

Proposal text explanatory of the Ruling TC/168-13

The Constitutional Court of the Dominican Republic issued a ruling on September 23 that reaffirms once again who is Dominican, in accordance to a legal tradition that dates back to 1929: the children of Dominican parents or a legal resident. This concept of nationality is much broader than the leading norm, for example, as applied in most European countries.

The TC's decision concerning an appeal brought by a foreigner whose parents were illegal in the country, has triggered a wave of speculation and reckless misinformation that claims that 200 to 500 thousand people will be stripped of Dominican nationality.

Who is Dominican, according to the Constitution?

People born in the country, with the exception of children of members of foreign diplomatic and consular missions and foreigners who are in transit or that reside illegally in Dominican territory. Direct descendants of Dominicans living abroad are also Dominicans. The Ruling ratified the criteria for nationality, as did the Supreme Court in 2005 in its then constitutional role.

Was there a constitutional amendment to exclude undocumented aliens retroactively and harm Haitians in the DR?

The Constitution does not differentiate nationality when referring to foreigners. Since last century an array of laws has established that anyone illegal in Dominican territory was considered in transit and therefore their children were not entitled to citizenship.

Does it matter whether they are undocumented if they were born in Dominican territory?

The Dominican Constitution only recognizes nationality to children of foreigners residing legally in the country. Over 80% of all countries in the world do not grant nationality simply because one was born in its territory. Haiti is one of them. In the Dominican Republic, just one parent with legal residency is needed in order for the offspring to be automatically Dominican.

Is it not true that more than 200 thousand people are affected?

No. The audit conducted after the Ruling of the national civil registry determined that 53,847 foreigners are registered, of which 24,392 do not meet the requirements or do not provide the valid documentation to obtain Dominican nationality. Out of this total, only 13,672 are descendants of Haitian nationals.

Will those Haitians remain in a legal limbo?

No, and they will not be deported either. Cases will be looked at one by one, with a humanitarian approach, in no more than six months as the Ruling established. If they have roots in the country, were born in Dominican territory and have not committed any crime, a way to nationality will be found for them.

So the foreigners who were Dominican before the Ruling will lose their nationality?

In no way! The Constitution guarantees that they will remain Dominicans, such as at the other 29,455 with valid registration.

So why is “denationalization” considered in this case?

From a misinterpretation of the Ruling and the false belief that children of citizens with no immigrant status born in the Dominican Republic are Dominicans.

Are those born to undocumented foreign parents in the DR then stateless?

No. Statelessness only occurs when there is the impossibility of acquiring another nationality. For example, the Haitian Constitution recognizes that the child of a Haitian, no matter where he or she was born, is entitled to the parent’s nationality.

But are the undocumented vulnerable to discrimination and denied their basic rights in the DR?

In the Dominican Republic, historically a country of mixed race, discrimination is prohibited regardless the reason. Everyone has free access to health, pre-university education and may turn to the judicial to claim their rights, particularly in the labor courts, with no requirements to present valid identification.

And what are the benefits of the Ruling?

The Ruling ordered the implementation of a national plan for regularization of undocumented aliens. The undocumented foreigners will be provided with an immigration status that will allow them to stay in the Dominican territory, perform all activities normally and, if desired, then access to Dominican nationality.

And what about those considered Dominicans but by the Ruling are not Dominican?

As explained, they were never Dominicans. But they will continue to live in the country since the Ruling does not order deportation. President Danilo Medina has said that a humanitarian solution will be delivered duly respecting the human rights for everyone who has lived a long time or was born in the country even though they are not Dominicans.