

URGENT ACTION

RISK OF MASS DEPRIVATION OF NATIONALITY

Hundreds of thousands of individuals of foreign, mostly Haitian, descent in the Dominican Republic are at risk of being deprived of their Dominican nationality and becoming stateless following a recent ruling by the Constitutional Court.

The Dominican Constitutional Court (Tribunal Constitucional) confirmed a decision by the Central Electoral Board (Junta Central Electoral) on 23 September to deny **Juliana Deguis Pierre** an identity card and seize her birth certificate, on the basis that her names "are Haitians". The Court ruled that Juliana Deguis Pierre, who was born in the Dominican Republic in 1984 by Haitian parents, had been wrongly registered as Dominican at her birth. By the Court's interpretation, as her parents could not prove their regular migration status in the Dominican Republic, she should have never had Dominican nationality and must now be stripped of it.

Furthermore, the Constitutional Court 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.

For decades the Dominican State formally recognized the children of Haitian migrants born in the country as Dominican citizens, issuing Dominican birth certificates, identity cards and passports to them, irrespective of the migration status of their parents. In practice, this decision may deprive hundreds of thousands of people of their nationality with the risk of making them stateless, in violation of the Dominican Republic's international human rights obligations. They are then unable to exercise their human rights, including access to education, employment and health services, the right to vote, and the right to marry and found a family. Additionally, the decision has discriminatory effects against Dominicans of Haitian descent, who are disproportionately affected.

Please write immediately in Spanish or your own language:

- ✓ Expressing your profound concern about the risk that hundreds of thousands of people in the Dominican Republic, mainly of Haitian descent, may be deprived of their nationality;
- ✓ Urging the Dominican authorities not to implement the constitutional ruling in respect to the country's international human rights obligations;
- ✓ Calling on the Dominican authorities to take all necessary measures, including legislative, to grant Juliana Deguis Pierre and other individuals of foreign descent access to the identity documents necessary for them to be able to exercise their human rights.

PLEASE SEND APPEALS BEFORE 29 NOVEMBER 2013 TO:

President of the Republic

Daniilo Medina
Palacio Nacional
Avenida México esquina Doctor Delgado
Gazcue, Santo Domingo, Dominican
Republic
Tel/Fax: + 1809 682 0827
Email: prensa2@presidencia.gob.do
Twitter: @PresidenciaRD
Salutation: Señor Presidente / Dear
President

President of the House of Deputies

Abel Atahualpa Martínez Durán
Avenida E Jiménez Moya 100, Santo
Domingo
Distrito Nacional, Dominican Republic
Twitter: @DiputadosRD
Tel/Fax: +1809 535 4554
Email: aa.martinez@camaradediputados.gob.do
Salutation: Señor Presidente de la
Cámara de los Diputados /

Dear President of the House of Deputies

And solidarity messages to:
Dominican@s.por.Derecho
dominicanosxderecho@gmail.com

Twitter: <http://twitter.com/domxderecho>

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL 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 ruling is the most recent of a number of administrative, legislative and judicial decisions which since the early 2000s have had the effect of retroactively depriving Dominicans of Haitian descent of their Dominican nationality.

From 1929 until 2010, successive versions of the Dominican constitution granted Dominican nationality to all children born on national territory except for those whose parents were diplomats or "in transit" at the time of the child's birth. Long-standing authoritative legal interpretations limited the temporal scope of the "in transit" exception to a period of less than ten days. For many decades the Dominican Republic has accepted many thousands of Haitian migrants, often as temporary agricultural workers, in particular in sugar plantations. Irrespective of their migration status, the state formally recognized their children born in the country as citizens and issued them with Dominican birth certificates, identity cards and passports.

In 2004, a new Migration Law (Law 284-05) provided a new definition of the category of "persons in transit", extending it to persons with expired residency visas and undocumented migrant workers. Since the entry into force of that Law, the Dominican government has been applying it, retroactively, arguing that Dominican-born children of Haitian parents who had already received Dominican nationality had, in fact, not been eligible for it at the time of their birth. Following the adoption of two administrative decisions in 2007 (Circular 017 and Resolution 12-07), the Central Electoral Board has been refusing to issue copies of birth certificates or identity cards (cedula) to children of foreign parents who could not prove their regular migration status. A new Constitution, which entered into force in January 2010, consolidates the exception introduced by the 2004 Migration Law, explicitly excluding from Dominican nationality children born in the country whose parents are irregularly residing there.

The refusal of identity documents has been devastating for Dominicans of Haitian descent, who are unable to exercise their human rights, including access to education, employment and health services, the right to vote, and the right to marry and found a family. Those without identity papers are also at risk of arbitrary detention and mass expulsion, without access to judicial review. Furthermore, they are unable to register their own children as Dominicans, who are in practice being born stateless.

It is unclear how many people are affected by these provisions. A recent survey conducted by the National Statistics Office found that over 244,151 people were the children of foreign parents living in the Dominican Republic, 86% of which were born from Haitian parents. However, this number only takes into account the second generation of migrants, while the provisions affect several generations of Dominican-born children of foreign parents, in particular of Haitian descent.

While conditions for granting nationality are for each state to decide, international law provides that no one may be arbitrarily deprived of nationality and imposes certain limits on states' powers in this regard, particularly if states act in a way that may result in statelessness. Article 8 of the Convention on the Reduction of Statelessness provides that states may not deprive individuals of their nationality if such deprivation would render them stateless. Dominican Republic is a signatory to this treaty and so obliged to refrain from acts which would defeat its object and purpose. Article 15 of the UDHR provides that everyone has the right to a nationality [and] that no one shall be arbitrarily deprived of nationality. This is underscored in Article 20 of the American Convention on Human Rights which also states that "Every person has the right to the nationality of the State in whose territory he was born if he does not have the right to any other nationality". The constitutional decision also directly contravenes a 2005 landmark ruling of the Inter-American Court of Human Rights which provides clear guidance on the interpretation to be given to the category of "foreigner in transit".

Name: Juliana Deguis Pierre

Gender m/f: f

