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CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandate of the Working Group on people of African descent

REFERENCE: AL Af. Descent 2012
DOM 4/2013

11 December 2013

Excellency,

I have the honour to address you in my capacity as Chair-Rapporteur of the Working Group on people of African descent pursuant to Human Rights Council resolution 18/28.

I would like to draw the attention of your Excellency's Government to the information received on **Judgement TC/0168/13 of the Constitutional Court of the Dominican Republic of 23 September 2013**.

According to the information received:

Judgement TC/0168/13 of the Constitutional Court of the Dominican Republic of 23 September 2013 could have a retroactive effect on the citizenship of a large number of Dominicans of Haitian descent and could strip tens of thousands of people born in the Dominican Republic of their Dominican nationality.

The Government of the Dominican Republic also announced its intention to submit to Congress a bill to allow the affected population to apply for naturalization. As a result of this proposed measure, individuals who have been considered citizens of Dominican Republic their entire lives will need to apply for naturalization.

In this connection, we would like to appeal to Your Excellency's Government to rectify the respective ruling by the Constitutional Court in light of his human rights obligations.

Reference is also made to the communication to your Excellency's Government from the Special Rapporteur on the human rights of migrants, the Independent Expert on minority issues, and the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, dated 11 November 2013

(Reference: UA G/SO 214 (106-10) Minorities (2005-4) G/SO 214 (78-15) DOM 3/2013).

Echoing many of the points that have been already raised in the communication from the Special Procedures stated above, and by the Organization of American States, the Working Group of Experts on People of African Descent is concerned that the ruling has the potential to render stateless tens of thousands of individuals, in particular children of Haitian migrants. The Working Group considers that the judgment disproportionately harms people of Haitian origin, contravening the right to equal protection and non-discrimination.

The Universal Declaration of Human Rights states under its article 15 that “everyone has the right to a nationality”, and “no one shall be arbitrarily deprived of his nationality...” The Dominican Republic has also the obligation to ensure equal protection before the law under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In 2013, the Concluding Observations of the Committee on the Elimination of Racial Discrimination on the periodic reports of the Dominican Republic reiterated the Committee’s earlier recommendations and urged the State party to promulgate a specific law on racial discrimination that is compatible with the Convention and ensure that legislative and political measures concerning migration do not discriminate on grounds of race, colour or national origin (Paragraph 11 of CERD/C/DOM/CO/13-14).

Convention on the Rights of the Child (CRC), also provides particular norms with respect to the right to nationality. The Convention guarantees children the right to acquire a nationality under article 7, which also obliges States to implement this right “in particular where the child would otherwise be stateless.”

As it is our responsibility under the mandate provided to us by the Human Rights Council to seek to clarify all cases brought to our attention, and as we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the information received accurate?
2. Please provide detailed information on the legal basis of the ruling and how the ruling is consistent with the above international norms and standards.
3. Please indicate if there has been any assessment of the impact of the decision in relation to all those potentially affected by the ruling, including Dominican citizens of Haitian origin.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

In light of the implications of the issue, we are considering to publicly express our concerns as we deem appropriate in the near future.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of people potentially affected by this ruling. We also request that your Excellency's Government adopt effective measures to protect the rights of Dominicans of Haitian origins.

Please accept, Excellency, the assurances of my highest consideration.

Verene Shepherd
Chair-Rapporteur of the Working Group on people of African descent