

**The International Court of Justice**  
**of the**  
**American Model United Nations**

ARGUED: November 24, 2008  
DECIDED: November 25, 2008

THE REPUBLIC OF GUINEA v. THE DEMOCRATIC OF CONGO

PRESENT: President Redick, Justices Bathke, Bauer-Nilson, Blackwell, Collins, Garber, Hammond, Hillenbrand, Kraker, Mosher, Skrepnik, Sodini, Williams, and Zurek.

This Court accepts jurisdiction in the case of Republic of Guinea v. The Democratic Republic of Congo based on Article 36, paragraph 1 of the Statute of the Court. The court holds that this issue is substantive because the conflict involves the sovereign nation-states of the Republic of Guinea and the Democratic Republic of Congo.

*The Court,*

*Composed as above,*

*Delivers the following Judgment*

1. Mr. Diallo is a citizen of the nation of Guinea. Therefore the nation of Guinea has the right to bring this case before the court on his behalf. This court has concluded thus based on an Amnesty International survey regarding state recognition of dual citizenship, which found that neither state recognizes dual citizenship.
2. Considering the facts before this court, the nation of Zaire violated Mr. Diallo's rights under the International Covenant on Civil and Political Rights (ICCPR) to which Zaire was a party. After the Zaire court system awarded Mr. Diallo thirteen million dollars (USD), the competent authorities were required to enforce such remedy under Article 2 of the ICCPR. Because the Prime Minister refused to do so, Zaire was in direct violation of Article 2. Furthermore, this court finds that the detention and expulsion of Mr. Diallo were unlawful under Article 14 of the ICCPR. As contended in the Democratic Republic of Congo's second argument asserting that Mr. Diallo engaged in corrupt business practices, the facts before this court do not support this claim.
3. The United Nations Human Rights Committee (UNHRC) ruled that states are not allowed to withdraw from this treaty, notwithstanding change in government. Therefore, the Democratic Republic of Congo, as the successor government to Zaire, must uphold the provisions of the ICCPR. Because the Democratic Republic of Congo refused to rescind Zaire's previous order of expulsion, they continued to violate his rights as stated in Article 14 of the ICCPR.

4. Furthermore, the facts before this court as presented in the course of oral arguments indicate that the Democratic Republic of Congo incurred the debt Zaire owed to Mr. Diallo. This debt was acquired when Zaire-Shell was nationalized. Because this debt was passed on, this court finds that the Democratic Republic of Congo is responsible for its payment.

For these reasons,

The Court

Unanimously,

Finds that Zaire violated and that the Democratic Republic of Congo continued to violate Mr. Diallo's rights under the ICCPR. Furthermore, as the Democratic Republic of Congo inherited Zaire's debt to Mr. Diallo, Democratic Republic of Congo is responsible for the payment of said debt. Therefore this court orders the Democratic Republic of Congo to rescind the expulsion order, thereby allowing Mr. Diallo to return to the Democratic Republic of Congo. Additionally, the Democratic Republic of Congo shall pay restitution in the amount fifty-eight million dollars (USD), which is an inflationary adjustment of the initial thirteen million dollars the Zairian court awarded to Mr. Diallo, and all subsequent court costs. This court orders the executive body of the Economic Commission for Africa (ECA), a subsequent body of the Economic and Social Council (ECOSOC) to determine the full extent of Mr. Diallo's losses. This court will review the ECA's final determination in order to ensure that the amount of compensation will be fair and just.

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President Redick

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Justice Bathke

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Justice Bauer-Nilsen

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Justice Blackwell

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Justice Collins

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Justice Garber

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Justice Hammond

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Justice Hillenbrand

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Justice Kraker

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Justice Mosher

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Justice Skrepnik

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Justice Sodini

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Justice Williams

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Justice Zurek

CONCURRING AND DISSENTING OPINION OF: President Redick, Justice Hillenbrand, Justice Skrepnik, Justice Williams and Justice Mosher

We agree with the above majority opinion on every issue, however regarding the final findings of the court, we respectfully dissent.

Regarding the finding of the current continued operation of the Botnia Paper Mill on the River Uruguay, we the dissenters feel that the continued operation of this mill should be halted. In the course of our deliberations we have been presented with exceptionally conflicting accounts and severe implications of the environmental and societal impact of the continued operation of said mill.

In response to the high volume of undisputed objections regarding human rights violations outlined in the Organization for Economic Co-operation and Development (OECD) Guidelines on the Specific Instance Regarding Pulp Paper Mill Investment in Fray Bentos Uruguay by Botnia S.A. presented by the Center for Human Rights and Environment (CEDHA), we the dissenters believe that there exists a significant and imminent threat to human rights. The OECD Guidelines listed above, the Economic and Social Council (ECOSOC) resolution E/CN.4/Sub.2/2003/12/Rev.2,G(14), which upholds the Universal Declaration of Human Rights, and International Watercourse Law encourage environmentally safe options for the operation of the Mill to include positive public health provisions.

Due to the contradictory environmental evidence and the above presented human rights violations, we the dissenters find the previously issued Provisional Measure Order of 23 January 2007, which allowed the continued operation of the Botnia Mill, no longer applicable. We now see a need for a new Provisional Measure to temporarily pause Mill activity until a mutually agreed upon third party's environmental study can be presented to this court.

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President Redick

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Justice Hillenbrand

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Justice Mosher

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Justice Skrepnik

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Justice Williams