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Dominican Republic must retract ruling that could leave thousands stateless

The Dominican Republic should not implement a Constitutional Court ruling that could leave hundreds of thousands of Dominicans of foreign descent stateless, Amnesty International urged today.

Under aspects of the ruling, individuals of foreign descent - the vast majority Dominicans of Haitian origin- could be deprived of their nationality, forced to leave and ordered to apply for citizenship from scratch.

"The full implementation of this ruling will have a devastating impact on the lives of hundreds of thousands of people whose identity documents would be cancelled and, therefore, would see many of their human rights – freedom of movement, education, work and access to healthcare – totally denied," said Chiara Liguori, Amnesty International researcher on the Caribbean.

The Constitutional Court last month ruled that Juliana Deguis, who was born in the Dominican Republic in 1984 to Haitian parents, had been wrongly registered as Dominican at her birth.

The case could have wide-reaching discriminatory effects, particularly for Dominicans of Haitian descent.

The court also ordered the Central Electoral Board to search all birth registries from 1929 onwards for people who had been supposedly wrongly registered and recognised as Dominican citizens. It said their cases should be treated the same as Juliana's.

Some parts of the ruling have already started to be implemented. Deguis has been allowed to stay in the country pending a National Regularization Plan that will decide the fate of those deemed to be residing illegally in the country.

"I want to work but I can't. I have four kids but they cannot go to school. We were born here and we are from here, but we suffer a lot of discrimination," said Deguis to Amnesty International.

If implemented in this way, the ruling would violate the Dominican's Republic human rights obligations. It also contravenes a 2005 landmark decision of the Inter-American Court for Human Rights and breaks a basic principle of law, explicitly stated in Dominican Constitution, which prohibits retroactive application of the law.

The Constitutional Court ruling is the last of a number of administrative, legislative and judicial decisions that since the early 2000s have had the effect of retroactively depriving Dominicans of Haitian descent of their Dominican nationality.

"This latest move could completely destroy the lives of Dominican citizens of Haitian origin, especially if they are forced to leave the country by the National Regularization Plan.

“It is totally unfair to say that people who have been living as Dominicans for decades no longer belong in the country or have any rights within it,” said Chiara Liguori.

It is unclear how many people are affected by the ruling of the Constitutional Court. A recent survey conducted by the National Statistics Office, found that 244,151 people were the children of “foreign” parents. Of those, 86% were of Haitian origin.

“The Dominican authorities should take all necessary measures to guarantee Juliana Deguis and other Dominicans of foreign descent access to their identity documents in order for them to restore the rights they enjoyed when they were recognized as Dominican citizens”, said Liguori.

Background

Juliana Deguis initiated a constitutional review in 2008 after her birth certificate was seized by the Central Electoral Board when she applied for an identity card, on the basis that her name was "Haitian".

On 23 September 2013, the Dominican Constitutional Court ruled against Juliana Deguis and said her rights had not been violated by the Central Electoral Board.

According to the ruling, Juliana, who was born in the Dominican Republic in 1984 to Haitian parents, had been wrongfully registered as Dominican at her birth. Her parents were considered “foreigners in transit” because they could not prove their legal status in the Dominican Republic. Therefore, Juliana should have never had Dominican nationality and must now be stripped of it.

There are at least 40 similar cases awaiting a decision from the Constitutional Court. However, it is unlikely that the Court will rule on them, as the Court specified in the ruling that the effects of the ruling apply to a wider group of people.

Even though the Dominican State has the sovereign right to decide conditions for granting nationality, it is bound by human rights law not to arbitrarily deprive anyone of nationality, especially when this could result in statelessness.