

REFERENCE: GH/fup-133

22 de noviembre de 2021

Excelencia:

En mi calidad de Relatora Especial para el Seguimiento de las Observaciones Finales del Comité de Derechos Humanos, tengo el honor de referirme al seguimiento de las recomendaciones contenidas en los párrafos 10, 16 y 26 de las observaciones finales sobre el informe periódico de la República Dominicana ([CCPR/C/DOM/CO/6](#)), aprobadas durante el 121º período de sesiones del Comité, en octubre y noviembre de 2017.

El 16 de junio de 2021, el Estado parte envió una respuesta de seguimiento al Comité. Durante el 133º período de sesiones (del 11 de octubre al 5 de noviembre de 2021), el Comité evaluó la respuesta del Estado parte. La evaluación del Comité y la información adicional solicitada al Estado parte están reflejadas en el Addendum 1 ([CCPR/C/133/2/Add.1](#)) del Informe de seguimiento de las observaciones finales ([CCPR/C/133/2](#)). Por medio de la presente se adjunta, una copia de la sección pertinente del mencionado informe (versión avanzada no editada, en inglés).

El Comité consideró que las recomendaciones seleccionadas para el procedimiento de seguimiento no han sido plenamente aplicadas y decidió solicitar información adicional acerca de su aplicación. Habida cuenta de que el Estado parte ha aceptado el procedimiento simplificado de presentación de informes, el Comité incluirá la información solicitada en la lista de cuestiones previa a la presentación del séptimo informe periódico de República Dominicana.

El Comité confía en poder continuar su diálogo constructivo con el Estado parte sobre la aplicación del Pacto.

Acepte, Excelencia, la expresión de mi más distinguida consideración.



Vasilka SANCIN

Relatora Especial para el Seguimiento de las Observaciones Finales
Comité de Derechos Humanos

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Evaluation of the information on follow-up to the concluding observations on Dominican Republic

<i>Concluding observations (121st session):</i>	CCPR/C/DOM/CO/6 , 3 November 2017
<i>Follow-up paragraphs:</i>	10, 16 and 26
<i>Information received from the State Party:</i>	CCPR/C/DOM/FCO/6 , 16 June 2021
<i>Committee's evaluation:</i>	Additional information required on paragraphs 10[C], 16[C][B] and 26[B][C]

Paragraph 10: Non-discrimination

The State party should take the necessary steps to ensure full protection against discrimination and to eradicate, in law and in practice, stereotypes and discrimination against persons of Haitian descent, including Haitian migrants, persons with disabilities and LGBTI persons, by inter alia increasing the number of training programmes for law enforcement personnel and awareness-raising campaigns promoting tolerance and respect for diversity. In addition, it should adopt laws to prohibit discrimination and hate crimes on grounds of sexual orientation or gender identity and fully recognize the equality of same-sex couples and the legal identity of transgender persons. It should also ensure that cases of discrimination and violence committed by individuals or State officials are systematically investigated, that those held to be responsible are punished with appropriate penalties and that victims have access to comprehensive reparation.

Summary of the State party's reply

Under Decree No. 134-14, the Attorney General's Office, together with other public entities, is responsible for monitoring compliance with the various cross-cutting State policies. The Office's human rights unit is in charge of protecting and defending human rights in the criminal justice system. In addition, in cooperation with other agencies, it is also responsible for ensuring respect for these rights nationwide, the effective administration of justice and respect for legal safeguards and due process in judicial proceedings. Particular areas of focus are: (a) follow-up of registered cases in which there was a clear violation of these rights; (b) monitoring and promoting the human rights of all inmates held at any of the national correctional and rehabilitation centres; and (c) referral of cases filed with the Inter-Agency Commission on Human Rights or the Ministry of Foreign Affairs to the inter-American human rights system or other relevant international organizations. The Attorney General's Office handles complaints of discrimination and human rights violations in accordance with the Constitution and the applicable legal framework. Likewise, it also ensures compliance with the public policies on human rights and supports legislative initiatives aimed at preventing and punishing discriminatory practices against vulnerable groups. The State party provided statistics on registered cases of acts of discrimination and the sanctions imposed in the past four years.

Committee's evaluation

[C]: While noting the information provided on the functions of the Attorney General's Office, the Committee regrets that the State party has not provided information on concrete measures taken to implement the Committee's recommendation. In particular, the Committee notes with concern that the State party has not referred to any measures taken to ensure protection for persons of Haitian descent, including Haitian migrants, for persons with disabilities and for lesbian, gay, bisexual, transgender and intersex persons. The Committee welcomes the statistics provided by the State party, while nevertheless noting with concern the low number of registered cases of discrimination and of criminal sanctions imposed. It therefore requests

information on concrete measures taken to fully implement the Committee's recommendation.

Paragraph 16: Voluntary termination of pregnancy and reproductive rights

The State party should amend its legislation to guarantee safe, legal and effective access to voluntary termination of pregnancy where the life or health of the pregnant woman or girl is in danger or where carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or when it is non-viable. Furthermore, the State party may not regulate any pregnancy or abortion in a manner that runs contrary to its obligation to ensure that women and girls need not resort to unsafe abortions; it will have to amend its legislation accordingly. The State party should not impose criminal sanctions on women and girls who undergo an abortion or on medical service providers who provide abortion assistance, as such measures force women and girls to resort to unsafe abortions. Furthermore, it should ensure unimpeded access to sexual and reproductive health services and education for men, women and adolescents nationwide. It should also ensure that all procedures to obtain the full and informed consent of persons with disabilities are followed with regard to sterilization. For this purpose, the State party should offer special training to health personnel to better acquaint them with these consent procedures and with the harmful effects and consequences of forced sterilization.

Summary of the State party's reply

Currently, there is considerable debate on possible legislative changes to guarantee legal, safe and effective access to voluntary termination of pregnancy. In November 2020, the Council of Ministers adopted the strategic plan for a life free from violence for women. The fifth area of focus of the plan involves promoting the adoption and implementation of a legal framework that guarantees the full exercise of sexual and reproductive rights, including through the decriminalization of therapeutic abortion on the three grounds, and the definition and punishment of sexual crimes. Congress is currently working on amendments to the Criminal Code and a special bill setting the terms and conditions for voluntary termination of pregnancy in exceptional cases. In April 2021, the Chamber of Deputies carried out its first reading of the revised legislation on termination of pregnancy contained in the Criminal Code. Currently, article 109 of the draft Criminal Code provides that anyone who, by any means, causes or contributes to the termination of a woman's pregnancy, even with a woman's consent, is liable to one to three years' ordinary imprisonment. Article 109 (1) provides that a woman who causes the termination of her pregnancy or who consents to an abortion is liable to one to two years' ordinary imprisonment if termination is achieved. Article 109 (2) provides that if termination is not achieved but the attempt at termination causes injury to the fetus or a condition that seriously undermines its normal development or causes a serious physical or mental defect in the child who is born, the perpetrator is liable to one to two years' ordinary imprisonment. Article 110 provides that health-care professionals and midwives who, by abusing their profession or office, perform or help to perform an abortion are liable to two to three years' ordinary imprisonment. Under article 112, on exceptions, terminations of pregnancy performed by specialized medical professionals in a public or private health-care establishment are not punishable if the intention is to save the lives of the mother and the fetus.

The Office for Childhood and Adolescence launched a consultative process in January 2021, which began with the establishment of two expert round tables, one on the prevention of teenage pregnancy and the other on early marriage. The outcome was an action plan to accelerate the prevention and reduction of teenage pregnancy in the Dominican Republic. The action plan is expected to be launched by the end of June 2021. Another key step has been the prioritization of 20 towns with the highest rates of teenage pregnancy and child marriage. The action plan also addresses sex education

and violence against young and adolescent girls, including during the coronavirus disease (COVID-19) pandemic. Another policy measure led by the Ministry of Women's Affairs is the establishment of the Centre for the Promotion of Comprehensive Adolescent Health, whose mission is to educate adolescents on sexual and reproductive health. In addition, in January 2021, the State party promulgated legislation prohibiting child marriage.

On forced sterilization, the Chamber of Deputies' standing commission on justice accepted the proposal of the Ministry of Women's Affairs to consider abortion and forced sterilization as offences against humanity that carry terms of imprisonment of 30 or 40 years. Information on the measures taken to realize the rights enshrined in the Covenant and on the progress made in implementing these rights was provided by the various institutions that shape public policy and make up the Inter-Agency Commission on Human Rights.

Committee's evaluation

[C]:

The Committee notes the information provided on measures taken to amend the Criminal Code and to adopt a law establishing the terms and conditions for the voluntary termination of pregnancy. While it notes that the draft Criminal Code provides for an exception when abortion is performed to save the lives of the mother, the Committee regrets that it does not contemplate abortion where the life and health of the pregnant woman or girl is at risk, the pregnancy is the result of rape or incest or when the pregnancy is non-viable. Furthermore, it is concerned that the draft criminal code provides for criminal sanctions for a woman who causes or consents to abortion and for the health-care professionals involved in the procedure, contrary to the Committee's recommendations. It requests information on: (a) progress in the adoption of the revised Criminal Code; (b) whether the State party intends to amend the draft Criminal Code to guarantee safe, legal and effective access to voluntary termination of pregnancy in cases where the pregnancy is the result of rape or incest or when it is non-viable, and to ensure that no criminal sanctions are imposed on women and girls who undergo an abortion or on health-care professionals who provide abortion assistance; and (c) the bill establishing the terms and conditions for the voluntary termination of pregnancy and progress in its adoption.

[B]:

The Committee welcomes the measures taken to ensure access to sexual and reproductive health services and education for men, women and adolescents in the State party. It requires information on the impact of the actions taken in the 20 towns which were prioritized as they had the highest rates of teenage pregnancy and child marriage. The Committee also welcomes the information that the State party is planning to conduct training for health-care personnel on the harmful effects and consequences of forced sterilization. It requests further information on the planned training sessions, including the number and nature of training activities, when they will take place and the number of participants.

Paragraph 26: Statelessness

The State party should, as a matter of urgency, take specific steps to:

(a) **Restore the Dominican nationality of all persons affected by decision No. TC/0168/13 in accordance with the Covenant and other relevant international instruments, including by enforcing the judgment of the Inter-American Court of Human Rights of August 2014. Specifically, the State party should ensure that all persons in group A receive their nationality documents, thereby restoring their Dominican nationality, and that all those who meet the requirements under group B promptly recover their Dominican nationality, including through the adoption of special measures for group B individuals who were unable to register during the special registration process. In addition, it should restore the Dominican nationality of those persons born between 18 April**



2007 and 26 January 2010. It should also periodically publish updated information on all persons who have benefited from Act No. 169/14 and on those who have received identity documents;

(b) Adopt all necessary legal and practical measures to prevent and reduce cases of statelessness, including by considering accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, as previously recommended by the Committee.¹

Summary of the State party's reply

(a) Act No. 169/14 establishes a special regime for persons born in the Dominican Republic without proper registration in the Dominican civil register. It distinguishes between two groups within the category of descendants of foreign nationals in an irregular migratory situation. Group A comprises descendants of foreigners in an irregular migratory situation who were registered in the Dominican civil register even though, in accordance with the retroactive interpretation of decision No. TC/0168/13, they should not have been. Pursuant to Act 169/14, persons in Group A had their Dominican nationality recognized, and the Central Electoral Board has been ordered to return or issue their identification documents, depending on the case. An audit was conducted at all the country's civil registry offices, consisting of a careful inspection of civil registers spanning the period from 1929 to 2007, which identified the files of some 55,000 foreigners representing 103 nationalities. After the audit, the Commission of Central Electoral Board Offices decided that 24,892 cases could be authorized and that 27,863 others needed to be transcribed. A further 3,599 cases were left pending because they were complex, as they concerned either individuals who could not be located to obtain the necessary information or they had been entered in an individual register that had been partially or completely destroyed. In 28,059 of the cases that were regularized, the associated documentation is available for issuance but has not been claimed by the persons concerned at any branch of the Central Electoral Board. Regarding the 3,599 open cases, 882 were transcribed because they met the requirements and 2,717 were authorized.

Group B corresponds to descendants of foreign nationals in an irregular migratory situation who were born in the Dominican Republic but were not registered with the civil registry and have lived their entire lives in the country. The Ministry of the Interior and Police is responsible for receiving, assessing and deciding whether to accept or reject the documentation on the basis of the criteria enumerated in Act No. 169/14. A total of 6,535 assessed files were transmitted to the Central Electoral Board over the course of the process and entered in the register of foreign nationals. As at 5 May 2021, of the 4,566 cases that the Central Electoral Board had decided met the requirements for identification card issuance, the documentation has been retrieved in only 1,966. The remaining 1,969 cases correspond to a group whose files pose difficulties due to, for instance, inconsistencies, missing documents or information requiring correction, which need to be resolved by the person concerned and the Ministry of the Interior and Police. Of these cases, 93 have been referred to the Department of Inspections to be verified before an identification card can be issued.

Furthermore, the State party drew the Committee's attention to a September 2020 statement in which a member of the Office of the United Nations High Commissioner for Refugees (UNHCR), speaking as a representative of the international community, congratulated the Government of the Dominican Republic on the Presidential Decree of 16 July 2020, which eased the restrictions imposed by Constitutional Court decision No. TC/0168/13. He congratulated the Government for taking such an important step towards resolving the issue of the nationality of persons born and raised in the country.

¹ CCPR/C/DOM/CO/5, para. 22.



(b) The State party reaffirmed that there is no statelessness in the country. Moreover, it noted that article 11 of the Constitution of Haiti establishes that any child born to a father or mother who was Haitian by birth and had not renounced his or her nationality at the time of the child's birth, holds Haitian nationality.

Committee's evaluation

[B]: (a)

The Committee welcomes the adoption of Decree No. 262-20 of 16 July 2020, which allowed the naturalization of 750 individuals who had been born and raised in the country, and who had previously been affected by decision No. TC/0168/13 of 23 September 2013. The Committee takes note of the statistics provided by the State party and requests information on measures taken after the adoption of the concluding observations: (a) to ensure that all persons in group A receive their nationality documents, including the remaining 3,599 cases which have not yet been resolved; (b) on the remaining 1,969 cases in group B that lacked the necessary information to recover Dominican nationality, in particular the 93 cases that were referred to the Department of Inspections for verification; and (c) to restore the Dominican nationality of those persons born between 18 April 2007 and 26 January 2010.

[C]: (b)

The Committee notes with disappointment that the State party continues to deny that cases of statelessness exist in the country. It regrets the lack of measures taken to address cases of statelessness, including by considering accession to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, as previously recommended by the Committee.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2025 (country review in 2026, in accordance with the predictable review cycle. See www.ohchr.org/EN/HRBodies/CCPR/Pages/PredictableReviewCycle.aspx).
