



IN THE INTERNATIONAL COURT OF JUSTICE:

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

MEMORIAL OF GUINEA

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

STATEMENT OF LAW:

1. It is general principle of law that every State has the right to require other States to comply with international law in respect to the person of any of its nationals.
2. The State of Guinea is therefore entitled 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 (ICCPR), to which the Democratic Republic of the Congo, formerly known as Zaire, is party, states in part (a) of Article 2 that any person “whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding has been committed by persons acting in official capacity.”
4. Further, the ICCPR states in part (c) of Article 2 that parties to the Covenant must “ensure that the competent authorities shall enforce such remedies when granted.”
5. Additionally, the ICCPR in Article 1 states that all peoples may, for their own needs, freely dispose of their natural wealth and resources.
6. The Universal Declaration of Human Rights adopted by the UN General Assembly on 10 December 1948, states, in Article 17, that, no one shall be arbitrarily deprived of his property.
7. The Universal Declaration of Human Rights also states, via Article 9, that no one shall be subjected to arbitrary arrest, detention, or exile.
8. In the case of *Nottebohm (Lichtenstein v Guatemala)* the International Court of Justice decided that a state may initiate proceedings that comprise “diplomatic protection” on behalf of a national or corporation.

STATEMENT OF FACT:

(a) Mr. Ahmadou Sadio Diallo, a businessman of Guinean nationality, settled in
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the Democratic Republic of the Congo (DRC), formerly known as the Congo and Zaire, in 1964 a period of 32 years. He formed two companies, Africom-Zaire and Africontainers-Zaire. These two companies had multiple and repeated dealings with many different Congolese companies, most of which had ties back to the Congolese government, such as Zaire Shell, Zaire Mobile Oil and Generale des Carrieres des Mines (Gecamines).

- (b) Diallo attempted to collect debts owed to Africom-Zaire and Africontainers-Zaire by the aforementioned companies by first direct negotiations with both the companies and the state of Zaire, when those efforts subsequently failed; he turned to the Congolese judicial system.
- (c) Diallo was successful in his court case against Zaire Shell, both initially and upon multiple appeals, and judgment was payment by Zaire Shell to Africontainers-Zaire for \$13 million.
- (d) Shortly after these decisions, Diallo was imprisoned for breach of public order in what was then Zaire, and after his release was deported to his native Guinea with refusal of entry notice and an account of illegal residence.
- (e) However, in the DRC refusals of entry do not have any form of administrative redress, unlike a standard expulsion order.

STATEMENT OF JURISDICTION:

- a) 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.
- b) 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.
- c) The Republic of Guinea did likewise on 11 November 1998.
- d) . A member state may initiate proceedings against other states on the behalf of a national in cases of "diplomatic protection." This includes the proceedings initiated by Guinea against the DRC, on behalf of Mr. Diallo.

ARGUMENTS:

- a) Mr. Diallo took steps to collect the debts owed him by the various Congolese companies and the government, both through direct negotiation and through the court system of the DRC, he had exhausted all possible remedies as stated in Article 2 of the ICCPR.
- b) The government of the DRC failed to uphold the decisions made by the courts as to the remedies in #1, and thereby violated part (c) of Article 2 of the ICCPR.
- c) Subsequent to the violations of the ICCPR, the government of the DRC further violated Mr. Diallo's rights by having him unlawfully imprisoned for a total of 74 days and then deported, by refusal of entry and an account of illegal residence from the DRC. Despite having been a resident for over three decades. The official

- reason for these actions is that Mr. Diallo had breached the public order with his actions.
- d) Mr. Diallo did nothing wrong illegal in his lawful attempts to settle the debts owed by Zaire Shell and the government, and in fact wound up the victim in this dispute, as was repeatedly upheld by the Congolese judicial system.
 - e) Mr. Diallo is being deprived of his assets by the Congolese government, and is entitled to repatriations. Mr. Diallo is entitled to that payment in the amount of \$31 Million in respect to the financial losses suffered by him.
 - f) Mr. Diallo has the right to redress in the form of proceedings in front of the ICJ and subsequently, as a Guinean national, the State of Guinea has a duty to uphold his rights and apply on his behalf.

SUMMARY AND PRAYER FOR RELIEF

The government of the DRC is party to international treaties and organizations that require them to provide methods of redress for individuals whose rights have been compromised, and also require them to uphold the results of that redress. The DRC has done neither with regard to Mr. Diallo. Therefore, Guinea has come before the court to ask for a decision on his behalf. As a national of Guinea, Mr. Diallo has the right to diplomatic protection from the illegal actions of other states. The decision from this court should hold states responsible for their actions, according to the promises they have made by signing onto international treaties and by claiming membership in international organizations and award Mr. Diallo full compensation for his loss.