

IN THE INTERNATIONAL COURT OF JUSTICE

REPUBLIC OF GUINEA, )  
APPLICANT )  
V. )  
DEMOCRATIC REPUBLIC OF THE CONGO )  
RESPONDANT )

MEMORIAL OF THE REBULIC OF GUINEA

COMES NOW the Republic of Guinea and for their memorial to the Court states the following:

STATEMENT OF LAW

1. It is a general principle of law that every State has the right to require other States to comply with international law in respect of the person of any of its nationals.
2. The State of Guinea is therefore entitles to institute proceedings against the Democratic Republic of the Congo, which has violated certain major principles of international law in respect of a Guinean national.
3. The International Covenant on Civil and Political Rights, entered into force on 23 March 1976, states that all peoples may, for their own needs, freely dispose of their natural wealth and resources (Article 1).
4. The Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948, states that no one shall be arbitrarily deprived of his property (Article 17).
5. The African Charter on Human and Peoples Rights, adopted on 27 June 1981 by the Organization of African Unity, states that the right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws (Article 14).
6. The African Charter on Human and Peoples Rights also states that all peoples shall freely dispose of their wealth and natural resources (Article 21).
7. The Universal Declaration of Human Rights also states that no one shall be subjected to arbitrary arrest, detention, or exile (Article 9).
8. The African Charter on Human and Peoples Rights also states that a non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law (Article 12).

## STATEMENT OF FACT

1. Mr. Ahmadou Sadio Diallo, a businessman of Guinean nationality, was unjustly imprisoned by the authorities of the Democratic Republic of the Congo, after being resident in that state for thirty-two (32) years, despoiled of his sizable investments, businesses, movable and immovable property and bank accounts, and the expelled from the country.
2. This expulsion came at the time when Mr. Ahmadou Sadio Diallo was taking proceedings to recover substantial debts owed to his businesses by the companies partly owned by the State and by the oil companies established on its territory and of which the said State is a shareholder.

## STATEMENT OF JURISDICTION

1. Since the basis of the International Court of Justice's jurisdiction is consensual, Guinea is relying on the declarations accepting the compulsory jurisdiction of the Court which both Parties to this dispute have duly signed and deposited with the Secretary-General of the United Nations.
2. Zaire, which has become the Democratic Republic of the Congo, made a declaration accepting the compulsory jurisdiction of the International Court of Justice on 8 February 1989.
3. The Republic of Guinea did likewise on 11 November 1998.
4. Both declarations provide that the court has jurisdiction to examine disputes concerning any point of international law raised by any State party, subject to the acceptance by the other party of the same obligation.
5. Since this dispute concerns diplomatic protection, an essential point of international law, the International Court of Justice has jurisdiction to entertain it.

## ARGUMENTS

- I. Ahmadou Sadio Diallo was denied his rights as a human being and foreign national by the Congolese State.

The principle that foreign nationals should be treated in accordance with a minimal standard of civilization, the obligation to respect the freedom and property of foreign nationals, the right of foreign nationals accused of an offence to a fair trial on adversarial principles by an impartial court.

- II. Ahmadou Sadio Diallo, being deprived of his assets by the Congolese government is entitled to reparation.

Mr. Sadio is entitled to repayment in the amount US\$31,334,685,888.45 in respect to the financial loss suffered by him. The Congolese courts continually upheld Mr. Sadio's rights to receive compensation from his debtors, but the government failed to act upon the courts' orders.

III. As Mr. Sadio is a Guinean national, the State of Guinea has a duty to uphold his rights.

After vain attempts to arrive at an out-court settlement, the State of Guinea is filing an Application with the International Court of Justice with a view to obtaining a finding that the Democratic Republic of the Congo is guilty of serious violations of international law committed upon the person of a Guinean national.

#### SUMMARY AND PRAYER OF RELIEF

The Democratic Republic of the Congo violated numerous national and international laws by unduly imprisoning Ahmadou Sadio Diallo, stripping him of his assets, and exiling him. Guinea prays that the Court will find the Democratic Republic of Congo illegally disposed of Mr. Sadio s assets and will award Mr. Sadio full compensation for his loss.