

MASS DEPRIVATION OF NATIONALITY UNDERWAY

DOMINICAN REPUBLIC

Thousands of Dominicans of foreign descent (m&f)

The Constitutional Court ruling which deprives thousands of individuals of foreign descent of their Dominican nationality is being implemented. This has created an increasing nationalist and hostile atmosphere where individuals of Haitian descent are particularly discriminated against and at risk of violence and further violations.

Dominican authorities have started to implement the controversial ruling 0168-13 issued on 23 September by the Dominican Constitutional Court (Tribunal Constitucional) backdated to 1929, which in practice deprives people of foreign descent of their Dominican nationality, with the consequence of making them stateless. Following this, hostile rhetoric, threats and acts of intimidation against individuals of Haitian descent, Haitian migrants and human rights defenders have been increasingly reported. On 4 November, Day of the Constitution, hundreds of people taking part in a nationalist demonstration in Santo Domingo shouted "death to the traitors", according to reports received by Amnesty International. On 7 November the Central Electoral Board (Junta Central Electoral, JCE) published the results of their report analyzing all civil registries between 1929 and 2007. It identified 53,847 persons, 24,392 of whom were supposedly irregularly registered, born of foreign parents. However, these numbers are inconsistent with the results of a survey conducted by the National Statistics Office in 2012, which found that 244,151 people living in the Dominican Republic were born of foreign parents. The figures presented by the JCE seem to exclude the thousands of children of foreign parents who were never registered, as well as the successive generations of children of foreign descent. It is likely that these persons will be excluded from any solution found, will continue to be denied access to their identity documents and may be at greater risk of arbitrary arrest, deportation and discrimination. An urgent visit of the Inter-American Commission for Human Rights (IACHR) has been agreed by the Dominican authorities in order for the IACHR to assess the scope of the ruling. A suitable date is currently being discussed.

Please write immediately in Spanish or your own language:

* Urging the Dominican authorities to suspend the implementation of the Constitutional Court ruling until the IACHR visits the country and formulates its recommendations based on the Dominican Republic's international human rights obligations;

* Urging them to take all necessary measures to protect from racism, xenophobia and violence persons with actual or supposed foreign origins, as well as human rights defenders, journalists and other individuals who might be at risk for having spoken out against the ruling 0168-13 of the Constitutional Court;

* Calling on them to initiate a national consultation with civil society and groups of persons affected by the ruling in order to take all administrative and/or legislative measures possible to restore Dominican nationality to all of those who were deprived of it by the Constitutional ruling.

PLEASE SEND APPEALS BEFORE 26 DECEMBER 2013 TO: (Time difference = GMT - 4 hrs / BST - 5 hrs)

President of the Republic

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Salutation: Señor Presidente / Dear President

President of the House of Deputies

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Salutation: Señor Presidente de la Cámara de los Diputados / Dear President of the House of Deputies

And solidarity messages to:

Dominican@s por Derecho
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Twitter:
<http://twitter.com/domxderecho>

PLEASE SEND COPIES OF YOUR APPEAL TO

His Excellency Dr Federico Alberto Cuello Camilo, Embassy of Dominican Republic, 139 Inverness Terrace, Bayswater London W2 6JF

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BACKGROUND INFORMATION:

The Dominican Constitutional Court issued ruling 0168-13 following a constitutional review initiated by Juliana Deguis Pierre's petition seeking protection of her fundamental rights (recurso de amparo) after her birth certificate was seized in 2008 by the Central Electoral Board (Junta Central Electoral) on the basis that her names "are Haitian". The Court decided that Juliana Deguis Pierre's parents, who could not prove their regular migration status in the Dominican Republic, were "foreigners in transit" for the purposes of Dominican domestic legislation. As a consequence, Juliana had not been entitled to the Dominican citizenship she was granted at birth. The Court established that the same applied to all children of parents who could not prove their regular migration status in the country. Therefore it ordered the Central Electoral Board to thoroughly examine all birth registries since 1929 and remove from them all persons who were supposedly wrongly registered and recognised as Dominican citizens. This decision thus retroactively applies the Court's interpretation to all cases since 1929. The ruling is the most recent of a number of administrative, legislative and judicial decisions which since the early 2000s have had the effect of denying Dominican of Haitian access to their identity descent and to retroactively depriving them of their Dominican nationality. The refusal of identity documents has been devastating for individuals of Haitian descent, who have been as a consequence denied enjoyment of their civil rights. Since the publication of the ruling, several international bodies (and foreign governments) have expressed deep concerns about the potential negative effects of the ruling on the human rights of hundreds of thousands of people, including various agencies of the United Nations, the Inter-American Commission on Human Rights (IACtHR), the CARICOM and governments of the Caribbean, and several international human rights NGOs. At the request of the permanent mission of Saint Vincent and the Grenadines, on 29 October the Permanent Council of the Organization of American States (OAS) discussed the Dominican Constitutional Court ruling. During the session, the Secretary General of the OAS acknowledged that the ruling presented issues related to the protection of human rights and announced the upcoming visit to the Dominican Republic of a mission of the IACtHR "to receive information about the case". Nevertheless, the Dominican authorities have clearly stated their intention to swiftly implement the ruling and to "find a coherent and humanitarian solution" to the situation of those who "consider themselves as Dominicans" and who will be impacted by it. The authorities reject all the arguments about the risk of statelessness, and maintain that the ruling will finally enable them to remedy to the institutional shortcomings of the Civil Registry and of the migration policies. The authorities have also given assurances that the implementation of the ruling will not result in mass deportations of people deemed to be of foreign descent.

On 23 October the National Council for Migration instructed the Central Electoral Board to publish within 30 days a report assessing the impact of the ruling on individuals who might be affected by it. The Central Electoral Board has appointed an oversight commission (Comisión de Veedores y Observadores) to observe the process of analysis of the civil registries since 1929 that the Board itself is carrying out. The analysis identified 53,847 persons, 24,392 of whom were supposedly irregularly registered, born of foreign parents. Of the 24,392 identified, 13,672 are, according to the analysis, of Haitian descent. In 2012 the National Statistics Office (Oficina Nacional de Estadísticas) presented the First National Survey of Immigrants in the Dominican Republic, which found that 244,151 persons born in the country were of foreign descent, representing 2.5 per cent of the total population. However, this number only takes into account the second generation of migrants. In parallel, the National Council of Migration is meant to finalize by the end of 2013 the long awaited Regularization Plan for Foreigners living in the country irregularly (which was provided in the 2004 Migration Law). According to the authorities, the regularization plan would allow those deprived of their nationality as a consequence of the ruling to obtain regular migration status and identity documents. While the Regularization plan is a welcome step for the beneficial impact that it may have for many migrants in an irregular status, it is extremely worrying that it is presented as a solution for the deprivation of nationality of hundreds of thousands of people. Amnesty International continues to be concerned about the risk of statelessness for a considerable number of people of foreign descent, mostly Haitian, in the Dominican Republic.

PLEASE CHECK WITH THE INDIVIDUALS AT RISK PROGRAMME AT AIUK BEFORE SENDING APPEALS AFTER 26 DECEMBER 2013

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