**Guiding Package**

Oasis International School Model United Nations

The International Court Of Justice

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Ahmadou Sadio Diallo (Republic of Guinea *v.* Democratic Republic of Congo)

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1. **INTRODUCTION TO THE CASE:**

Mr. Ahmadou Sadio Diallo, a Guinean businessman and national, had moved to the Democratic Republic of Congo in 1964. He was fundamentally a shareholder and an associate in a series of companies called the Companies.

In the late 1980s, the Companies established legal proceedings against their reserved business partners and their public. They had to do so, in order to recover their debts. Subsequently, the Zairian Prime Minister released an expulsion decree against Mr. Diallo, stating that the Companies have violated Zairian laws and have been infringing its economy and finance. The government officials implemented the edict; thereby Mr. Diallo was arrested and imprisoned for 72 days without being trialed. He was then given notice of his expulsion, and deported back to the Republic of Guinea on the 31st of October 1996.

On the 28th of December 1998, the Republic of Guinea initiated proceedings against the Democratic Republic of Congo before the International Court of Justice, alleging the violation of Mr. Diallo’s rights as a Guinean national with diplomatic protection and as an associate in the Companies.

Plaintiff: The Republic of Guinea (hereinafter Guinea)

According to Guinea, The Democratic Republic of Congo (hereinafter the DRC), has committed severe violations of International Law against a Guinean national. It had breached the 1976 [International Covenant on Civil and Political Right](http://www2.ohchr.org/english/law/ccpr.htm)s and the 1987 [African Charter on Human and Peoples’ Rights](http://www.achpr.org/english/_info/charter_en.html). Additionally, DRC has not provided Mr. Diallo with consular assistance; therefore it is breaching the 1963 Vienna convention on consular relations, by not informing him of his rights upon having consular assistance.

Furthermore, Guinea by way of diplomatic protection has filed its application as a representative of Mr. Diallo, in respect of DRC’s violation to his rights as an individual being a victim of arrest, expulsion and mistreatment and a shareholder of the Companies.

Defendant: The Democratic Republic of Congo

DRC proved that Guinea lacked authorities to exercise diplomatic protection, since it sought reparations for injuries suffered on account of the alleged violation of the Companies rights. However, the Companies do not possess Guinean nationality, therefore diplomatic protection is not admissible. Moreover, the expulsion was appropriate, suitable, and justified by the Congolese public interest and law. Mr. Diallo also was not violated as a shareholder, because he is a shareholder of not freely transferable shares.

Thus, DRC did not perform any internationally wrongful acts or breaches of International Laws, according to Congolese laws.

1. **HISTORY OF THE CASE:**

* Parties involved:
* The Republic of Guinea
* The Democratic Republic of Congo
* The History of Proceedings:
* On the 28th of December 1998, the Republic of Guinea generated legal proceedings against the DRC before the International Court of Justice, in reason for violating the rights of Mr. Diallo and for breaching the International Covenant on Civil and Political Rights, the African Charter on Human and People’s Rights and the Vienna Convention on Consular Relations.
* Both councils presented their memorial (Republic of Guinea) and counter-memorial (RDC).
* In the late 1980s, the Companies initiated proceedings against their private business partners and their public, in order to recover their debts.
* On the 31st of October 1995, the Zairian Prime Minister released an expulsion decree against Mr. Diallo. The decree stated that the Companies have violated Zairian laws and have been contravening and infringing its economy and finance.
* On the 28th of December 1998, the Republic of Guinea initiated legal proceedings against DRC, for breaching International Law and violating Mr. Diallo’s rights.
* Statement of Facts/ Background Information:
* The DRC was formerly known as “Congo” between 1960 and 1971, and “Zaire” between 1971 and 1997.
* The Companies is a group of two companies, one inaugurated by Mr. Diallo as an import-export company named Africom Zaire, and another one he co-founded as a private limited liability company specialized in containerized transport of goods, called Africontainers-Zaire.
* The government officials implemented the edict and Mr. Diallo was imprisoned on the 5th of November 1995 till the 10th of January 1996.
* Mr. Diallo was arrested for a further six days, from January 25th 1996 to January 31st 1996.
* On the 31st of January 2016, Mr. Diallo was deported back to Guinea.
* DRC ratified the [African Charter on Human and Peoples’ Rights](http://www.achpr.org/english/_info/charter_en.html) on the 20th of July 1986.
* DRC ratified the Vienna Convention on consular rights on the 15th f July 1976.
* DRC ratified the [International Covenant on Civil and Political Right](http://www2.ohchr.org/english/law/ccpr.htm)s on the 1st of November 1976.

1. **KEY TERMS:**

* Diplomatic protection: Is the process where a state declares a claim against another state because a latter of violation of International Law has been exercised to one of its nationals.
* Expulsion: the act of forcing someone out of a place or an organization.
* Diplomatic immunity: the privilege of exemption from certain laws and taxes granted to diplomats by the state in which they are working.

1. **STATEMENT OF LAWS:**

* Article 13, Article 9 (1) and (2) of the [International Covenant on Civil and Political Right](http://www2.ohchr.org/english/law/ccpr.htm)s
* Article 13 (4) of the African Charter on Human and Peoples’ Rights
* Article 36 of the Vienna Convention on Consular assistance

1. **STATEMENT OF JURISDICTION:**

* Article 36 (2), (3) and (60 of The Statue of the International Court of Justice
* Article 38 (1) (a.) (c.) Of The Statue of the International Court of Justice

1. **USEFUL LINKS:**

* *VOLTERRA FIETTA Law Firm*. <http://www.volterrafietta.com/the-diallo-case-republic-of-guinea-v-democratic-republic-of-congo-a-rare-instance-of-diplomatic-protection-before-the-international-court-of-justice/>
* *Oxford Public International Law.* <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e87>
* *The Hague Justice Portal.* <http://www.haguejusticeportal.net/index.php?id=12306>