



EMBAJADA DE LA REPÚBLICA DOMINICANA
Washington, D.C.
“Año del bicentenario del natalicio de Juan Pablo Duarte”

EDW-541-13

October 23rd, 2013

The Honorable Charles B. Rangel
Member of Congress
Washington, D.C. 20515

Dear Congressman:

It is my pleasure to forward to you the official statement issued today by the Government of the Dominican Republic regarding ruling TC/0163/13 by the Dominican Constitutional Tribunal. The Government therein reiterates its utmost respect for the Dominican Constitution, the law, and the separation of powers, and reaffirms that it abides by the Tribunal's ruling issued on 23 September, 2013.

The Dominican Government recognizes the concerns of those affected, who consider themselves to be Dominican and who feel that the ruling has violated their rights. President Danilo Medina has declared that “this issue is human in nature and needs to be resolved”, and is committed to finding a humanitarian response. In a meeting that took place today, President Medina instructed the National Council for Migration to review all aspects of the ruling that pertain to the Executive Branch. During the meeting, the Council agreed on the following measures:

- Within 30 days, the Central Electoral Board (JCE), the agency responsible for the civil registry, will present a report on the impact of the ruling on foreigners registered in its system, regardless of their migratory status.
- Within 60 days, the National Council for Migration will present the Regularization Plan for Foreigners.
- An executive director shall be appointed immediately to the National Institute for Migration.

In the particular case of Ms. Pierre, that prompted the recent ruling, the Court guaranteed her right to have access to civil documentation. The Court did not order her deportation, but instead instructed the JCE to reinstate her birth certificate and remit it to the appropriate court to determine its validity or otherwise in accordance with the law. The ruling also ordered immigration authorities to provide her with a temporary residence permit, and instructed them to proceed in the same manner with all other similar cases, with due respect to the particularities of each one.

The ruling does not affect all children of migrants born in the country. Children with at least one legally-resident parent were and remain eligible for Dominican nationality. The numbers involved are a fraction of the alarmist estimates. Between 2008-13, the JCE submitted 16,945 birth certificates for evaluation to the Directorate of Inspectorate, and only 1,088 (6%) were suspended provisionally due to duplicity, impersonation and other inconsistencies. Nor are the efforts of the JCE to eradicate irregularities in the civil registry limited to immigration-related violations. Between 2007-13, the JCE cancelled 42,015 ID cards requests and only 410 (1%) were canceled because of invalid claims to Dominican nationality.

Like all countries, the Dominican Republic has the sovereign right to determine the requirements for an individual to acquire its nationality (Hague Convention of 1930). Most countries operate under either the jus sanguinis principle or a qualified version of the jus soli principle. Pure jus soli is the exception rather than the norm, and the Dominican Constitution has long-standing restrictions to the principle. Since 1929, it has stated that the children of people in transit, a temporary legal status, are not eligible to obtain Dominican citizenship.

In 2005, the Supreme Court ruled on the matter of the children of illegal immigrants, concluding that if children born to parents legally in transit are precluded from automatically acquiring Dominican nationality, the children of those who cannot justify their legal entry, or remain in the country without a legal status, cannot benefit from a greater right.

Despite assertions to the contrary from certain quarters, statelessness is not at issue in the particular case of the children of Haitian illegal immigrants. Given that Article 11 of the Haitian Constitution establishes that "Any person born of a Haitian father or Haitian mother who are themselves native-born Haitians, and have never renounced their nationality, possesses Haitian nationality at the time of birth," persons born within Dominican territory of Haitian parents are fully entitled to Haitian citizenship and as such ought not to be considered stateless.

The Dominican Republic cannot legally encroach upon the sovereignty of another country by documenting its citizens. However, it has taken several measures to facilitate the documentation of Haitians in its territory, even while struggling with its own large underdocumented population. Taking into account that in some border-area hospitals over 50% of births are to Haitian mothers (the overall expenditure of the Dominican public health system on the migrant population is around 15% of the national health budget), Dominican authorities have implemented a system to provide, directly at the hospitals, the children of non-resident foreign mothers with the proof of birth which enables their registration with their Consular authorities.

The Tribunal's ruling emphasizes the need to provide persons affected with a temporary resident permits until the regularization plan is in place. Individual cases will be carefully examined and subject to judicial due process, and speculation about mass deportations is entirely baseless. The Regularization Plan for Foreigners will instead impact positively on the condition of foreigners residing illegally in the Dominican Republic, by providing them with temporary statuses and then with routes into residency or citizenship in accordance with their individual conditions and aspirations.

Nevertheless, being ineligible to automatically obtain Dominican nationality does not in any way compromise basic human rights. The Court's decision does not curtail most civil rights enjoyed by persons within the jurisdiction of the Dominican Republic, including access to free public services such as health and education. The Dominican health system provides free universal assistance without requiring patients to produce any personal identification document and the Ministry of Education has reiterated that lack of documentation does not preclude admittance to public schools to any person of school age. Furthermore, Dominican labor regulations protect workers of any nationality regardless of their legal status. Labor courts are open to all and will rule without prejudice to illegal workers whose rights have been violated under Dominican legislation.

The Dominican Government is committed to the implementation of a clear and transparent immigration policy, in accordance with the Constitution and Dominican laws, and always respectful of human rights and international agreements. It will therefore continue its work to determine the appropriate mechanisms to implement existing laws and the measures mandated by the ruling coherently and with due regard to the welfare of those involved.

Sincerely,



Anibal de Castro
Ambassador



Declaración oficial en torno a la Sentencia del Tribunal Constitucional TCI68-13

El Gobierno Dominicano reitera su compromiso con el respeto a la Constitución, las leyes de la República y la independencia de los poderes públicos y órganos constitucionales. En consecuencia, el Gobierno acata la sentencia emitida por el Tribunal Constitucional y actúa en todo momento sobre este caso respetando la institucionalidad.

Paralelamente, el Estado es sensible ante la situación de aquellas personas, que se consideran dominicanas, y que sienten afectados sus derechos como consecuencia de esta sentencia. Como ha expresado el Presidente Danilo Medina por el fallo "aquí hay un problema humano que tenemos que resolver".

Ante estas circunstancias, el Estado en su conjunto está trabajando para encontrar una respuesta coherente y humanitaria. Y para lograr ese objetivo, tras un proceso de consultas llevado a cabo por el Gobierno con los órganos competentes, se convocó al Consejo Nacional de Migración para atender los aspectos de la decisión que corresponde a este organismo.

En su sesión de hoy el Consejo Nacional de Migración acordó las siguientes medidas:

- La Junta Central Electoral, en un plazo de 30 días, rendirá un informe en el cual se exprese el impacto de la sentencia en relación a los extranjeros inscritos en el sistema registral, tanto en su condición de regulares como de irregulares.
- El Consejo Nacional de Migración elaborará en un plazo de no más de 60 días el Plan de Regularización de Extranjeros.
- Se procederá en lo inmediato a la conformación del Instituto Nacional de Migración y a la designación de su Director Ejecutivo.

El Gobierno Dominicano reitera su compromiso con la implementación de una política migratoria clara y transparente, ajustada al mandato de la Constitución y las leyes dominicanas, respetando los derechos humanos y los acuerdos internacionales.



COURTESY TRANSLATION

OFFICIAL STATEMENT REGARDING RULING TC168-13 BY THE CONSTITUTIONAL TRIBUNAL OF THE DOMINICAN REPUBLIC

The Government of the Dominican Republic wishes to reiterate its commitment to the Constitution and the laws of the Republic as well as to the separation of powers and constitutional bodies. Accordingly, the government abides by the ruling issued by the Constitutional Tribunal and will proceed in this matter with respect for the institutions.

Correspondingly, the Government is also sensitive to the situation affecting those who consider themselves to be Dominican and feel that their rights have been violated due to this ruling. As President Danilo Medina has stated, "this issue is human in nature and needs to be resolved".

Therefore, the State is working as a whole in the pursuit of a coherent and humanitarian response. In order to reach this goal and after extensive consultations carried out, the Government has convened the National Council for Migration to tend to the aspects of this decision that appertain to this institution.

During a session held today, the National Council for Migration has agreed on the following measures:

- The Dominican Central Electoral Board (JCE), within no more than 30 days, will present a report about the impact the ruling has in relation to foreigners registered in its system, irrespective of migratory status in the country.
- The National Council for Migration will elaborate, within no more than 60 days, a Regularization Plan for Foreigners.
- The National Institute for Migration shall be established immediately, and its Executive Director appointed.

The government of the Dominican Republic wishes to reiterate its commitment to the implementation of a clear and transparent immigration policy, one in accordance with the Constitution and Dominican laws and respectful of Human Rights and international agreements.