrorists” and ordered the freezing of their assets.
- The Dutch Foreign Minister issued on 13 August 2002 the “sanction regulation against terrorism” listing the NPA/CPP and Sison as the alleged Armando Liwanag, chairman of the CC of the CPP and as subject to sanctions.
- On December 27, 2001, the Council of the European Union adopted Council regulation 2580/2001 on specific restrictive measures against certain persons and entities with a view to combating terrorism<sup>8</sup>. This regulation (in Article 2 thereof) imposes sanctions which includes: freezing of funds and prohibiting the rendering of financial services:
- October 28, 2002, the Council adopted the decision 2002/848/EC by which Mr. Jose Maria SISON as a natural person is included in the list pertinent to art. 2 § 3 of Regulation 2580/2001. Several new and completed lists have been adopted by the Council since then and Prof. Sison has been maintained in the list<sup>9</sup>.

### **Fighting terrorism or criminalising struggle for national and social liberation as well as dissent ?**

- The first list adopted by the European Council was initially limited to persons and organisations linked to the conflicts in the Middle East (Hezbollah, Jihad, Hamas), in the Spanish Basque country and in Ireland.
- Very quickly however the list was expanded to a series of movements and persons linked (or supposed to be so) in a very broad sense to various conflicts in different parts of the world (Kurdish Workers Party – PKK, the Mujahedin-e-Khalq organisation – Iran, the Communist Party of the Philippines/New Peoples Army etc).
- Some of these organisations wage armed struggle in their home countries because they think there is no other way than the use of force to fight repressive and dictatorial regimes or occupation. These organisations undertake no violent action in Europe or outside of the area where the conflict they are involved in is waged. All these movements argue that their struggle is a legitimate struggle for national and social liberation. Some of the movements on the list have completely legal liaison offices in Brussels and other European capitals and are working openly and strictly within a legal framework. The European Council, putting these organisations on the list, is therefore very strongly moving away from a fight against terrorist violence in Europe towards criminalising the struggle for national and social liberation.

---

<sup>8</sup> OJ of the European Communities, n° L 344 of the 28/12/2001, p. 70-75.

<sup>9</sup> The last one is the decision 2005/221/CFSP of 14 March 2005 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 2004/306/EC (OJ L 69 of 16 March 2005, pp. 64-66).

- As said before, Prof. Sison is the Chief Political Consultant of the Negotiating Panel of the NDFP in the peace negotiations with the Government of The Republic of the Philippines. He has been living in the Netherlands since 1987. It is obvious that he can not give in these conditions leadership to the Communist Party of the Philippines or to the New Peoples Army. The constitution of both organisations anyhow does not allow such a situation.
- At the time of his inclusion in the list no criminal proceedings were pending in any country of the world against Prof. Sison. The Dutch Minister of Justice declared in the Dutch national parliament that there were no elements even to start a criminal inquiry against Prof. Sison in Holland<sup>10</sup>.
- Not only persons involved in terrorist activity are subject to sanctions but also persons and organisations “facilitating” terrorism. Although the concept “facilitating” is very ambiguous and is not at all a legal term or a legally established form of participation in a crime, this provision seems to aim at persons or organisations that help movements considered to be involved in terrorist activities, to channel funds for example. Prof. Sison produced to the European Court of First instance in Luxemburg a complete listing of all the operations on his only bank account, the one that has been “frozen” as a result of the sanctions imposed. It shows that the only income Prof. Sison had during all this years was a monthly 201.50 €social allowance and that the total amount on the account has not exceeded at any time 2000 €
- It is therefore obvious that freezing the account of Prof. Sison has strictly no link whatsoever with the so called “fight against terrorism” and that the listing of Prof. Sison is a political decision only intended to compel the National Democratic Front of the Philippines to sign a capitulation agreement as proposed by the Government of the Republic of the Philippines at a time the US is getting directly involved in military operations in the Philippines and wants to reoccupy the military bases it left in the past.

### **The consequence of the listing: “Civil Death” or total exclusion from economic and social life**

- Art. 2 of Regulation 2580/2001 reads as follows.

*« 1. Except as permitted under Articles 5 and 6:*

*(a) all funds, other financial assets and economic resources belonging to, or owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3 shall be frozen;*

*(b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.*

*2. Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3. »*

---

<sup>10</sup> Statement of the Minister of External Affairs of the Netherlands, Mr. De Hoop Scheffer, 16 August 2002, **Tweede Kamer der Staten-Generaal, Vergaderjaar 2002–2003, Aanhangsel van de Handelingen, pp. 297-298.**

The sanctions are very serious since Article 1 of the regulation defines the notions of financial assets and economic resources so broadly.

« For the purpose of this Regulation, the following definitions shall apply:

1. 'Funds, other financial assets and economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.

2. 'Freezing of funds, other financial assets and economic resources' means the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management. »

3. 'Financial services' means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services (excluding insurance) as follows:

*Insurance and insurance-related services*

(i) *Direct insurance (including co-insurance):*

(A) *life assurance;*

(B) *non-life;*

(ii) *Reinsurance and retrocession;*

(iii) *Insurance intermediation, such as brokerage and agency;*

(iv) *Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.*

*Banking and other financial services (excluding insurance)*

(v) *Acceptance of deposits and other repayable funds;*

(vi) *Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;*

(vii) *Financial leasing;*

(viii) *All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers' drafts;*

(ix) *Guarantees and commitments;*

(x) *Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:*

(A) *money market instruments (including cheques, bills, certificates of deposits);*

(B) *foreign exchange;*

(C) *derivative products including, but not limited to, futures and options;*

(D) *exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;*

(E) *transferable securities;*

(F) *other negotiable instruments and financial assets, including bullion;*

- (xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;*
- (xii) Money brokering;*
- (xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;*
- (xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;*
- (xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;*
- (xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) to (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.*

This excerpt of the list of services that are prohibited shows the very vast scope of the sanctions.

It is prohibited to contract a fire insurance for a building rented by a listed person or organisation. It is also prohibited to contract an insurance for personal liability towards third parties. A listed person cannot receive any payment by check or by any other means involving the use of a bank account.

By letter sent on September 10, 2002, the City of Utrecht terminated Prof. Sison's social allowance, his health insurance, and his third party liability insurance, and ordered him to leave the house, rented by the local authorities, and in which he lived with his family.

Royalties he received for a book he published in the US have also been frozen by the US authorities.

Under the French Ancien Regime one of the possible penal sanctions was the "mort civile" or "civil death". The person subject to this sanction was totally excluded from the economic life. He was deprived of his goods and was not allowed to participate in any financial or commercial transaction. This type of sanction was abolished by the French revolution. The sanctions imposed upon Prof. Sison reintroduce civil death as a form of sanction.

It is argued by the Council that the freezing of assets is not a sanction but an "administrative measure". Such explanation is of course not in accordance with reality. A penal sanction such as a fine deprives the convicted person only of a (small) part of his financial assets. The measures taken in accordance with the European Council regulation 2002/848/EC result in total deprivation not only of all assets but also of all income and all possibilities to earn an income. And this for an unlimited period of time. The consequences of the sanctions therefore go far beyond a traditional penal sanction and reintroduce in the criminal law system of the EU countries the "civil death" as a form of criminal punishment.

## **Proceedings according to the rules of the Spanish Inquisition**

As said above, Prof. Sison was not informed by any official body that he was included in the Dutch or the European lists.

He was never heard on any allegations –if any- brought against him of supporting or facilitating terrorism.

He asked for access to the file that was submitted to the Council when it decided to include him in the list. Access was denied.

The decision fails to state reasons.

Under the proceedings before the Spanish Inquisition men and women were accused of being “witches” or “heretics” but were not allowed to have access to the accusations brought against them. They had to prove their innocence. Sison is in the same situation as the defendants that appeared before the Inquisition.

We will go somewhat deeper into some of these points:

- **Failure to state reason for the challenged decision (violation of Article 253 of the EC Treaty)**

At the least, the written decision should give more insight on what precisely is considered as the support to terrorism by Sison.

The second consideration of the contested decision reads as follows: *"It is desirable to adopt an updated list of persons, groups and entities to which the aforementioned regulation applies"*.

The act does not contain any other element which in the first place would explain the reasons which led the Council to draw up this list such as it is presented. This laconic formula makes it absolutely impossible to know the general criteria which the author of the decision used for drawing up the list. It makes it even less possible to check how these criteria were applied concretely with regard to Sison to justify his designation on this list.

The obligation to state the reason for the decision of the Community, guaranteed by article 253 of the EC Treaty, has as its double objective to permit on the one hand, the interested parties to know the justifications of the measures taken in order to defend their rights and, on the other hand, for the Community judge to exercise his control over the legality of the decision. None of these objectives is fulfilled in this fashion.

- **A case entirely based on a “secret file”**

Prof. Sison immediately requested access to the documents that were submitted to the European Council and that became the ground to publicly label him as a terrorist and



to punish him as such. Prof. Sison made this request under Regulation (EC) No 1049/2001<sup>11</sup>, availing of the right of any citizen to request access to EU documents.

The Council refused to give him access arguing *'disclosure of [those reports] and of the information in possession of the authorities of the Member States combating terrorism, could give the persons, groups or entities which are the subject of this information the opportunity to prejudice the efforts of these authorities and would thus seriously undermine the public interest as regards public security'*. Secondly, in the Council's view, the *'disclosure of the information concerned would also undermine the protection of the public interest as regards international relations because third States' authorities [we]re also involved in the action taken in the fight against terrorism'*. Furthermore, the Council stated that some documents had been returned to the member states that produced them. It also said that it could not disclose the identity of these member states because of their refusal to be identified..

Prof. Sison filed an application for annulment of this decision (in fact three consecutive decisions of the same kind) of the European Council. This is a case subsidiary to the main case.

In the main case, still pending in the Luxemburg court, in which Prof. Sison applied for annulment of the decision to include him in the list of "terrorists" he argued precisely that no fair trial was possible without the "evidence" being submitted to scrutiny and contradiction. But the Council did not produce before the Court any documents that could link Jose Maria Sison to terrorist activities.

On April 26, 2005 the European Court of First Instance in Luxemburg announced a decision on the application filed by Prof. Jose Maria Sison for the annulment of the decisions of the Council of the European Union to refuse him access to the file on which his inclusion in the so-called terrorist list is based. The decision of the court confirms the initial refusal decisions of the European Council. It is still subject to appeal, which Prof. Sison is committed to pursue.

The April 26 decision of the Luxemburg court in the case on access to documents can be summarized as follows:.

The question whether these documents should be submitted to scrutiny and contradiction is a question that has to be solved in the case pending on the inclusion in the list. The particular interest of Sison to have access cannot be taken into consideration in a request based on the general transparency regulation.

The Council had the right to consider the requested documents as particularly sensitive.

Both lines of argument are chilling and worrisome.

- It is obvious that Prof. Sison, like any EU citizen, has an interest to know how the Council takes the decision to label a person or an organisation as "terrorists". The whole proceeding leading to very harsh sanctions has been set up as an administrative

---

<sup>11</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31 May 2001, p 43).

proceeding. The Council argues that there are no requirements of fair trial in such proceedings. The regulation has been made by the Council on the basis of its executive power. The list has been established as well by the Council on the basis of a secret file, probably based on secret service information. No contradiction whatsoever has been foreseen and no judicial review is foreseen before sanctions are imposed.

- Even more chilling and worrisome are the considerations of the Court concerning the sensitive character of the documents. Although they are formulated in a decision on the application of a general “transparency” regulation, their wording is such that they could be applied without any difficulty to deny access to the documents even in the particular situation of an individual requesting access to the secret file that has led to his labelling as a terrorist.

The Court states for example: “80 *That international cooperation concerning terrorism presupposes a confidence on the part of States in the confidential treatment accorded to information which they have passed on to the Council. In view of the nature of the document requested, the Council was therefore able to consider, rightly, that disclosure of that document could compromise the position of the European Union in international cooperation concerning the fight against terrorism.*”<sup>12</sup>

This is a wording so general that it can be used in any case and in any situation to refuse access to a secret file to a person subject to sanctions. The decision of the Court is therefore not only a threat to transparency but also to the most basic rights of defence and to the right to a fair trial.

- **The use of “Administrative law” as a strategy to “avoid” the European Human Rights Convention and the basic rights of defence**

- The sanctions imposed on Prof. Sison are to be considered as criminal sanctions according to the jurisprudence of the European Human Rights Court.

For the European Court of Humans Rights, three criteria determine the existence of a “criminal charge”: the legal qualification of the litigious infringement in national law, the nature of this charge, and the nature and degree of severity of the sanctions. These three criteria are fulfilled with the registration of the persons as referred to in the list. There is not any doubt that the sphere in which the challenged decision fits, namely the fight against terrorism, forms integral part of the penal matter. The proof of this penal nature in European law is reinforced by the adoption by the Council of the European Union of the framework decision of 13 June 2002 relating to the fight against terrorism<sup>13</sup> which defines, in a vague manner, the incriminating acts . The nature of the infringement does not allow additional hesitation since " persons, groups or entities are aimed at making or trying to make an act of terrorism, participating in such an act or facilitating its realisation ". As for the degree of severity of the sanction,

---

<sup>12</sup> Judgment of 26 April 2005 available on the website of the court <http://curia.eu.int/jurisp/cgi-bin/gettext.pl?lang=en&num=79949573T19030110&doc=T&ouvert=T&seance=ARRET&where=%28txtdoc=CONTAINS=%27jose%27%7D%27maria%27%7D%27sison%27%29#Footnote>

<sup>13</sup> Official Journal of the E.C. n° L 164 of 22/06/2002 p. 0003 – 0007.

it is also fulfilled. Indeed, the freezing of the assets such as it is envisaged is comparable to a total deprivation and for an unspecified duration of the right of ownership of the groupings concerned.

It is absurd that the supposedly heinous crime of terrorism is invoked to justify the sanctions against Prof. Sison but said sanctions are arbitrarily described as administrative sanctions rather than as criminal sanctions in order to prevent him from exercising his right to due process and to deprive him of a whole range of basic human rights, without which “civil death” is the result.

According to the jurisprudence of the European Human Rights Court all guarantees provided for by the European Human Rights Convention should be applied to the proceedings that led to the sanctions against Prof. Sison.

The Community legislation recognises the fundamental principle of respect for the rights of defence like that of a right to a fair trial (see judgements of the Court of December 17, 1998, *Baustahlgewebe / Commission*, C-185/95 P, point 21, and of March 28, 2000, *Krombach*, C-7/98, Rec. p. I-1935, point 26).

Prof. Sison has been denied all basic rights amongst others the presumption of innocence, the right to a fair trial, basic rights of defence such as the possibility to contradict any accusations, access to an independent and impartial court etc. (see further)<sup>14</sup>

- The European Council developed a very worrying strategy to “circumvent” the European Human Rights Convention and the International Covenant and Civil and Political Rights.

It applies to what is obviously a criminal matter, so-called “administrative proceedings”.

This “circumvention strategy” is very similar to the strategies developed by the US to deprive Guantanamo prisoners of a legal status and the one used by the UK authorities to detain suspects for indefinite periods without any review by the Courts.

The regulation n° 2580/2001 on specific restrictive measures against certain persons and entities with a view to combating terrorism has been adopted by the Council of Ministers, a political body without any judicial character.

The list established in accordance with this regulation are likewise Council decisions. The Council therefore plays the role of legislator and judge.

It seems that the decision to include Jose Maria Sison in the list is based on “information” provided by secret services (possibly even from outside the EU). This

---

<sup>14</sup> For detailed arguments on the violation of the right to a fair trial (art 6 EHRC), the violation of the principle of legality (art. 7 EHRC), the right to the freedom of expression (Article 10 ECHR), the right of association (article 11 ECHR), the right of ownership (article 1 of First Protocol ECHR) please consult the application brought before the Court of First Instance of the European Union at <http://www.defendsison.be/archive/pdf/ApplicationSison.pdf>

type of information is considered as being of an “administrative type”, in opposition to “evidence” in a judicial process. The “administrative “type of information can be used for policy making. It is however a general principle of fair trial that such information can not be used as “evidence” in a trial to impose sanctions on a person unless the administrative information meets all requirements of “evidence” in a criminal trial, mainly being submitted to contradiction by the defendant.

As explained above three years after being imposed sanctions upon, Prof. Sison did not get any access to the elements that were at the bases of the decision. He does not now the nature or the content of the information discussed by the members of the European Council. He was not heard by any authority before being included in the list.

Finally the sanctions are put into practice by political and administrative authorities, finance ministries, customs administrations, etc.

The Court of First Instance of the European Union does not have full jurisdiction. It cannot replace the Council’s decision by its own. It can only annul the decision of the council. This also is characteristic for an administrative proceeding. This type of court proceedings cannot be considered as a an access to an independent court in the sense of Art. 6 of the European Human Rights Convention.

The European Council explicitly argues that the guarantees for a fair trial provided for by the European Human Rights Convention do not apply in this case because, according to the Council, the nature of the proceedings is administrative and not criminal. It is therefore obvious that the choice of an “administrative” proceeding to impose sanctions is a deliberate decision to “avoid” all guarantees granted to a defendant and to deprive him in this way of his basic rights of defence, to a fair trial etc.

## **Conclusion:**

- Taking the fight against terrorism as a pretext the European Union, as the US did before, is criminalizing movements and individuals engaged in the struggle for national and social liberation. Even mere dissent is criminalized and labelled as “terrorism”
- The case of Jose Maria Sison clearly shows that the main aim of criminalizing the national and social liberation movement is merely political: force those who oppose foreign domination and domestic oppression and exploitation into capitulation.
- To succeed such criminalisation process of opposition and dissent the US and the European Union and its member states reinstall proceedings and sanctions that were characteristic for criminal proceedings in Europe before the French revolution.
- In these proceedings secret files established by secret services are at the base of decisions taken against groups and individuals. No contradiction is allowed, the “information” provided by secret services is not even disclosed. The argument therefore is that the information is “confidential and sensitive”.
- To be able to deny all basic rights of defendants in a criminal proceeding strategies are developed to use so-called “administrative law” to impose sanctions.
- The case of Jose Maria Sison before the European Court of First Instance is a landmark case and will have very serious consequences for the rights of defendants. The decision in this case will be of decisive influence on one hand on the possibilities in the future for the authorities to criminalise dissent and on the other hand for progressive forces to organise and to express themselves.



[WWW.PROGRESSLAW.NET](http://WWW.PROGRESSLAW.NET)

*Who we are?*

Progress Lawyers Network originated in 2003 as a network of progressive lawyer's offices in Brussels, Antwerp and Ghent. Our network is targeted at lawyers, jurists, university staff and human rights activists in Belgium as well as abroad.

Our lawyer's office concentrates on four branches of law: social law, penal law, immigration law and family law. Lawyers of our network defended workers of Sabena who stood up against the bankruptcy and many dismissed union men. We engaged in proceedings against arms deliveries to Nepal and against weapons transports to Iraq. We also cooperated with Objectief to reissue a proposition of a bill giving equal rights to immigrants. In the summer of 2003 lawyers of the network issued a lawsuit on behalf of 17 Iraqi war victims against the American General Franks.

*Why PLN?*

In the middle of 2003 the UN published a report stating that within a period of ten years the number of people living in poverty and not having access to drinkable water will increase by two billion worldwide. This is one third of the total world population. Poverty and lawlessness are increasing. Wars are compelling people to flee.

We find that policy makers are often more committed to developing new repressive bills instead of finding solutions for the peoples problems.

Fortress Europe is built against refugees. Special investigation methods are giving police more power. The rights of workers and people who live from benefits are being affected. More and more people are becoming a victim of a system where profit is the central issue. The war on terror is being abused to criminalize people who stand up for improvement or change in society.

Our project is targeted at offering the best defense for victims of our current society and for those who are striving for change.

*What do we stand for?*

PLN objects to any deterioration of fundamental rights and liberties on a national, European and international level. We support organizations like Legal Teams who safeguard the rights of activists during demonstrations.

PLN offers special attention to the defense of union men and social law.

PLN defends the right to demonstrate and organize of all movements who oppose injustice and oppression.

PLN defends the progressive achievements of international law. We defend the sovereignty of nations and the right of self determination of nations and their right to dispose of their own raw materials.

PLN opposes racism and stands up for equal rights, the rights of refugees and the rights immigrants.

PLN stands up for the independence of the lawyers profession and for respect of the rights of the defence.

PLN stands up for social legal profession where legal aid is affordable and accessible for everyone through the introduction of a national system of legal assistance.

Our method?

We are aware that the defense of our clients interests exceeds a pure legal approach. For this reason we relate the defense of the individual to the struggle for the rights of a large group of people. We are willing to mop the floor but not while the faucet is open.

The knowledge and expertise which we acquire by representing individuals, is benefited of by a as large as possible group of people.

---

## **Contact :**

### **Brussels :**

**Jan FERMON - Ivo FLACHET - Joke CALLEWAERT - Thomas MITEVOY - Selma BENKHELIFA - Mathieu BEYS - Axel BERNARD**

**Chaussée de Haecht 55  
1210 Bruxelles  
Belgique**

**tel. 32.2.215.26.26  
fax 32.2.215.80.20**

**email [brussels@progresslaw.net](mailto:brussels@progresslaw.net)  
firstname.name@progresslaw.net**

### **Antwerp**

**Raf JESPERS- Edith FLAMAND - Maria (Lily) TRIPS- Enrico DE SIMONE - Lieve PEPEMANS - Zohra OTHMAN - Jo DEREYMAEKER - Jan DE LIEN - Jan BUELENS - Julie MOMMERCY - Geertrui DAEM**

**Broederminstraat 38  
2018 Antwerpen  
Belgique**

**tel. 32.3.320.85.30  
fax 32.3.366.10.75**

**email [antwerp@progresslaw.net](mailto:antwerp@progresslaw.net)  
firstname.name@progresslaw.net**

### **Ghent**

**Norbert VAN OVERLOOP - An ROSIERS - Riet VANDEPUTTE**

**Halvemaanstraat 7  
9040 Gent  
Belgique**

**tel. 32. 9.255.59.12  
fax 32. 9.255.59.14**

**email [gent@progresslaw.net](mailto:gent@progresslaw.net)  
firstname.name@progresslaw.net**