

ADVANCE UNEDITED VERSION

COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

109<sup>th</sup> session

11-28 April 2023

**Statement 2 (2023)**

**Situation of migrants, asylum seekers and refugees of Haitian origin  
in the Americas region**

*The Committee on the Elimination of Racial Discrimination,*

*Acting under its Early Warning and Urgent Action Procedure,*

*Concerned* about the human rights situation of persons of Haitian origin on the move in the Americas region, including migrants, asylum seekers and refugees, as well as the discrimination against these persons on the basis of race, colour, descent or national or ethnic origin;

*Welcoming* the actions taken by some States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination of the Americas region, which have admitted into their territories and provided protection to persons of Haitian origin on the move, in the context of the complex social, economic, political, humanitarian and security situation in Haiti;

*Concerned* by reports of human rights violations and abuses against persons of Haitian origin on the move in the Americas region, including in some States Parties of this region, in particular Argentina, Bahamas, Brazil, Chile, Colombia, Cuba, Dominican Republic, Guatemala, Honduras, Mexico, Panama, Peru and the United States of America, as well as in the islands of Turks and Caicos;

*Deeply concerned* in particular by allegations of returns of individuals and collective expulsions of persons on the move carried out by some States Parties in the Americas region, without proper assessment of the protection needs of each individual case or due process, which disproportionately affects persons of Haitian origin, including pregnant women, new-borns, unaccompanied children, victims of trafficking and of gender-based violence;

*Deeply concerned* also by reports that persons of Haitian origin are among the main victims of excessive use of force, cruel, inhuman and degrading treatment, and racial profiling against persons on the move by law enforcement officials of some States Parties in the Americas region;

*Alarmed* by reports of human rights violations and abuses against persons on the move in various countries in the Americas region that disproportionately affect people of African descent including persons of Haitian origin, at borders, in migrant detention centres, as well as along extremely dangerous migration routes in this region used by these persons due to strict migration control measures, the militarisation of borders, systematic immigration detention policies, and the obstacles to international protection and regularization processes in some States Parties in the Americas region, which expose them, among others, to assaults on their life and security, including through killings, disappearances, acts of sexual and gender-based violence, and trafficking by criminal networks;

*Concerned further* by the lack of adequate judicial remedies in some States Parties in the Americas region to effectively ensure access to justice for persons on the move who have been victims of human rights violations and abuses, including access to legal assistance and information in their own language, which disproportionately affects persons of Haitian origin;

*Alarmed further* by reports of an increase in hate speech and racist or xenophobic violence against persons of Haitian origin on the move in some States Parties in the Americas region, including racist hate speech by public figures and political actors;

*Recalling* the joint statement of the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the United Nations Children's Fund and the Office of the United Nations High Commissioner for Human Rights of 30 September 2021,<sup>1</sup> as well as the Office of the United Nations High Commissioner for Refugees communiqué of 3 November 2022;<sup>2</sup>

*Taking into account* that in the communiqué of 3 November 2022<sup>3</sup> and in its statement at the end of the visit to Haiti of 10 February 2023,<sup>4</sup> the UN High Commissioner for Human Rights recalled that “the systematic violations and abuses of human rights in Haiti, do not currently allow for the safe, dignified and sustainable return of Haitians to Haiti”;

*Recalling* the resolution 2/2021 of the Inter-American Commission on Human Rights, entitled "Protection of Haitian persons in human mobility: Inter-American solidarity", of 24 October 2021;<sup>5</sup>

*Recalling also* the Committee's general recommendations n° 30 (2005) on discrimination against non-citizens, n° 35 (2013) on combating racist hate speech, and n° 36 (2020) on preventing and combating racial profiling by law enforcement officials;

***Calls upon*** the concerned States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination in the Americas region to take the measures necessary to ensure respect for the human rights of persons of Haitian origin on the move, in particular their human rights obligations under the Convention, including to:

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<sup>1</sup> Joint statement by UNHCR, IOM, UNICEF, OHCHR, [UN agencies call for protection measures and a comprehensive regional approach for Haitians on the move](#), 30 September 2021.

<sup>2</sup> [UNHCR calls on States to refrain from forced returns of Haitians](#), 3 November 2022.

<sup>3</sup> [Haiti: International community must act now to avert tragedy – Türk](#), 3 November 2022.

<sup>4</sup> [UN High Commissioner for Human Rights Volker Türk concludes his official visit to Haiti](#), 10 February 2023.

<sup>5</sup> Inter-American Commission on Human Rights, [Resolution 2/2021, "Protection of Haitian persons in human mobility: Inter-American solidarity"](#), 24 October 2021.

- (a) Review its migration, asylum and refugee policies and laws in order to prevent and eradicate discriminatory practices, including on the basis of race, colour, descent or national or ethnic origin, affecting persons on the move, which have a disproportionate impact on persons of Haitian origin;
- (b) Put an end to collective expulsions of persons of Haitian origin on the move, and to ensure the assessment of each individual case to identify protection needs, through fair and efficient procedures, in accordance with international refugee and human rights law, and paying special attention to the most vulnerable, including pregnant women, new-borns, unaccompanied children, victims of human trafficking and victims of gender-based violence;
- (c) Suspend the forced return of Haitians to their country taking into account the current situation in Haiti;
- (d) Facilitate the granting of protection measures, regularisation and legal stay to persons of Haitian origin on the move;
- (e) Prevent the excessive use of force, cruel, inhuman and degrading treatment, and racial profiling against persons of Haitian origin on the move, as well as to investigate, punish those responsible and provide reparations to the victims or their families;
- (f) Investigate other allegations of human rights violations and abuses against persons of Haitian origin on the move, committed by state and non-state actors, including at borders, migrant detention centres and along migration routes, to punish those responsible and to provide rehabilitation and reparations to victims or their families;
- (g) Prevent, combat and punish all forms of racial discrimination, in particular xenophobic and racist violence and incitement to racial hatred against persons of Haitian origin on the move, and publicly condemn and distance themselves from racist hate speech, including those uttered by public persons and political actors;
- (h) Guarantee access to justice for persons of Haitian origin who are victims of human rights violations or abuses, including through access to free legal aid and access to information and interpretation in their own language; and,

***Calls on*** States Parties to the Convention in the Americas region to consider, in the implementation of their migration laws and policies, the general recommendations of the Committee, including the above-mentioned general recommendations n° 30 (2005), n° 35 (2013) and n° 36 (2020), as well as the recommendations of the Inter-American Commission on Human Rights included in its resolution 2/2021 of 24 October 2021.

*28 April 2023*