

## CHAPTER V

### FOLLOW-UP ON RECOMMENDATIONS ISSUED BY THE IACHR IN ITS COUNTRY OR THEMATIC REPORTS

#### FOLLOW-UP ON THE RECOMMENDATIONS ISSUED BY THE IACHR REGARDING THE SITUATION OF HUMAN RIGHTS IN THE DOMINICAN REPUBLIC

##### I. Introduction

1. The purpose of this chapter is to follow up on the recommendations issued by the Inter-American Commission on Human Rights (“the Commission,” “the Inter-American Commission” or “the IACHR”) regarding the situation of human rights in the Dominican Republic, in both its 2015 report on the “Situation of Human Rights in the Dominican Republic,” and Chapter IV of its 2016 Annual Report, pursuant to Article 59 of its Rules of Procedure. Said article provides that by means of Chapter V of its Annual Report, the Commission shall follow up on measures adopted to comply with the recommendations issued in its annual, country or thematic reports.

2. As of the early 1990s, the Inter-American Commission has been receiving information about a context of structural racial discrimination against persons of Haitian descent, or persons perceived as such, in the Dominican Republic, which has had a particular impact on recognition of nationality and deportations and expulsions, among other situations. Moreover, migration control operations and collective expulsion have been a particular focus of this Commission since its 1991 country visit up to the present time. Both the Commission and the Inter-American Court of Human Rights (“the Court,” “the Inter-American Court” or “the IA Court of HR”) have examined these situations and have issued recommendations to address, in a comprehensive way, the human rights issues they identified. In this context, the impact of Constitutional Court judgment TC/0168/13, issued on September 23, 2013, once again evinced the serious challenges faced by the Dominican State with regard to nationality, racial discrimination and other related rights. After accepting the invitation extended by the Dominican State, in the context of the on-site visit to the Dominican Republic from December 2 to 6, 2013, the IACHR observed in particular the effects of the aforementioned judgment on persons born in the Dominican Republic of Haitian descent with respect to their right to nationality, as well as other rights.

3. Subsequent to the visit, the IACHR prepared the report on the “Situation of Human Rights in the Dominican Republic,” issuing therein several recommendations to the Dominican State, using the findings and information obtained through monitoring conducted prior to, during and after the on-site visit, the *ex officio* investigations it carried out, information provided by the State, input from different mechanisms whereby the IACHR followed up on the situation in the country, information submitted by civil society organizations, press reports, decisions and recommendations of specialized international bodies, *inter alia*.

4. In 2016, the IACHR requested information from the Dominican State on compliance with the recommendations issued in the Country Report and did not receive any response. Other requests made by this Commission over the past year also went unheeded by the Dominican State. In view of the serious impact the above-referenced situations have had on the human rights situation, the persistent structural problem of discrimination against persons of Haitian descent born on Dominican territory, or those perceived as such, and in particular, arbitrary deprivation of nationality of persons of Haitian descent born in the Dominican Republic, as well as violations of the human rights of Haitian migrants, all coupled with the failure of the State to respond to the different requests made over 2016, the IACHR decided to include the country in Chapter IV of its 2016 Annual Report, inasmuch as it finds that the criteria set forth in Article 59.6d.iii of the IACHR Rules of Procedure were met.

5. Over 2017, the IACHR and the Dominican State met on several occasions in the context of the presentation of the IACHR's 2016 Annual Report at the OAS General Assembly, as well as at IACHR sessions. These working meetings led the Dominican State to extend an invitation to the IACHR to conduct a working visit to the Dominican Republic in November 2017, which was formalized through an official communication on October 20, 2017. The Commission accepted the invitation extended by the Dominican State through an official communication dated November 8, 2017, and proposed the dates of November 23 and 24, 2017 for the realization thereof.

6. On November 8, 2017, the IACHR forwarded a request to the Dominican State for information through a questionnaire, which included questions grouped under 4 major problem areas connected to follow-up on the recommendations issued by the IACHR: nationality, migration, discrimination and gender. The IACHR posed the following questions to the Dominican State:

**Regarding the right to equality under the law and non-discrimination**

(1) At what stage is the process of adoption of the General Law of Equality and Non-Discrimination?

(2) What measures have been taken to increase awareness of the Dominican population, through the education system, about the promotion of equality, non-discrimination and multiculturalism?

(3) What measures have been implemented to train public officials on human rights and, in particular, on equality and non-discrimination in performance of their public duty?

**Regarding nationality and implementation of Law 169-14**

(4) What measures have been implemented to produce statistics on the population groups impacted by Constitutional Court Judgment T-168/13?

(5) What measures have been implemented to produce statistics on the population groups set forth in Law 169-14?

(6) What do the categories published by the Central Electoral Board (JCE) last September mean and what implications do they have? (Authorized, Transcript Completed, Further Investigation, Reconstruction, Voided Declaration)

(7) What measures have been taken to restore the nationality of persons born from April 18, 2007 to January 26, 2010, who have a certificate or who were not recorded in the Book of Registration of Births of Children of Non-Resident Foreign Parents or in its short form 'Book of Foreign Birth Registration' (*Libro de Extranjería*)?

(8) What measures have been taken to deal with the situation of persons appearing as registered in the Book of Foreign Birth Registration, even though they are entitled to Dominican nationality?

(9) What measures have been taken to prevent the deportation or expulsion of non-beneficiaries of Law 169-14, who are born in the Dominican Republic?

**Group A**

(10) What mechanisms are in place for persons who still do not have Dominican identity papers issued by the Central Electoral Board and are registered in the Transcriptions Book (*Libro de transcripciones*) to have access to their Dominican identity papers?

(11) What measures have been taken by the State to promptly and expeditiously issue civil and identity papers for the beneficiaries of Law 169-14?

(12) What measures have been taken to ensure full enjoyment of Dominican nationality for the descendants of Group A? What steps should be followed in order to declare the births of these descendants, both within the statutory time limit and after it has lapsed?

**Group B**

(13) Of the 8,755 individuals who registered during the statutory period under Law 169-14, how many obtained authorizations in their cases and how many were denied and, in the latter instance, what legal remedies are available to request review or appeal their cases?

(14) What civil or identity papers have been provided as of the present date to the 8,755 persons of Group B, who applied for the special process under Law 169-14?

(15) Because the two-year waiting period established under Law 169-14 has lapsed, how many people have requested naturalization pursuant to the procedure established under Law 169-14 and how has the State responded to the requests for naturalization?

(16) Law 169-14 and companion Regulation 250-14 create a special process for naturalization. What does this special process for naturalization involve, what requirements do the beneficiaries have to meet and as of what date will the process be open to this population?

(17) What measures have been adopted to resolve the situation of the children born in the Dominican Republic of foreign parents whose migratory status is irregular and do not appear in the Civil Registry (Group B), are not registered and were denied status? What is the legal basis for the measures to be adopted and as of what date will these measures be adopted?

**Regarding migration and implementation of the National Regularization Plan for Foreigners**

(18) What measures have been taken to produce statistics on migration and implementation of the National Regularization Plan for Foreigners?

(19) What categories and subcategories did the National Regularization Plan for Foreigners grant based on General Migration Law No.285-04 and companion Implementing Regulation No.631-11; what does each one mean; what processes do they establish; and how many people fall under them?

**Regarding sexual and reproductive rights of women**

(20) What provisions have been enacted to bring the new Criminal Code and, in particular, provisions relating to abortion, in line with its Inter-American and international obligations in the area of the right to humane treatment, health, life of women and girls?

**Regarding the rights of human rights defenders**

(21) What measures have been taken to strengthen the mechanisms to ensure the lives and safety of human rights defenders, as well as free exercise of their rights?

7. Through an official communication dated November 23, 2017, the Dominican State forwarded to the Commission its response to the request for information, including information regarding the measures undertaken by the Dominican State in relation to the issues identified by the IACHR. The IACHR welcomes the comprehensive response of the Dominican State to all the questions posed in the questionnaire attached to its request for information and deems this type of action to be a positive step toward effective enjoyment of the human rights of all persons in the Dominican Republic, in particular, with regard to the right of access to information and in the area of transparency and accountability.

8. Subsequently, the IACHR conducted its working visit to the Dominican Republic on November 23 and 24, 2017, aimed at following up on the recommendations issued by the Commission in Chapter IV.B of its 2016 Annual Report, as well as its 2015 report on the “Situation of Human Rights in the Dominican Republic.” The delegation was made up of Commissioner Luis Ernesto Vargas Silva, Country Rapporteur for the Dominican Republic and on the Rights of Migrants; Commissioner Margarete May Macaulay, Rapporteur on the Rights of Women and Rapporteur on the Rights of Persons of African Descent and against Racial Discrimination; the Commission’s Executive Secretary, Paulo Abrão; and María Fernanda Vanegas and Ivonne Garza, staff attorneys of the IACHR Executive Secretariat.

9. During the visit, the IACHR delegation held meetings with the Office of Legal Counsel of the President, the Ministry of the Interior and Police, the General Directorate of Migration and the Central Electoral Board, with a mind to draft agreements to move forward towards effective enjoyment of human rights, in particular, the right to nationality, the rights of migrants, and the right to equality and non-discrimination. The IACHR delegation also met with the Ministry of Women, in order to receive information about the right to gender equality, as well as to learn about how women’s sexual and reproductive rights programs work and about progress in education and training on the subject matter in the Dominican Republic.

10. Additionally, the IACHR delegation held meetings with civil society on the topics mentioned above. At these meetings the IACHR received testimony and information on the current status of compliance with the recommendations issued by the IACHR to the Dominican State. It also heard a request by members of civil society for the Commission to act as a mediator in talks with the State, as one of the proposals put forth by civil society to make progress on the issues discussed above. As part of the working visit, the Commission visited sugar mill community Batey Vasca in San Pedro de Macorís, where it met with civil society organizations, cane harvesters and their families, as well as persons born in the Dominican Republic of Haitian descent, who reported on several obstacles they face for effective enjoyment of their right to nationality, as well as other related rights. The IACHR delegation also received information about the difficult living conditions faced by many people living on the sugar mill communities (bateyes), in particular, in relation to their economic, social and cultural rights and their situation of poverty.

11. On the aforementioned occasions, the IACHR delegation witnessed the willingness of Dominican authorities to establish a relationship with the Commission to enable them to provide a response to the pending challenges as to nationality, migration, discrimination and gender, and to translate said willingness into several commitments to provide an adequate response with the technical support of the IACHR. Moreover, at its meetings with victims and civil society organizations, the IACHR saw for itself how urgent it is to advance toward compliance with its recommendations in order to improve the human rights situation in the Dominican Republic.

12. After the working visit, the IACHR received from the Permanent Mission of the Dominican Republic to the Organization of American States, Communication No. 1076 of December 1, 2017, whereby the Dominican State formally conveyed the document “Working Group on the Implementation of Human Rights Policies in the Dominican Republic,” which included a proposal for the creation of a space for dialogue on issues of interest to the Inter-American system in keeping with State actions underway to develop nationality acquisition and migration policies to combat all forms of discrimination and policies on Women’s Rights and Gender Equality. The proposal includes two working groups in 2018, one to be held in Santo Domingo and the other, in Washington DC. Additionally, the Dominican State forwarded through its Permanent Mission of the Dominican Republic to the Organization of American States a second Communication, No. 1077 with the same date, extending to the IACHR an invitation to hold a Special Session of the Inter-American Commission on Human Rights during 2018 in said country.

13. In response, the Commission saw fit to regard as sufficient the information on the measures that the Dominican State is adopting, which in the long term and gradually could contribute to overcoming the conditions giving rise to the inclusion of the Dominican Republic in Chapter IV B of its 2016 Annual Report. This decision is based on the interest expressed by the State in overcoming serious omissions in its response to the recommendations issued by the Commission, the updated information on implementation of Law 169-14 and the National Regularization Plan for Foreigners, as well as the submission to the Commission of a proposal to continue to work together in following up on its recommendations, through the establishment of a Working Group to periodically follow-up on them over 2018.

14. Therefore, based on Article 59.9 of its Rules of Procedure, the IACHR decided to include the Dominican Republic in Chapter V of its 2017 Annual Report and gather information about compliance with the recommendations set forth in its report on the “Situation of Human Rights in the Dominican Republic,” as well as in Chapter IV of its 2016 Annual Report.

15. On December 15, 2017, the IACHR forwarded to the Dominican State the preliminary draft of this document, which is part of Chapter V of its 2017 Annual Report, in accordance with Article 50.10 of its Rules of Procedure and asked it to provide its observations. On December 27, 2017, the IACHR received the State’s observations, the relevant portions of which were included in this final version approved by the Commission on December 31, 2017.

16. The instant follow-up report is divided into four sections on each thematic area to follow up on the Commission’s recommendations and pending challenges. In each section, the major areas of progress and pending challenges identified by the IACHR are examined in light of the information provided by the State

and civil society organizations, as well as information that the Inter-American Commission has gathered in monitoring the general situation of human rights in the Dominican Republic. For this purpose, the Commission has used information received from the State, at public hearings, from ex officio investigations it conducted, input from requests for information as provided for under Article 41 of the American Convention on Human Rights, information gathered during the working visit to the country in November 2017, as well as information available from other public sources and the decisions and recommendations of specialized international bodies, among other things. At the end of the report, the IACHR presents its conclusions and recommendations.

17. The IACHR takes note of the expressions put forward by the State in its observations on the instant report with regard to the challenges it is facing in moving forward in the processes of implementation of public policies designed to improve conditions to ensure full enjoyment of human rights. In particular, the State reiterated its commitment and willingness to effectively address the challenges, as explained below:<sup>1</sup>

The State acknowledges that it has not always made all of the requested information available as soon as it has been asked of it, because of the number of actors involved, some of whom are not part of the executive branch, thus making it difficult to maintain fluid lines of communication. This evinces the importance of a process of dialogue between the actors and working groups to be set up in the context of the Commission to bring to light relevant aspects and for these public policies to be successful. [...] The Dominican State wishes to reaffirm its firm commitment to safeguard and protect the fundamental rights and liberties of all persons who inhabit national territory, without any distinction, which has been evident through its public policies instituted in the framework of the Constitution, respecting social and democratic rule of law. It is of special interest to the Dominican Republic for the international community to become informed in detail about the efforts of the current government to ensure respect and guarantee of human rights in a variety of areas, including those relating to documentation of nationals and foreigners, migration and protection of vulnerable groups.

18. The Commission takes note of these acknowledgments and reiterates the importance for the Dominican Republic to fully comply with the recommendations issued in the report. Additionally, it reaffirms its willingness to collaborate with the Dominican Republic within the framework of its mandate and duties to ensure the effective enjoyment of the human rights for everyone.

## **II. FOLLOW-UP ON RECOMMENDATIONS**

### **A. Right to nationality, effects of Judgment TC/0168/13 and related matters**

- Take, within a reasonable time, the necessary measures to repeal all provisions of any kind, whether constitutional, statutory, regulatory or administrative, as well as revoke every practice, decision, or interpretation, which establishes or whose effect is that the irregular status of foreign parents is cause for the denial of Dominican nationality for persons born in the territory of the Dominican Republic.
- Take, within a reasonable time, the legislative and, when necessary, constitutional, administrative and another other types of measures required to regulate a birth registration procedure, which must be accessible, non-discriminatory and simple, in order to ensure that individuals born on its territory are able to be registered immediately after their birth, regardless of their descent or origin and of the migration status of their parents.
- Take, as soon as possible, the necessary measures to prevent Judgment TC/0168/13 and the provisions of Articles 6, 8 and 11 of Law No. 169-14 from continuing to have any legal effect.

<sup>1</sup> Dominican Republic, [Observations on Preliminary Draft of Chapter V, 2017](#). Pgs. 1 and 4.

- Carry out a diagnostic assessment in order to produce information on the number of persons who were affected by Judgment TC/0168/13 of the Constitutional Court and Law No. 169-14. The State should also take the necessary measures to fully restore the Dominican nationality of persons born in the Dominican Republic and their descendants, who are affected by this judgment and the law.
- Take, as soon as possible, the necessary measures to ensure the right to nationality of persons who previously had this right under the domestic regime in force from 1929 to 2010. The measures to ensure the right to nationality of persons harmed by Judgment 168-13 should be general and self-enforcing or automatic in nature. Said mechanisms should be simple, clear, prompt and fair. The measures must not be discretionary or implemented in a discriminatory way. The mechanisms should be affordable in economic terms.
- Ensure that the persons who were entitled to Dominican nationality, but who did not appear in the Dominican Civil Registry are not required to register as foreigners, as provided for by Article 6 of Law No. 169-14.
- Take, as soon as possible, the necessary measures for Dominicans of Haitian descent, as appropriate, to be properly registered and have the necessary documentation to prove their identity and Dominican nationality.
- Implement, within a reasonable time, training programs on an ongoing and permanent basis about issues related to said population to make sure that:

- a) Obstacles for the affected persons to obtain identity papers and register their children are avoided, in particular, those of the Central Electoral Board and the civil registers of births, deaths and marriages;
- b) Racial profiling does not in any way become grounds for detention or expulsion;
- c) Due process protections are strictly enforced during any proceeding relating to the expulsion or deportation of foreign nationals;
- d) No expulsions of persons of Dominican nationality are carried out under any circumstances, and
- e) No collective expulsions of foreigners are carried out.

- Ratify the 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness
- Create the necessary conditions so that Dominican persons of Haitian descent are able to gain access and use the justice system on an equal basis to remedy acts infringing their right to nationality or other acts stemming from said situation, and are able to receive dignified treatment by public officials.
- Create suitable and effective offices and judicial remedies in rural, marginalized and economically disadvantaged areas, in order to ensure that every Dominican person of Haitian descent has full access to effective judicial protection from acts of disregard for their human rights.
- Establish effective procedures, at the administrative as well as the civil, criminal, labor levels, among other levels, ensure for Dominicans of Haitian descent access to justice when their right to nationality, legal personality, identity, equality, labor, citizen security, health, among other ones, are violated.
- Strictly enforce due process protections during expulsion and deportation proceedings and prohibit persons of Dominican nationality from being expelled in any circumstance. The State should also ensure that any person who has arbitrarily been deprived of his nationality continues to be able to enjoy his or her right to enter and reside in that country, inasmuch as it is “his or her own country” under international law.

19. In September 2013, the Constitutional Court of the Dominican Republic issued a new interpretation of the criteria for nationality set forth in the Dominican Constitutions in force from 1929 to 2010. Under Judgment TC/0168/13, the Court interpreted the concept of “foreigners in transit” in a new way, likening this concept to a “foreigner with irregular status.” In this way, the Court retroactively amended the way “foreigners in transit” had been interpreted, establishing said category as an impediment to acquiring nationality under *jus soli*. In fact, in one actual case, the Court ruled that even though the appellant had been born in Dominican territory and had been registered by the competent authorities as such at a time when the

Constitution recognized *jus soli* as a way of acquiring nationality, the new interpretation of “foreigners in transit” stripped the appellant of the right to Dominican nationality. The judgment also ordered administrative transfer of all birth certificates of persons born in Dominican territory, who are the children of “foreigners in transit” from 1929 to 2007, to the book of foreign birth registration. Because it came into effect retroactively, the judgment led to the arbitrary deprivation of Dominican nationality of thousands of people, mostly of Haitian descent.<sup>2</sup>

20. On this issue, the IACHR noted that the descendants of a large population of Haitian migrant workers born in the Dominican Republic are the most affected by this ruling. This population includes people who were registered in the Dominican Civil Registry as well as people who were not. Said population has solid economic, social and cultural ties to the Dominican Republic, inasmuch as they were born, have grown up and built their lives in said country. Despite being descendants of Haitian persons, the affected population can no longer be characterized as having ties to Haiti: most of them are the children or grandchildren of persons who were also born in the Dominican Republic and have lived in the Dominican Republic for generations; they do not necessarily have any family ties in Haiti; in some instances, they have never been to Haiti or to any other country outside of the Dominican Republic; and the Spanish language is their native tongue.<sup>3</sup> Some of the major human rights violations stemming from the arbitrary deprivation of nationality and statelessness that the affected persons are victims of include that they are unable to register their children and, therefore, their children face obstacles to continue in grade school, as well as go to college, to get a job, health care services, marry, enter into contractual agreements, purchase or rent housing, travel both inside and outside of the country, among other things.<sup>4</sup>

21. On the issue of Judgment TC/168/13, in its response to the Commission’s request for information prior to the working visit this past November, the Dominican State claimed that:

Judgment TC/168/13 of the Constitutional Court did not strip descendants of foreigners with irregular migration status born in national territory of their Dominican nationality, but on the contrary, it instituted a special regime benefiting the children of non-resident foreigners, by regularizing the legal status of citizens whose birth registration had been irregularly issued.

22. Additionally, in its observations on the draft of the instant report, the State made reference to the IACHR’s recommendation to adopt, within a reasonable time period, the necessary measures to overturn any rule, practice, decision or interpretation that establishes, or whose effect is, that an irregular stay of foreign parents is ground for denial of Dominican nationality to persons born in the territory of the Dominican Republic. In particular, the State noted the following:<sup>5</sup>

In fact, the Government of the Dominican Republic reiterates that its provisions of law are not meant to discriminate against any group of persons for reasons of race, color, religion or origin. The fact that it mainly impacts a particular group of persons is something that stems from a social reality in a particular historical context, as is the case in many countries which have rules of nationality with certain restrictions, without it meaning that that said countries are committing discrimination.

23. On this score, the IACHR deems it necessary to reiterate what it held in its Report on the Human Rights Situation in the Dominican Republic, in 2015:

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<sup>2</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, pars. 169-186.

<sup>3</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 84.

<sup>4</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 4.

<sup>5</sup> Dominican Republic, [Observations on the Preliminary Draft of Chapter V](#), 2017. pg. 9.

In the Commission's view, with the new interpretation established by the Constitutional Court in Judgment TC/0168/13, the measures and policies that other Dominican authorities had been promoting for years were assimilated into the law, a situation complicated by the fact that the court's interpretation would be applied retroactively, to all persons born on Dominican soil to parents with an irregular migratory situation and as far back as June 21, 1929. Judgment TC/0168/13 brought with it a general measure that arbitrarily deprived a considerable number of persons of their Dominican nationality and left stateless all those who had no legal claim to citizenship in any other State. The persons affected by this judgment were already unable to fully enjoy other human rights, a situation only made worse by this arbitrary deprivation of nationality and the stateless condition in which it left many people.<sup>6</sup>

24. In response to the effects of Judgment TC/0168/13, the administration of President Danilo Medina promoted, with the support of a host of political and social actors, adoption of Law 169-14, which garnered unanimous approval in Congress and came into force on May 23, 2014. The Law created two tracks to provide a solution to the effects of Judgment TC/0168/13: on the one hand, it provided for the validation of birth certificates and the restoration of nationality to persons born in Dominican territory from June 16, 1929 to April 18, 2007, whose births had been registered ("Group A"), and on the other hand, it established a special procedure to record in the birth registry of foreigners born in Dominican territory, who were never registered in the Dominican Civil Registry ("Group B"), thus making it possible for them to subsequently regularize their status as migrants and after two years, be eligible for Dominican nationality through the procedure of naturalization. Lastly, it is important to note that persons born from April 18, 2007 to January 26, 2010 were not beneficiaries of said law.<sup>7</sup>

### 1. Group A

25. As for the situation of persons belonging to Group A, the IACHR received information from civil society organizations about implementation of Law 169-14, claiming that the Central Electoral Board unilaterally created a new registry, called the "Transcription Book," (*Libro de Transcripción*), which was not provided for or authorized by Law 169-14 or any other legislation.<sup>8</sup> Accordingly, civil society organizations contended that the creation of this separate registry introduced a worrying division between the persons belonging to Group A and other Dominicans. This new book, coupled with the cancellation or invalidation of original identity papers has made it even more difficult to obtain papers because of discrepancies between the information on their original documents and the information appearing in the Transcription Book. Consequently, at the local offices of the civil register the affected individuals are subjected to further abuses and are faced with an impediment to obtaining their papers.<sup>9</sup> In this regard, the State reported about the mechanisms for individuals who are registered in the Transcription Book to be able to have access to their Dominican identity papers, that the individuals are able to request their birth record at the Local Office of the Civil Registry where they are registered and to request their national identification card at the card-issuing center of the jurisdiction where they are residing, by proving that they are the rightful identity holder.<sup>10</sup>

26. As was explained above, Judgment TC/0168/13 ordered the Central Electoral Board (JCE) to audit the birth registration records of the Civil Register in order to identify and draw up a list of individuals

<sup>6</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, par. 237.

<sup>7</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, pars. 12-13.

<sup>8</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, par. 458.

<sup>9</sup> RFK Human Rights, CEDES, AJWS, UNDEF. [Sueños Postergados: La lucha de las personas dominicanas de ascendencia haitiana por recuperar su nacionalidad](#), [Dreams Deferred: The Struggle of Dominicans of Haitian Descent to Get their Nationality Back], May 2017, pg. 32.

<sup>10</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 8.

that are considered “foreigners” registered in said books. In fact, in completing the audit, which encompassed records from June 21, 1929 to April 18, 2007, the Central Electoral Board ruled that a total of 61,049 persons had been irregularly registered in the Dominican Civil Registry; in other words, this figure represents everyone belonging to Group A under Law 169 of 2014.

27. As concerns the individuals who were registered and obtained their birth certificates (Group A), Law 169-14 established a period of registration for these people and once it expired, the registration was reviewed by the Central Electoral Board through an audit and a list of individuals was finally approved on May 26, 2015. As of that date, a process of issuance of Dominican identification papers by the Central Electoral Board began, as provided for in Law 169-14.

28. With regard to the foregoing, the IACHR notes that in its observations on the draft of the instant Report, the Dominican State explained that Law 169-14 recognized and validated documents issued on behalf of persons belonging to Group A without the need for any procedural steps to be taken. And to this effect, it added that “the Dominican State recognizes as Dominicans each of these persons and therefore their nationality is not in question.”<sup>11</sup>

29. Regarding progress in the implementation of Law 169-14, the State reported that in September 2017, the Central Electoral Board (JCE) published new statistics about the total of 61,049 people appearing on the list drawn up from the audit. For this purpose, the JCE presented advancements in five categories: authorized, transcription completed, further investigation, reconstruction and declaration voided. According to the information provided by the State, each category is interpreted as follows:

- a. **Authorized:** This refers to declarations of birth of citizens of foreign origin, which have been validated and whose issuances have been authorized on the grounds that their parents had legal status in the country, in other words, they had an identity card, at the time of issuing them.
- b. **Transcription Completed:** This refers to transcribed birth records based on the fact that the parents of the registered persons were not legally residing in the country, in other words, they did not have identity papers, at the time of issuing them.
- c. **Further Investigation:** This refers to declarations of birth that require field investigations to corroborate certain information, such as the identity of the claimant, or the authenticity of the persons appearing as the parents of the registered person, among other things.
- d. **Reconstruction:** This refers to declarations of birth issued in books or registers that are partially destroyed.
- e. **Declaration Voided:** This refers to declarations of birth that have been annulled or nullified because of false information, such as inauthentic persons appearing as the parents of the registered person, duplication of registration, proof of birth outside Dominican territory, parents’ use of identity papers obtained through impersonation, and declarations of birth issued after the registered person has reached adult age for reasons directly attributable to him or her.<sup>12</sup>

30. With regard to the Group A population, the Central Electoral Board (JCE) provided statistics as of September 2017 for each of the categories listed above, regarding beneficiaries covered by the special regime established under Article 1.a of Law No. 169.14:

<b>Category</b>	<b>Number</b>	<b>Percentage</b>
<b>Authorized</b>	29,392	48.14%
<b>Transcription</b>	27,249	44.63%

<sup>11</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pgs. 2 and 3.

<sup>12</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pgs. 4-5.

<b>Completed</b>		
<b>Further Investigation</b>	3,825	6.27%
<b>Reconstruction</b>	556	0.91%
<b>Declaration Voided</b>	27	0.04%
<b>Totals:</b>	61,049	100.00%

Source: Junta Central Electoral<sup>13</sup>

31. The IACHR notes that this information is based on a total of 61,036 processed case files, a figure that does not match the above-cited figure of 61,049 case files. Notwithstanding, the IACHR finds it relevant to cite said information provided by the State regarding beneficiaries covered by the special regime established under Article 1.a of Law No. 169-14:

<b>Decision of the Commission</b>	<b>Cases processed</b>	<b>Percentage</b>	<b>Certificates available</b>	<b>Certificates issued</b>	<b>Qualifying ID Cards</b>
1. Authorized/ regularized	56,628	92.78%	56,212	20,872	19,521
a. Authorized	29,380	-	29,380	12,274	12,309
b. Transcribed	27,248	-	26,832	8,508	7,212
2. Declaration Voided	27	0.04%	-	-	-
3. In process / pending documentation	3,825	6.27%	-	-	-
4. In reconstruction	556	0.91%	-	-	-
<b>Totals:</b>	61,036	100.00%	56,212	20,872	19,521

Source: Junta Central Electoral<sup>14</sup>

32. In its observations on the draft of this report, the Dominican State clarified that the discrepancy in the figures appearing in the tables above can be explained as follows:<sup>15</sup> the figure of 61,049 cases is for the latest update done by the Central Electoral Board in September 2017; the second figure of 61,036 is the result of a more detailed, previously unpublished version, which excludes a total of 13 cases, 12 authorized ones and one transcribed case file, about which there is no specific information regarding availability and issuance of birth certificates and identity cards. The State also noted that of the 61,036 cases from Group A, the Central Electoral Board lists as available in its internal system the certificates of 56,212 persons, who are able to request them and obtain them immediately. Additionally, the State reported that that 20,872 birth certificates have been issued belonging to these persons and 19,521 identification cards are eligible to be requested.<sup>16</sup>

33. For their part, civil society organizations advised the IACHR delegation that as of November 2017, the number of individuals under Group A, who have been able to gain access to their Dominican identity papers as of the time of implementation of Law 169-14 had still been impossible to determine.<sup>17</sup> For his part, the former chair of the JCE announced in October 2016 that more than 20,000 people had picked up birth certificates or identity cards, while the documentation of a group of 572 people was difficult to recover because the original records were in poor shape.<sup>18</sup> In this regard, the civil society organizations noted that the

<sup>13</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pgs. 5-6.

<sup>14</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pgs. 5-6.

<sup>15</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pg. 3.

<sup>16</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pgs. 3 and 4.

<sup>17</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 23, 2017. Internal Archive.

<sup>18</sup> Diario Libre, *La Junta Central Electoral dice que no tienen problemas personas amparadas con la Ley 169-14*, [The Central Electoral Board says that persons covered by Law 169-14 do not have problems'], October 25, 2016.

current number of people, who received identity papers, is lower than the figure given by State authorities, because in order to apply for an identity card, a birth certificate must first be submitted.<sup>19</sup>

34. In this regard, the civil society organizations claimed that, based on the figure provided by the State of the nearly 55,000 individuals who were audited and authorized to receive their papers, the majority of beneficiaries would not have recovered their papers. This stands as evidence of the need to continue to engage in talks with a view to identify and remedy the main reasons why this is happening, as well as to discuss the need to update on an ongoing basis the number of individuals affected and further breakdown the numbers of individuals, who have received identity papers, by type of document.<sup>20</sup>

35. On this score, the IACHR emphasizes that in its observations on the draft of the instant Chapter, the Dominican State noted that:<sup>21</sup>

The Dominican State wishes to reaffirm its interest and firm commitment to each and every person identified by the audit of the Central Electoral Board as belonging to Group A, or any other person who meets the criteria defined in Law Number 169-14 for said group, but who for any reason was not in the initial audit of the Central Electoral Board, to obtain his or her birth certificate and, when appropriate (according to age), his or her identification card or identification and electoral card.

36. As for the measures taken to promote prompt and expeditious issuance of civil and identity papers for the beneficiaries of Law 169-14, the Dominican State reported that currently all information relating to the general roster of persons benefiting under the Law are available on the webpage of the Central Electoral Board (JCE) by means of a form allowing the searcher to identify the names of registered persons and the main information connected to them using several search criteria. The State further explained that certificates and their corresponding events were properly digitized and approved so that registered persons are able to have access to their information whenever they so need.<sup>22</sup>

37. Even though the IACHR acknowledges that availability of a tool enabling beneficiaries to have direct access to the information on their cases is important, it also notes that the tool does not provide a list of beneficiaries, but only the ability to find known information, thus limiting access to the general public. Accordingly, the IACHR urges the Dominican State to implement measures to make information available to the general public as well as to provide access to a list showing progress in the implementation of the measures established under Law 169-14. The Commission also notes that as of the present date it still does not know with certainty the number of approved people on the audit list, who have received their identity papers through this procedure.

38. Civil society organizations reported that obstacles faced by the affected population making up Group A include the following: inability to know their registration status; lack of information about and assistance to follow the process to obtain papers; discriminatory treatment by the Dominican authorities and police; widespread abuse of criteria by JCE authorities to retain papers; discrepancies between the new registration book and the transcription book of the JCE; suspension and suspicious voiding of valid papers; identity theft; inability to afford the documentation; a host of obstacles to obtain documentation; problems

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<sup>19</sup> OBMICA, *Estado de las Migraciones que atañen a la República Dominicana 2016*, [‘Status of Migration concerning the Dominican Republic 2016’], November 2017, pg. 241.

<sup>20</sup> OBMICA, *Estado de las Migraciones que atañen a la República Dominicana 2016*, [‘Status of Migration concerning the Dominican Republic 2016’], November 2017, pg. 241.

<sup>21</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pg. 4.

<sup>22</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 8.

with documentation for the children of people in Group A and damaging narratives that lead to Group A status.<sup>23</sup>

39. Regarding the impact of not having identity papers, civil society organizations described how it can have an adverse effect on the everyday lives of the affected people: in declaring their children as Dominican citizens, registering their children in school, attending college, finding a formal and stable job, gaining access to public services, contracting marriage, among other things.<sup>24</sup> In this regard, civil society organizations have contended that these are the same obstacles that were identified by them in their assessments of the situation three years after Judgment 168-13 was handed down in late September 2016 and, therefore, they conclude that the JCE has not adequately collaborated to immediately deliver identity papers.<sup>25</sup>

40. As to effective enjoyment of Dominican nationality by the descendants of the Group A population, the State asserted that:

As provided under Article 2 of Law No. 169-14, once the situation of irregularity is addressed, the Central Electoral Board (JCE) shall accredit as Dominican nationals the beneficiary persons of the Group known as 'A,' who have the same prerogatives and privileges as any other national, as established by the Constitution of the Republic. Likewise, the children of beneficiary persons of Group A enjoy the same rights and prerogatives as their parents and, therefore, are registered without any other requirement than the one demanded by Law No. 659 regarding acts of civil registry, their parents being required to appear before the corresponding Office of the Civil Registry within the statutory period of time.<sup>26</sup>

## 2. Group B

41. As for the individuals who were never registered and did not have birth certificates (Group B), Law 169-14 established a period of 180 days for them to register. Said application period expired on February 1, 2015, during which according to information provided by the State, 8,755 people registered out of a total of approximately 53,000. The Law specifies that subsequently, a period of two years must elapse after which the persons would be eligible to pursue the process of naturalization and have access to nationality.

42. Regarding the situation of the Group B population, civil society organizations expressed their concern over the low number of individuals who had obtained their documentation through the procedure established under Law 169-14. According to information provided by the organizations, the figure is 4,574 permanent residents and 6,566 certificates of foreigners. They also expressed concern over the lack of clarity regarding the chances of people, whose case files were received in incomplete form, to have access to the naturalization process; as well as the lack of information about how persons, who have a particular migration status and are eligible, can apply for naturalization.<sup>27</sup>

<sup>23</sup> RFK Human Rights, CEDES, AJWS, UNDEF. Sueños Postergados: La lucha de las personas dominicanas de ascendencia haitiana por recuperar su nacionalidad, [Dreams Deferred: The Struggle of Dominicans of Haitian Descent to Get their Nationality Back], May 2017, pgs. 32 - 40.

<sup>24</sup> RFK Human Rights, CEDES, AJWS, UNDEF. Sueños Postergados: La lucha de las personas dominicanas de ascendencia haitiana por recuperar su nacionalidad, [Dreams Deferred: The Struggle of Dominicans of Haitian Descent to Get their Nationality Back], May 2017, pgs. 41-42.

<sup>25</sup> OBMICA, Estado de las Migraciones que atañen a la República Dominicana 2016, [Status of Migration concerning the Dominican Republic 2016], November 2017, pg. 239.

<sup>26</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 9.

<sup>27</sup> OBMICA, Estado de las Migraciones que atañen a la República Dominicana 2016, [Status of Migration concerning the Dominican Republic 2016], November 2017, pg. 246.

43. During its working visit to the Dominican Republic, the IACHR heard from civil society about its concern over the persistent lack of solutions for the children of mixed couples to have access to registration of their births, as well as for other persons affected by Judgment 168-13, who are unable to find any solution to their nationality under Law 169-14.<sup>28</sup>

44. For its part, in addressing implementation of the procedure provided for by Law 169-14 for the Group B population, the State reported to the IACHR that of the 8,755 individuals who registered during the statutory period under the law, 6,793 case files were forwarded to the Central Electoral Board by the Ministry of the Interior and Police. By November 2017, the State reported having issued 4,442 personal identity cards to people who had met the requirements established under the law.<sup>29</sup> In addition to this, the State reported that of the total number of 8,755 people in Group B, 6,577 are eligible to receive their civil papers and 5,401 have already received their birth certificates and their permanent regularization card.<sup>30</sup>

45. The State also reported to the IACHR that in coordination with the Ministry of the Interior and Police and the General Directorate of Migration, it drew up a special plan to provide sugar cane workers with identity cards, for which a total of 2,709 people registered, 1,711 of whom have already received their card.<sup>31</sup>

46. In this regard, in its observations on the draft of the instant Report, the Dominican State noted that:<sup>32</sup>

The source of the figure of 53,000 persons is from the disaggregation that had been done of the data provided by the National Migrant Survey of 2012 (ENI-2012) sponsored by the European Union and executed by the National Statistics Office (ONE) of the Dominican Republic. Over the years, ENI-2012 has been used as a primary source. However, not to detract from the importance of the surveys, we believe that a report produced by an international agency that is evaluating the situation in a State regarding issues of great complexity such as this one, must resort with certain regularity to an evaluation of the initial assumptions, comparing them not only with the accounts and anecdotes of individual cases but also with the sources, to be able to approach the issue in a balanced way and with the depth required.[...] In fact, after these figures have been used for 4 years to magnify the scale of the situation, and the State has been permanently been requesting any interested agency, institution or person to present potential cases of persons who allegedly could have benefited from Law Number 169-14, Article 6, subsection b, and did not, only two cases have come to the attention of the institutions assigned to investigate them.

47. With respect to the naturalization process, which can be pursued after expiration of the two-year waiting period established by Law 169-14, the Dominican State reported that qualifying individuals must file an application with the Executive Branch of government through the Ministry of Interior and Police, and follow the procedure set forth under Law 1683 on Naturalization, dated April 16, 1948, amended by Law 4063.<sup>33</sup> Additionally, in its communication of November 23, 2017, the Dominican State reported that it was not aware of any application for naturalization filed by any of population registered as Group B.<sup>34</sup> In this

<sup>28</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 23, 2017. Internal Archive.

<sup>29</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 9

<sup>30</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 9

<sup>31</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 9

<sup>32</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pg. 5.

<sup>33</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 10.

<sup>34</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 10.

regard, in its observations on the draft of the instant Chapter, the State reiterated its commitment to compliance with the provisions of Law 169-14, in relation to persons who did in fact register under the Group B; and indicated that it will create an expedited mechanism in the Ministry of Interior and Police so that interested parties, whose applications meet the two year requirement, can request, through a standardized communication, their naturalization.<sup>35</sup>

48. Lastly, the State reported to the IACHR about two potential cases of descendants of foreign parents with irregular migration status, who were born in the Dominican Republic and who are not registered in the Civil Registry (Group B), either because they were never registered or they were denied registration.<sup>36</sup> According to information provided by the State, an office of an international organization even recently raised the situation of these cases. Regarding these cases, the State noted that the General Directorate of Migration and the National Institute of Migration are the authorities, who are now in charge of establishing the working procedure and then submit a detailed report on the documents and arguments put forward in the applications filed in these cases.<sup>37</sup>

49. As for the situation of the Group B population, in general terms, the IACHR notes with concern that only a small portion of the members of this group was able to register within the timeframe established by the Law and, more worrying still, is that they do not know with certainty whether or not the naturalization process will go their way and actually allow them access to naturalization. Likewise, the IACHR notes that the 2-year waiting period established under Law 169-14 to apply for naturalization has already lapsed and as of the date of approval of this report, there is no public access to information for the affected population to be able to know the procedure for naturalization, the stages and requirements in the process of naturalization, the number of naturalization applications filed, whether these procedures have been opened and disseminated by the State and whether the population has had access to them.

50. The IACHR also stresses the urgency of taking measures to address the situation of descendants of foreign parents with irregular immigration status, who are born in the Dominican Republic and do not appear in the Civil Registry, either because they were not registered or were denied registration under the procedure established by Law 169-14 for Group B members, especially the decision of what set of rules and regulations are applicable to this population, so that this population is able to resolve its situation of acquisition of nationality and effective enjoyment of other human rights. The IACHR urges the State to take, as soon as possible, the necessary measures to provide a way to facilitate access for these individuals to obtain nationality.

### **3. Other population groups without effective protection of their right to nationality**

51. In the context of the visit, the Commission received information from civil society organizations about three other population groups, who still have not been able to find a solution to their right to nationality through the Dominican State. Firstly, the IACHR received information about the situation of people born and registered in the Dominican Republic from April 18, 2007 to January 26, 2016, and who are not covered by the procedure provided for in Law 169-14 for recognition of nationality of the Group A population. The IACHR notes that Law 169-14 addresses the population born from June 29, 1929 to April 18, 2007, the date when the first Constitution was adopted, which included the exception to acquisition of nationality for persons born of parents regarded as “in transit,” and the date that the Book of Registration of Births of Children of Non Resident Foreign Mothers came into effect in the Dominican Republic (also known as the “Book of Foreign Birth Registration” or the “Book of Foreign Births” (*Libro de Extranjería*)).<sup>38</sup> Based on

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<sup>35</sup> República Dominicana, Observaciones al Proyecto Preliminar de Capítulo V, 2017. pág. 6.

<sup>36</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 10. Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017. Pg. 5.

<sup>37</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 10.

<sup>38</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

the foregoing, civil society organizations asserted that there still has not been a response provided for this segment of the affected population.<sup>39</sup>

52. Furthermore, the IACHR learned about the situation of individuals born in the country prior to January 26, 2010, who are registered in the Book Foreigner Birth Registrations, and who therefore are not recognized as Dominican nationals. Based on the information provide by civil society organizations and affected individuals themselves, persons registered in the Book of Registration of Births of Foreigners receive a birth certificate for foreigners, so it does not vouch for any nationality. Civil society organizations contend that these individuals were equally affected by Judgment TC-168-13, because even though the Book of Registration of Births of Foreigners came into use as of April 18, 2007, the Central Electoral Board registered thousands of people who were born prior to 2007.<sup>40</sup>

53. The IACHR also received information about the third population group for whom the Dominican State continues to not ensure its right to nationality: the children of mixed families, meaning, families made up of one migrant parent and one Dominican parent, who is not of Haitian descent. Civil society organizations told the IACHR that in accordance with the principle of *ius sanguinis*, these individuals are entitled to Dominican nationality. Notwithstanding, because one of the parents, generally the mother, is Haitian and does not have identity papers, the Central Electoral Board precludes registration of the birth of the child or they are registered in the Book of Registration of Births of Foreigners.<sup>41</sup>

54. Regarding the situation of the above-cited population groups and the fact that their right to nationality is still not ensured, the Dominican State reported that under Resolution Number 02/2007, dated April 18, 2007 of the Plenary Central Electoral Board, the Book of Registration of Births of Children from Non Resident Foreign Mothers in the Dominican Republic was extended to children of foreigners born subsequent to enactment of Law 285-04, as well as extending the Book of Special Registration to cover the children of foreigners born prior to the aforementioned law.<sup>42</sup> For those born during this time period, who have not been able to prove that they were born in the country, the State reported that it offers the National Regularization Plan for Foreigners, established by the Executive Branch under Decree 327/13, of November 29, 2013.<sup>43</sup> Moreover, the Dominican State noted that:

Carrying out the corresponding procedures at the embassy of the country of origin of their parents to obtain their identity papers by virtue of the migratory status of their parents. In this regard, Article 18, number 3, of the Constitution of the Republic establishes that Dominicans are “persons born in national territory, with the exception of the children of foreign members of diplomatic and consular missions, foreigners who are in transit or illegally reside in Dominican territory. A person in transit is considered any foreign man or women defined as such under Dominican law.”<sup>44</sup>

55. On this score, the IACHR reaffirms its concern over the lack of measures to address the needs of the population born from April 18, 2007 to January 26, 2010, which fall outside of the scope of Law 169-14; the situation of persons born in the country prior to January 26, 2010 and whose names appear in the Book of Registration of Births of Foreigners; as well as the children of mixed families; population groups for which there still is no solution to ensure the effective enjoyment of their right to Dominican nationality.

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<sup>39</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>40</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

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<sup>42</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 6.

<sup>43</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 6.

<sup>44</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 7.

## B. Rights of migrants

- Take the necessary measures to prevent actions of migratory revision, verification and control, as well as interrogations, detentions and raids from being exclusively based *de facto* on the physical appearance of the person, his or her skin color, facial features, membership in a racial or ethnic group or any other category.
- [detention and ATDs omitted]
- Ensure that migrants are only expelled based on decisions of the competent authority in the framework of a procedure previously established by law and in which the migrant has the ability to defend him or herself in keeping with Inter-American due process standards.
- Ensure that all phases of its migratory procedures, the persons involved have legal assistance and translators, they are informed of their rights, mechanisms and bodies to appeal said decisions, and that such decisions have a proper foundation.
- Take measures aimed at facilitating entry and transit of people through its territory through regular channels, so that migrants do not have to resort to clandestine means and, therefore, reduce their vulnerability to being the targets of crime and human rights violations.
- Establish programs geared towards raising the awareness of the general population of the Dominican Republic about the situation and human rights of migrants, as well as take any necessary measures to revoke any discriminatory policy, combat xenophobia and promote intercultural ties in the sphere of education and the communications media.
- Strengthen mechanisms aimed at combating corruption and promoting accountability for state officials through evaluation and investigation, by means of the competent public institutions, which after due process should mete out administrative, disciplinary or criminal punishments, as appropriate, to officials of the General Directorate of Migration, CESFRONT or any other official who may be found guilty of the commission of crimes and of violations of the human rights of migrants.
- Take measures aimed at ensuring the economic, social and cultural rights of migrant workers without any discrimination. In particular, the State should monitor the living conditions in the *bateyes* (sugar mill communities), farms and locations where migrant workers and their families live, so that they are provided the basic necessities such as potable water, electricity, medical services and education programs.
- [trafficking in persons omitted]

56. Concerning the rights of migrants, as has been stated on different occasions over the past years, the IACHR recognizes and welcomes the efforts made by the Dominican State to provide documentation and regular immigration status to foreigners, who are in its territory in keeping with its laws, especially through the adoption and implementation of the National Regularization Plan for Foreigners (PNRE).<sup>45</sup> The IACHR reiterates its appreciation for the actions taken by the Dominican State to regularize the immigration status of migrants in the country. According to official information, in the framework of this plan, 288,486 individuals were registered, of which 239,956 obtained a favorable response to their application for normalization.<sup>46</sup>

57. During its working visit to the Dominican Republic in November 2017, the IACHR received information about implementation of the National Regularization Plan for Foreigners (PNRE), as well as about expulsions and deportations. During its working visit, the IACHR also received information from civil society organizations about the decision of the Dominican State in July 2017 to extend for one year the validity of cards and passports that the PNRE population had benefited from. They added that in August 2017, the National Migration Institute (INM) reported that it had completed a Protocol establishing a procedure for

<sup>45</sup> In this regard, see IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, par. 623; IACHR, [CIDH llama a República Dominicana a cumplir sus obligaciones en materia del derecho a la nacionalidad y del debido proceso migratorio](#). [‘IACHR Calls on the Dominican Republic to Meet its Obligations regarding the Right to Nationality and Due Process in Immigration’], August 27, 2015;

<sup>46</sup> IACHR, Situation of Human Rights in the Dominican Republic, OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, par. 629.

PNRE beneficiaries to be able to change their migration status. However, as of the date of approval of this report, said Protocol had not been published and, therefore, the affected persons are unaware of what procedure to pursue and how to prepare for this moment which will come in mid 2018.

58. Civil society organizations also apprised the IACHR that during the second half of 2016, the International Organization for Migration (IOM) held several round table discussions<sup>47</sup> about labor-motivated migration, in which several different stakeholders of society took part. These discussions led to the drafting of a Barriers and Proposal Matrix for a Solution to Access to a Migratory Category of the PNRE Population, which was submitted to the Dominican authorities and addressed the following issues: renewal of temporary residency, renewal of permanent residency, renewal of definite residency, and extension of the categories of temporary worker, student and border inhabitants.<sup>48</sup> The document also included proposals for solutions, such as drafting a resolution to be based on Migration Law 285-04, establishing requirements for the assignation, change or renewal of migratory categories or subcategories for the beneficiary population of PNRE; and drafting a law clearly and precisely establishing a special regime for assignment procedure, change and renewal of migratory categories and subcategories tailored to the special characteristics of the beneficiary population of PNRE.<sup>49</sup> Lastly, the document incorporated the difficulties faced by the population, which should be addressed through legislative and administrative mechanisms; difficulties to prove an employment tie in writing; providing an insurance policy for excessively costly repatriation; passport requirement; the high cost of renewal fees; requirement of medical examination for migrants; requirement of photos and other things that could be solved with information from the Plan; and, economic costs.<sup>50</sup>

59. With regard to the foregoing, in its observations on the draft of the instant Report, the Dominican State asserted that:<sup>51</sup>

In fact, the State has met periodically and very closely with the IOM on this topic and has provided a response to most of the concerns raised following the consultation process [...] the State wishes to report that for implementation of the Protocol at issue migrants will not be required to have an insurance policy, nor will it be essential to have a valid passport; nor will there be any charge of fees to renew or change category, nor will it be required to surrender documents that were deposited at the initial implementation of the Plan.

60. With respect to the National Regularization Plan for Foreigners (PNRE), the Dominican State reported to the IACHR that in 2017 migration regularization cards continued to be delivered, totaling 229,000.<sup>52</sup> The State further reported about a total of 249,847 beneficiaries of PNRE, 244,363 of which are Haitian.<sup>53</sup> Regarding the immigration categories granted to beneficiaries based on General Migration Law 285-04 and its companion implementing legislation, Regulation 631-11, the State reported that the category of resident was granted to 7,834 and non-resident to 252,414 individuals.<sup>54</sup> The category of resident granted an Identity Card and a Regularization Card to beneficiaries. The category of non-resident received only a Regularization Card. The State also reported that in both instances beneficiaries are able to apply for registration in the Treasury of Social Security (TSS) and for their Drivers License.<sup>55</sup>

<sup>47</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>48</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>49</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>50</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>51</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pgs. 6 and 7.

<sup>52</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>53</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 11; Dominican Republic, *Estadísticas Generales de Expedientes Aprobados*, ['General Statistics on Approved Case Files'], 2017.

<sup>54</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 11.

<sup>55</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 11.

61. The IACHR also received information about the significance that publication of the 2018 National Immigration Survey (ENI) will have, because it will include for the first time ever information about the National Regularization Plan and about the second generation of people born of Haitian immigrants in the Dominican Republic, thus complementing the information from the 2012 ENI, which included information about the first generation.

62. As for training of state agents, the Dominican State reported to the IACHR about special training programs being offered by the General Directorate of Migration to migration control staff, designed to ensure that they act with respect for human rights. For this purpose, the General Directorate of Migration has created a Human Rights Commission, in charge of drafting internal protocols, periodic review of mechanisms to sanction discriminatory conduct of public officials and private individuals, follow-up on the complaints it receives, creating awareness raising programs on equality and holding training workshops, with special focus on staff engaged in migration interdiction.<sup>56</sup>

63. Additionally, with regard to training of states agents, the IACHR notes that on May 18 and 19, 2017, in the context of the training program organized by the National Migration Institute (INM), the General Directorate of Migration and the Organization of American States (OAS), staff attorneys of the IACHR Office of the Rapporteur on the Rights of Migrants conducted training on the subject of norms and standards with regard to the human rights of migrants, refugees, stateless persons, victims of trafficking in persons and internally displaced persons, for agents of the General Directorate of Migration and CESFRONT in Santo Domingo and Dajabon, respectively.

64. Separately, the Union of Sugarcane Workers reported to the IACHR during its visit about the situation of sugarcane workers, which is characterized by several obstacles and a failure to pay pensions and of access to health services. In this regard, they mentioned that more than 5,000 sugarcane workers applied for a pension with the Dominican Institute of Social Security and even though they submitted their proof of payment and payment stubs, they were denied a pension. Moreover, this also affects their family members, whose applications for permanent residency are denied.<sup>57</sup>

65. According to information submitted during the IACHR's visit, the migrant sugarcane worker population has held 308 demonstrations, rallies and watches to demand their labor rights, which led to the granting of 2,709 permanent residencies to their family members and granting of 2,709 cards to 2,709 sugarcane workers, who are now collecting the pension. At that time, the workers showed their cards and the IACHR saw for itself that the text 'Non-voting foreigner' appears on these cards. Another difficulty they raised was the inability to pass on inheritances to their family members when the sugarcane workers pass away. On this score, they asked the IACHR to call for their labor contracts and the benefits they are entitled to under these contracts and Dominican law to be fully honored. Lastly, the sugar cane cutters mentioned that as of the present date they are seeking an expansion of permanent residencies and cards for sugar cane cutters, who are still awaiting a response to their applications.<sup>58</sup>

66. In addressing immigration roundups or raid operations, as well as the use of migration detention, civil society organization representatives underscored that individuals are arrested at first, and then transferred to detention facilities, where their documentation is verified and in most instances, even when the person does have documentation, he or she is expelled or deported to Haiti. The IACHR heard about the lack of records of the persons detained at the migration detention facilities and, therefore, the detainees are mostly held incommunicado. Civil society also claimed that in most instances the migrants have no

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<sup>56</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 3.

<sup>57</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>58</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

opportunity to gather their belongings and are arbitrarily deprived of them, or are deprived of the ability to be paid their wages that are owed to them for past work performed.<sup>59</sup>

67. Civil society organizations also provided information to the IACHR about the expulsions and deportations to which migrants are subjected in the Dominican Republic. In this regard, they mentioned that collective expulsions and mass deportations continue to be a recurring practice by Dominican authorities and that in 2017, these processes escalated, especially at military checkpoints and toll plazas, markets, university campuses, among other locations. They added that the processes of expulsions and deportations lack due process protection and that cases of raids in areas and neighborhoods frequented by the migrant population, especially from Haiti, continue to be reported.<sup>60</sup>

68. Civil society organizations reported that from January 1 to July 31, 2017, a total of 26,779 people had been deported, a figure slightly higher than the annual average of the past ten years, which was around 26,000 deportations per year. As of August, September and October 2017, the total monthly number of deportations has been 4,624, 4,504 and 6,061, respectively. Based on these figures, civil society organization estimate that, should deportations continue at this pace, by the end of 2017 the number of persons deported could reach nearly 52,000 individuals, the highest number of deportations ever recorded over the past 10 years, also doubling the annual average yearly number of deportations over the past decade. In view of the foregoing, civil society organizations asked the IACHR to urge the Dominican State to respect and ensure the right to due process and judicial protection for persons subject to expulsion and/or deportation proceedings.<sup>61</sup>

69. On the subject of expulsions and deportations, the Dominican State reported that pursuant to Law 285-04 of August 15, 2004, the General Migration Law, Regulation 631 for the Implementation of the General Migration Law, the 1999 Repatriation Protocol, entered into between the Dominican Republic and Haiti and Action Protocol 002 of the General Directorate of Migration —instruments regulating the procedures for migratory interdiction and deportations as well as the procedure for detention, trial and deportation of foreign nationals with irregular migration status—, the migration authority is only empowered to use these procedures in the event that other remedies provided by law are deemed insufficient. It also reported that in this instance, no proceedings will be instituted until such time as proper conditions can be ensured for the deportation of the foreigner and within a reasonable time.<sup>62</sup> Lastly, the State explained that the General Directorate of Migration ensures that migrants are only expelled based on a decision of the competent authority in the context of the procedure established in the Regulations.

70. With regard to measures it adopted to prevent deportation or expulsion of the non-beneficiary population of Law 169-14 born in the Dominican Republic, the State reported that any migrant who is found to have an irregular status, in principle and until such time as his or her true migration status is confirmed, the General Directorate of Migration (DGM) provides him or her with a papers which cover a provisional stay and provides protection from wrongful deportation.<sup>63</sup>

71. The IACHR welcomes the statement issued by the Dominican State in its observations on the instant Report, reaffirming its commitment to continue with implementation of public policies associated with improvement of living conditions of migrants in the Dominican Republic, as explained below:<sup>64</sup>

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<sup>59</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>60</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>61</sup> IACHR, Working Visit to the Dominican Republic, Meetings with Civil Society, November 2017. Internal Archive.

<sup>62</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 7.

<sup>63</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR's working visit, 2017, pg. 7.

<sup>64</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pg. 7.

The State reaffirms its commitment to continue to implement public policies associated with improving the living conditions of migrants in the context of the National Regularization Plan for Foreigners, and deems it appropriate to reiterate that it is a central objective of this administration of government for the highest number of foreigners possible, of those who have applied to regularize their migratory status, obtain it in keeping with the laws in force and this way be able to stabilize their permanent residency on national territory.

72. In this regard, the IACHR reiterates that in accordance with its international human rights obligations, the Dominican State should take all necessary measures to ensure that racial profiling is not used in the context of immigration raids and that identity papers are not confiscated and/or destroyed based on discriminatory criteria.<sup>65</sup> The IACHR reiterates that, in accordance with international norms and standards, the minimum protections of the rights of migrants subject to proceedings that could lead to their deportation must be respected, such as: i) the right to be heard by a competent authority in the context of a deportation procedure and to have an adequate opportunity to exercise their right to defense; ii) the right to an interpreter and translator; iii) the right to legal representation iv) the right to consular assistance from the time of their detention; v) the right to receive notification of the decision ordering their deportation; vi) the right of access to an effective remedy to challenge the decision to deport; vii) the right to challenge the decision to deport; and viii) the right to a stay of execution of the decision to deport while remedies are pursued.<sup>66</sup>

73. The Commission also notes that the Dominican Republic and Haiti entered into a “Protocol of Understanding regarding Mechanisms of Repatriation” in 1999. The Commission issues an appeal for both States to respect the commitments undertaken within said Protocol and, within the framework and implementation thereof, to respect the international human rights obligations contracted by the Dominican State.

74. The IACHR reiterates that in accordance with the provisions of Article 22.5 of the American Convention on Human Rights, no one can be expelled from the territory of the State of which he is a national or be deprived of the right to enter it. In keeping with this Inter-American provision, Article 12.4 of the International Covenant on Civil and Political Rights establishes that no one shall be arbitrarily deprived of the right to enter his own country. In addition to the foregoing, General Comment 27 whereby the United Nations Human Rights Committee interprets Article 12 of the International Covenant on Civil and Political Rights has interpreted “enter” as the right to remain in the territory. In this regard, General Comment 27 explains that:

“The scope of “his own country” is broader than the concept “country of his nationality.” It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien. This would be the case, for example, of nationals of a country who have there been stripped of their nationality in violation of international law, and of individuals whose country of nationality has been incorporated in or transferred to another national entity, whose nationality is being denied them.

<sup>65</sup> IACHR, Movilidad Humana: Estándares Interamericanos, [‘Human Mobility: Inter-American Standards’], OEA/Ser.L/V/II, Doc. 46/15, December 31, 2015, paras. 204-205.

<sup>66</sup> In this regard, see, IACHR, Movilidad Humana: Estándares Interamericanos, [‘Human Mobility: Inter-American Standards’], OEA/Ser.L/V/II, Doc. 46/15, December 31, 2015, paras. 300-334 (“Minimum due process guarantees in immigration proceedings”); Also see, IA Court of HR. Case of Expelled Dominicans and Haitians v. Dominican Republic. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 28, 2014. Series C No. 282, par. 356; IACHR, Report on Immigration in the United States: Detentions and Due Process. OEA/Ser.L/V/II, Doc. 78/10, December 30, 2010, par. 57; IACHR, CIDH llama a República Dominicana a cumplir sus obligaciones en materia del derecho a la nacionalidad y del debido proceso migratorio. [IACHR Calls on the Dominican Republic to Meet its Obligations regarding the Right to Nationality and Due Process in Immigration], August 27, 2015.

[...] In no case may a person be arbitrarily deprived of the right to enter his or her own country. The reference to the concept of arbitrariness in this context is intended to emphasize that it applies to all State action, legislative, administrative and judicial; it guarantees that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. The Committee considers that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable. A State party must not, by stripping a person of nationality or by expelling an individual to a third country..."

75. In accordance with the foregoing, the IACHR considers that persons who have been arbitrarily deprived of their nationality should continue on the territory in the State in which they are located, inasmuch as the right also protects them from expulsion. This is applicable to the persons affected by Judgment TC/0168/13, whether or not they once had Dominican birth certificates, or they were registered in any of the mechanisms established by Law 169-14. The persons continue to enjoy the right to enter and reside in the Dominican Republic and to be protected against expulsion, despite being arbitrarily deprived of their nationality. In the event of arbitrary expulsion, the persons also have the right to re-enter Dominican territory.

76. Moreover, the Inter-American Court of Human Rights has established in *Advisory Opinion 21-14* on the rights and guarantees for children in the context of migration that the right to enter a country takes on greater significance when the right to family or the best interests of the children are also imperiled. In such a case, restrictions on entry or permanence in a country may be unreasonable or excessive in relation to the advantages obtained by forcing the individuals to leave the territory.<sup>67</sup>

77. Given the possibility that parents or relatives of people who are entitled to Dominican nationality may be deported, the IACHR believes that any proceedings that could result in the deportation of these individuals must take into consideration the best interests of the immigrants' children and the potential deportee's right to a family life, in keeping with human rights norms and standards.<sup>68</sup>

**C. Right to equality and non-discrimination: Intolerance, threats and incitement to violence against persons who defend the right to nationality of Dominicans of Haitian descent and non-discrimination**

- Officially and publically recognize the existence of racism and racial discrimination in the Dominican Republic and its historic, social and cultural impact, and strongly express its political will to combat them. Policies and legal strategies should be adopted to end the manifestations and expressions of racism and structural racial discrimination.
- Urgently take measures aimed at overcoming the situation of structural discrimination affecting the population of African descent, in particular, of Haitian origin.
- Take affirmative actions to eradicate racial and ethnic discrimination and effectively ensure the human rights of Dominicans of African descent, especially the Dominican population of Haitian descent. For this purpose, there must be adequate and disaggregated information and sufficient and specific human and financial resources must be targeted not only to help to breakdown racial prejudice and stereotypes but also to improve the living conditions of Afro-descendants in terms of health, housing, education and employment, placing particular emphasis on the situation of inter-sectorial discrimination endured by women of African descent.

<sup>67</sup> IA Court of HR. OC-21/14. Par. 280.

<sup>68</sup> In this regard, see, IACHR, [CIDH llama a República Dominicana a cumplir sus obligaciones en materia del derecho a la nacionalidad y del debido proceso migratorio](#). [IACHR Calls on the Dominican Republic to Meet its Obligations regarding the Right to Nationality and Due Process in Immigration], August 27, 2015.

- Approve comprehensive laws to combat racism, racial discrimination and xenophobia and to protect and promote the rights of minorities. The government should rigorously enforce these laws and take stern measures to prevent discriminatory practices.
- Take all measures necessary to ensure that its policies and laws on the subject of nationality and migration identify and eradicate the use of racial profiling as grounds for denial of Dominican nationality to persons born in the territory of the Dominican Republic, or grounds for detention or arbitrary expulsion.
- Take positive measures to eliminate racial discrimination and ensure that Dominicans of Haitian descent, Afro-Dominicans and Haitian migrants have equal access to basic services as compared to the rest of the population. In particular, take positive steps toward guaranteeing effective access to services of health, maternal and reproductive health, housing, education and employment.
- Empower the Ombudsman to act in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (“Paris Principles”), and thus have the authority and independence to fully combat all forms of discrimination based on race, ethnicity, nationality, sex, age, disability, migration status, sexual orientation and gender identity and any other condition.
- Urge the communication media to launch a wide-ranging and institutional process to evaluate its function in shaping perceptions, image and prejudices and promote its important role in combating racism and xenophobia and in promoting tolerance and peaceful coexistence.
- Adopt and implement every appropriate measure to combat racial prejudice in society and promote understanding and tolerance between individuals and groups who have different traits from each other, either because of their race, color, descent or national or ethnic origin; including, but not limited to, training programs and ongoing and permanent education campaigns to promote equality and non-discrimination.
- Take measures to prevent violence against journalists and human rights defenders, and other persons, who have voiced their opposition to Judgment TC/0168/13 of the Constitutional Court, including public condemnation of all acts of threats and intimidation.
- Urge authorities to refrain from making public statements or public campaigns that could incite violence against persons based on their opinions. In particular, avoid statements that could stigmatize or place at higher risk journalists, media outlets, human rights defenders and persons in a situation of vulnerability.

78. In its report on the Situation of Human Rights in the Dominican Republic and subsequently in section B of Chapter IV of the 2016 Annual Report,<sup>69</sup> the IACHR expressed deep concern over acts of intolerance, threats and incitement to violence against journalists, academicians, attorneys, politicians, legislators, human rights defenders, public figures and even high-level public servants, who took a critical stand against Judgment TC/0168/13 of the Constitutional Court. These individuals were branded as “traitors against the nation,” they were threatened and public calls were issued to “kill the traitors.” These acts took place amidst an alarming racist discourse and in the absence of clear rejection by the authorities of the country of such statements.

79. On Saturday November 18, 2017, Dominicans of Haitian descent participated in a rally in front of the Parque Independencia demanding restoration of the nationality, of which Judgment TC/0168/13 arbitrarily deprived them. In videos circulating via the media and social networks, cries were heard from nationalist groups in disapproval of the demands of the demonstrators, such as: “go back to Haiti,” “get out,” “death to traitors.” The former head of the General Directorate of Migration, José Ricardo Taveras, denounced that the recent marches were intended to pave the way for the arrival of the IACHR, and, therefore, asked the Dominican people to support the Constitutional Court and resist “not only the visit of the smug little men of the IACHR, but the local agents that serve them as pawns of the international community in their purpose of washing their hands of the Haitian drama.”

<sup>69</sup> IACHR, 2016 Annual Report, Chapter IV. Development of Human Rights in the Region, B. República Dominicana, [Dominican Republic], pars. 90-101.

80. As for the measures taken to strengthen the mechanisms to ensure the lives and safety of human rights defenders, as well as the free exercise of their rights, the Dominican State reported that the Office of the Attorney General of the Republic has a Human Rights Unit in charge of following-up on cases of this nature. Only three individuals, in their capacity as human rights defenders, have formally filed complaints with this office, which are currently under investigation, inasmuch as the complainants have not individually identified their respective assailants.<sup>70</sup>

81. With respect to non-discrimination and the right to equality, the Dominican State reported on the measures taken to raise awareness of the Dominican population through the education system to promote equality, non-discrimination and multiculturalism, including raising the awareness of institutions and the population. The first measure covers protection of the right to education of all persons without discrimination based on race, sex, creed, economic and social situation or any other type, as provided for in Article 4 of the Constitution and Law 66-97.<sup>71</sup> According to information provided by the State, the 2014 – 2030 National Pact for Reform of Dominican Education and the Multiannual Plan are public policies that have been designed to reach these goals. Institutional sensitivity training also includes ongoing education of teachers from a perspective of gender, inclusive education, adult and youth education, among other approaches. The Dominican State reported on eight diploma, college degree, masters degree programs it offers in order to ensure training of the teachers and technical experts of the public education system.<sup>72</sup> The efforts of sensitivity training of the population encompasses the general population and offers a curriculum covering civil and political rights, economic, social, cultural and environmental rights and human rights, as well as the topics of citizen ethics and democracy-building.<sup>73</sup>

82. Furthermore, the Dominican State reported that under Decree Number 408-04, of May 5, 2004, the Inter-Institutional Commission for Human Rights was created, which encompasses most of the institutions of the Executive Branch of government and is in charge of ongoing training of public officials on the subject of human rights, including the topic of equality and non-discrimination.<sup>74</sup>

83. Concerning the approval of the General Law of Equality and Non-Discrimination, the Dominican State reported that, with the coordination of the National Council for HIV and AIDS (CONAVIHSIDA), a proposed General Law of Equality and Non-Discrimination is in the process of being drafted and is currently in the phase of review to ensure consistency with the Constitution and the rest of the Dominican body of law, before it is formally introduced before the Congress of the Republic.<sup>75</sup>

84. As to the foregoing, in its observations on the instant Report, the Dominican State reiterated its “commitment to confront discrimination in all its forms and, for this purpose, it has engaged in an inter-sectorial discussion about special legislation to frame and operationalize the safeguard of equality in general and gender equality in particular.” It also noted, “that the public policies of the Dominican State must be and are informed by the principles of equality and non-discrimination, which the Dominican Constitution clearly and categorically establishes, on a foundation of respect for human dignity.”<sup>76</sup>

85. On this topic, the IACHR underscores the importance of having legal frameworks in place to ensure the right to equality and non-discrimination, especially in contexts where structural discrimination

<sup>70</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 12.

<sup>71</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 1.

<sup>72</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 2.

<sup>73</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 2.

<sup>74</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 3.

<sup>75</sup> Dominican Republic, Response to Questionnaire in preparation for the IACHR’s working visit, 2017, pg. 1.

<sup>76</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pgs. 7 and 8.

affects persons because of their race and ethnic origin.<sup>77</sup> In line with its recommendations, the IACHR reiterates its interest in the Dominican State having a General Law of Equality and Non-Discrimination and issues an appeal to promote the discussion and approval thereof in the short term.<sup>78</sup> The IACHR welcomes the efforts undertaken in the process of consultation on a draft law of equality and non-discrimination, which was underway last year.<sup>79</sup> In this regard, the Commission reiterates its appeal to prioritize discussion on the draft law and places itself at the disposal of the authorities of the State to provide any specialized technical assistance that may be required to enact and effectively implement this law.<sup>80</sup>

86. The Commission recalls that on prior occasions, it has stressed the importance for the Dominican Republic to enact comprehensive legislation to prohibit discrimination based on race, color, national or ethnic lineage or origin, and that to ensure that legal and policy measures regarding migration do not discriminate for reasons of race, color, national origin or language.<sup>81</sup> In this regard, it recalls that the mere enactment of laws without any effect does not ensure the full enjoyment and exercise of rights, but laws must be effective, that is, they must yield results or responses required to protect the rights enshrined in the American Convention on Human Rights and other Inter-American human rights instruments ratified by the Dominican State.<sup>82</sup>

#### **D. Gender equality, women's sexual and reproductive rights, adolescents and children**

- Align the new Criminal Code with its Inter-American and international human rights obligations with respect to women and girls and, in particular, their right to life, personal integrity, to non-discrimination and to a life free of every kind of violence.
- Approve legislation aimed at ensuring the effective exercise of women's sexual and reproductive rights, under the premise that denial of voluntary interruption of pregnancy, in particular circumstances, constitutes a violation of the fundamental rights of women, female adolescents and girls.

87. As for the rights of women, for some years the Inter-American Commission has been closely monitoring the development of provisions relating to the regulation of voluntary interruption of pregnancy in the Dominican Republic.<sup>83</sup> The Commission learned that on May 31, 2017, the Senate approved in a single reading the Dominican Criminal Code, which maintains criminalization of abortion in all circumstances. The context of this decision dates back to the overhaul of the 1884 Criminal Code (revised in 2010). The new Criminal Code, approved in 2014, made abortion legal when the life of the woman was in jeopardy, when the pregnancy was the result of rape or incest, and fetal deformities incompatible with extra-uterine life.<sup>84</sup>

<sup>77</sup> Cfr. IACHR, Situación de los Derechos Humanos en República Dominicana, [‘Situation of Human Rights in the Dominican Republic’], OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 357.

<sup>78</sup> CIDH, Situación de los Derechos Humanos en República Dominicana, [‘Situation of Human Rights in the Dominican Republic’], OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 387.

<sup>79</sup> IACHR, 2016 Annual Report, Capítulo IV.B. República Dominicana, [Chapter IV.B. Dominican Republic], par. 72.

<sup>80</sup> IACHR, 2016 Annual Report, Capítulo IV.B. República Dominicana, [Chapter IV.B. Dominican Republic], par. 72.

<sup>81</sup> IACHR, Situación de los Derechos Humanos en República Dominicana, [‘Situation of Human Rights in the Dominican Republic’], OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 387.

<sup>82</sup> IACHR, Situación de los Derechos Humanos en República Dominicana, [‘Situation of Human Rights in the Dominican Republic’], OEA/Ser.L/V/II, Doc. 45/15, December 31, 2015, par. 386.

<sup>83</sup> IACHR, Informe Anual 2016, [2016 Annual Report] Chapter IV-B on the Dominican Republic, pars. 126 et seq.

<sup>84</sup> National Congress of the Dominican Republic, Ley No. 550-14 que establece el Código Penal de la República Dominicana, [‘Law No. 550-14 establishing the Criminal Code of the Dominican Republic’], December 16, 2014 - SECTION III – “Abortion,” Articles 107 to 110, December 4, 2015.

However, in 2015, the Constitutional Court<sup>85</sup> granted appeals filed against the articles regulating abortion, on the grounds that their nature runs counter to the right to life, and found unconstitutional the Criminal Code enacted under Law 550-14.

88. The new proposed Criminal Code was approved in December 2016 by both Chambers, maintaining criminalization of abortion in every circumstance. On December 19, 2016, the President of the Republic, Danilo Medina, made an observation to the text and returned it to the Senate for revision of the provisions relating to abortion and recommended introducing the three previously approved mitigating circumstances.<sup>86</sup> Likewise, civil society organizations<sup>87</sup> and United Nations mechanisms<sup>88</sup> expressed their concern over the criminalization of abortion in all circumstances, calling upon the Senate to approve the three mitigating circumstances. After rejecting the recommendations of the Executive Branch, the Senate definitively approved the New Criminal Code, keeping in place the criminalization of abortion in all circumstances.<sup>89</sup> The Dominican Criminal Code criminalizes abortion with a punishment of up to a 3-year prison term for the woman, only exonerating her of responsibility when all technical and scientific means have been exhausted to save both lives. This code also establishes prison terms of 4 to 10 years for any doctor, nurse, pharmacists, or other professionals, who performs or assists in an abortion.

89. In following up on its recommendations regarding women's sexual and reproductive rights in the Dominican Republic, the IACHR requested information from the State as to the legal provisions it adopted to align the new Criminal Code and, in particular, provisions pertaining to abortion, with its Inter-American and international obligations on the right to personal integrity, health and women's and girls' right to life. In response, the State reported to the Commission that the Executive Branch and its offices have made it a priority since 2014 to amend the Criminal Code in order to introduce the decriminalization of abortion, specifically, in the three circumstances of rape or incest, danger to the life of the mother and a congenital fetal anomaly, that is incompatible with life.<sup>90</sup> In addition to this, in its observations on the instant Report, the State noted that the executive branch has vetoed on two occasions the new Criminal Code approved by the Legislative Chambers, so that the three grounds for interruption of pregnancy are written into it, which has given rise to a broad discussion between different segments of Dominican society from their own points of view on this issue.<sup>91</sup> Accordingly, the State reported that it had approved laws in the national sphere, which are consistent with Inter-American and international obligations on the right to personal integrity, health, the life of women and girls, such as Law 24-27, which makes violence against women and intra-family violence crimes;<sup>92</sup> Law 137-03 on Migrant Smuggling and Human Trafficking,<sup>93</sup> Law 136-03 creating the Code for the Protection of Children and Adolescents<sup>94</sup> and Law 88-03 creating Residential Care Facilities and Shelters.<sup>95</sup>

<sup>85</sup> Center for Reproductive Rights, [Tribunal Constitucional de República Dominicana emite decisión regresiva en relación a la despenalización del aborto](#), ['Constitutional Court of the Dominican Republic issues regressive decision regarding decriminalization of abortion'], December 4, 2015.

<sup>86</sup> Office of the President of the Republic, [Carta del Presidente Danilo Medina al Presidente del Senado observando el Código Penal](#), ['Letter of President Danilo Medina to the President of the Senate noting the Criminal Code'], December 19, 2016.

<sup>87</sup> Amnesty International, [Senado enfrenta oportunidad de oro para despenalizar el aborto](#), ['Senate faces golden opportunity to decriminalize abortion'], May 31, 2017.

<sup>88</sup> OUNHCHR, [República Dominicana: Experta/os de la ONU instan legisladores a respaldar la postura del Presidente Medina sobre el aborto](#), ['Dominican Republic: UN experts urge legislators to back position of President Medina regarding abortion'], January 25, 2017.

<sup>89</sup> Amnesty International, [República Dominicana: Voto contra la despenalización del aborto, una traición contra las mujeres](#), ['Dominican Republic: Vote against criminalization, betrayal against women'], June 1, 2017.

<sup>90</sup> Correspondence to the IACHR, Preparatory Questionnaire – Working visit of the Inter-American Commission on Human Rights to the Dominican Republic, MP-RD-OEA 1063-17, November 23, 2017.

<sup>91</sup> Dominican Republic, Observations on the Preliminary Draft of Chapter V, 2017, pgs. 7 and 8.

<sup>92</sup> State Secretariat for Women, [Ley 24-97 Que modifica el Código Penal Dominicano, sanciona la violencia contra la mujer, doméstica e intrafamiliar](#), ['Law 24-19 amending the Dominican Criminal Code, it punishes violence against women, domestic and intra-family violence'], January 27, 1997.

90. In the context of the working visit, the IACHR received information on the topic of women's sexual and reproductive rights in the country. At a meeting with the Minister of Health, the Commission was apprised of the efforts made by the Executive Branch to promote decriminalization in the three circumstances.<sup>96</sup> Likewise, the Minister of Health reported on several programs aimed at improving access for women to sexual and reproductive rights in the country, such as the creation of specialized health care facilities for young and adolescent girls; strengthening of sexual education programs starting in 2018; actions to make different contraception methods more widely available; and distribution programs of emergency oral contraception.<sup>97</sup>

91. For their part, during the IACHR visit, civil society organizations reported on the differential impact that the persistent prohibition of abortion has in the Dominican Republic. The Commission heard the worrisome testimony of Rosa Hernández, mother of Rosaura Almonte Hernández, also known as "Esperancita."<sup>98</sup> In her remarks, Mrs. Hernández reported about the case of her daughter, who was stricken with leukemia and pregnant, and did not get the necessary chemotherapy treatment because the embryo's life was given priority, and she was denied permission for interruption of pregnancy even when her own life was in jeopardy. As a consequence of the failure to receive treatment and maintaining pregnancy in such conditions of risk, *Esperancita* passed away on August 17, 2013. According to information received by the Commission, the family members did not receive any explanation for this case, which has yet to be investigated by the authorities.

92. According to the "Pregnancy Map," a tool created by the Ministry of Public Health and the National Office of Statistics with the support of the United Nations Population Fund (UNFPA), 26% of women treated in the nation's hospitals in 2016 were adolescents from 15 to 19 years of age.<sup>99</sup> In terms of maternal mortality, the Dominican Republic ranks fourth place in Latin America and the Caribbean.<sup>100</sup> As of July 16, 2017, 94 pregnant women had died of preventable causes, representing a sharp rise over the same period in the previous year when 82 cases of maternal deaths were recorded.<sup>101</sup> According to statistics from civil society organizations, it is estimated that approximately 35,000 abortions are performed each year in the country,<sup>102</sup> though this figure may actually be higher due to under-reporting a practice, which is kept out of sight and quiet for fear of social recrimination. In this regard, former Minister of Health, Alta Gracia Guzmán

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<sup>93</sup> State Secretariat for Women, Ley 137-03 Sobre Tráfico Ilícito de Migrantes y Trata de Personas, [Law 137-03 regarding Illicit Smuggling of Migrants and Trafficking in Persons'], August 7, 2003.

<sup>94</sup> CONANI, Ley No.136-03 Código para el Sistema de Protección y los Derechos Fundamentales de Niños, Niñas y Adolescentes, [Law No. 136-03 Code for the System of Protection and Fundamental Rights of Children and Adolescents'], June 26, 2013.

<sup>95</sup> State Secretariat for Women, Ley No. 88-03 que instituye las Casas de Acogida o Refugios, [Law No. 88-03 instituting Residential Care or Shelters'], May 1, 2003.

<sup>96</sup> IACHR, Press Release No. 194/17, CIDH realizó visita de trabajo a República Dominicana, [IACHR Carries Out Working Visit to Dominican Republic'], November 30, 2017.

<sup>97</sup> Information obtained during the working visit of the IACHR to the Dominican Republic, November 23 and 24, 2017.

<sup>98</sup> Information obtained during the meeting with civil society organizations held in Santo Domingo, on November 23, 2017, in the context of the IACHR's working visit to the Dominican Republic.

<sup>99</sup> National Office of Statistics, Datos De Niñas Y Adolescentes Embarazadas Atendidas en Hospitales en la República Dominicana, [Data on Pregnant Girls and Adolescents Treated in Hospitals in the Dominican Republic'], 2016.

<sup>100</sup> Listín Diario, República Dominicana ocupa cuarto lugar de la región en mortalidad materna, [Dominican Republic ranks fourth in the region for maternal mortality'], August 10, 2017.

<sup>101</sup> Listín Diario, En el país la mayoría de muertes en embarazos son evitables, [Most deaths during pregnancy in the country are avoidable'], August 10, 2017.

<sup>102</sup> La opinión, Nuevo intento para despenalizar el aborto en República Dominicana, [New attempt to decriminalize abortion in the Dominican Republic'], August 23, 2017.

Marcelino, has noted that the practice of unsafe abortion is the cause of 10% of maternal deaths in the country.<sup>103</sup>

93. In this context, the IACHR reiterated the negative impact that restrictive laws criminalizing abortion in every circumstance have on the full enjoyment of women's sexual and reproductive rights,<sup>104</sup> especially on the rights of women of different races, ethnic origins, ages and economic positions, in particular Afro-descendants, young women and women in a situation of poverty. The IACHR stresses to the State the need observe the recommendations issued in the reports on *Access to maternal health services from a human rights perspective* and on *Access to information on reproductive material from a human rights perspective*, in examining and enforcing the laws, rules, regulations and public policies in force relating to reproductive health services in order to prevent direct or indirect discrimination against the affected women, female teenagers and girls.

94. The IACHR recalls that the States of the Region have the obligation to undertake a detailed review of all of their laws, rules and regulations, practices and public policies, whose wording or practical implementation may have discriminatory repercussions on women's access to all reproductive health services. Moreover, it is their duty to remove all *de jure* and *de facto* obstacles standing in the way of women's access to the maternal health required by them. These measures should take into account the situation of special risk, lack of protection and vulnerability of female adolescents and girls, as well as women in a particular situation of exclusion for reasons of race, ethnic origin, disability, geographic location, sexual orientation or socioeconomic status.

95. The IACHR reiterates that criminalization of abortion in all instances in the Dominican Republic is inconsistent with international standards on the subject matter, inasmuch as it is a legal provision that stands as an obstacle to adequate, timely and legal access of women to maternal health services, which only they require because of their sex and reproductive capacity.<sup>105</sup> Additionally, the IACHR urges the State to adopt legislation aimed at ensuring the effective exercise of women's sexual and reproductive rights, under the premise that denial of voluntary interruption of pregnancy in particular circumstances constitutes a violation of the fundamental rights of women, female adolescents and girls.<sup>106</sup>

### III. CONCLUSIONS

96. In a highly complex context with issues for which the solution requires long term processes, the IACHR recognizes that the Dominican State has begun to take several measures, driven mostly by the

<sup>103</sup> Ministry of Public Health, [Abortos inseguros provocan 10 por ciento de muertes maternas en la República Dominicana](#), [‘Unsafe abortions lead to 10% of maternal deaths in the Dominican Republic’], December 28, 2016.

<sup>104</sup> IACHR, [Estándares jurídicos vinculados a la igualdad de género y a los derechos de las mujeres en el sistema interamericano de derechos humanos, desarrollo y aplicación](#) [‘Legal Standards Linked to Gender Equality and Women’s Rights in the Inter-American Human Rights System: Development and Application’], (Update of 2011-2014), paragraphs 53-54; IACHR, Press Release No. 106/15, [Pronunciamiento de Expertos de las Naciones Unidas y de los mecanismos regionales. Hay que hacer más para proteger la salud y los derechos sexuales y reproductivos de las mujeres](#), [‘More Needs to be Done to Protect Women’s Sexual and Reproductive Health and Rights – UN and Regional Experts’], September 24, 2015; IACHR, Annex to Press Release issued at the conclusion of the 149<sup>th</sup> Session, “Reproductive rights and emergency contraception in the Americas,” hearing held on October 29, 2013; IACHR, Annex to Press Release issued at the conclusion of the 147<sup>th</sup> Session, “Human Rights and the criminalization of abortion in South America,” hearing held on March 15, 2013; IACHR, Annex to Press Release 134/12 issued at the conclusion of the 146<sup>th</sup> Session, “Access to information and right to sexual and reproductive health in the Americas,” hearing held on November 2, 2012; IACHR, Press Release 133/17, [CIDH saluda la aprobación de la ley de despenalización del aborto en tres causales en Chile](#), [‘IACHR Welcomes Approval of Law Decriminalizing Abortion on Three Grounds in Chile’], September 5, 2017.

<sup>105</sup> IACHR, Press Release No. 106/15, [Pronunciamiento de Expertos de las Naciones Unidas y de los mecanismos regionales. Hay que hacer más para proteger la salud y los derechos sexuales y reproductivos de las mujeres](#), [‘More Needs to be Done to Protect Women’s Sexual and Reproductive Health and Rights – UN and Regional Experts’], September 24, 2015.

<sup>106</sup> IACHR, Press Release No. 165/17, [CIDH exhorta a todos los Estados a adoptar medidas integrales e inmediatas para respetar y garantizar los derechos sexuales y reproductivos de las mujeres](#), [‘IACHR Urges All States to Adopt Comprehensive, Immediate Measures to Respect and Protect Women’s Sexual and Reproductive Rights’], October 23, 2017.

Executive Branch under President Danilo Medina, to provide a response to the situations raised throughout this chapter. In its Report on the Situation of Human Rights in the Dominican Republic, published in 2015, the IACHR extensively addressed the compatibility of such measures with obligations emanating from the American Convention on Human Rights and other applicable Inter-American instruments on the subject matter.

97. As was mentioned in its Report on the Situation of Human Rights in the Dominican Republic, approved in 2015, the Commission recognizes the importance of the actions taken by the Dominican State to provide a response to the situation of the people affected by Judgment TC/0168/13 of the Constitutional Court, in particular, with regard to the right to nationality, juridical personality and identity, as well as other related rights. In a difficult historical and political context, because of the polarization triggered by this situation between different sectors of the State and Dominican society, the Executive Branch, led by President Danilo Medina, has promoted the adoption of several measures in an effort to provide a solution to the grave living situation of thousands of people as a consequence of the inability to effectively enjoy their right to nationality and of the effects that it has on the exercise of other human rights.

98. With respect to Law 169-14, the Commission reaffirms the position it held in its Report on the Situation of Human Rights in the Dominican Republic, while recognizing again the importance in practical terms of the procedure established under the law to restore Dominican nationality to the children of non-resident foreign parents who were born on Dominican soil and who were registered in the books of the Civil Registry, that is to say, the Group A population. As for individuals born on Dominican soil and pursuant to Dominican law are entitled to Dominican nationality, the IACHR reiterates its opposition to their being treated as foreigners in accordance with Law 169-14 for members of Group B, which is incompatible with the right to nationality set forth in Article 20 of the American Convention on Human Rights, as well as the standards developed by the Commission and the Inter-American Court.

99. In the current context, the IACHR notes that, despite the measures adopted by the Dominican State, there is still a high number of persons born in the Dominican Republic of Haitian descent, whose right to nationality has not been restored and, consequently, other human rights of theirs continue to be violated. In this regard, the IACHR notes that the main challenge with respect to Law 169-14 pertains to prompt and effective implementation thereof by all authorities. According to information received by the IACHR through different sources, more than 3 years after Law 169-14 came into effect, it still has not been successful at enabling every member of the Group A population to effectively enjoy the right to Dominican nationality through simple and free procedures; and there is no information available about whether the Group B population has been able to acquire Dominican nationality through naturalization. In this regard, the Commission believes that the Dominican State must carry out mass information campaigns to reach all individuals, who have yet to find a solution to ensure the effective enjoyment of their right to nationality. The Dominican State should also establish mechanisms for proactive identification of these individuals so that they are able to obtain their birth certificates or identity cards vouching for their Dominican nationality.

100. Based on its thorough analysis of the situation of Dominicans of Haitian descent and their right to nationality, identity, equality, non-discrimination, as well as other related rights and issues, as a group affected by Judgment TC/0168/13, the Commission urges the State to adopt the necessary measures to prevent Judgment TC/0168/13 from continuing to have legal effects; to fully restore the right to nationality of all persons affected by Judgment TC/0168/13; to repeal the provisions of Law 169-14, that consider as foreigners persons born in Dominican territory who are the children of foreigners with irregular immigration status; and, to take the necessary measures to end practices aimed at denying Dominican nationality to persons born in the territory based on the origin of their parents or ancestors, the immigration status of their parents; among other recommendations issued by the IACHR.

101. As has been noted on several opportunities in the past years, the IACHR recognizes and welcomes the efforts made by the Dominican State to provide documentation and regular immigration status

to foreigners who are in its territory in violation of its laws, especially through the adoption and implementation of its National Regularization Plan for Foreigners (PNRE).<sup>107</sup> The IACHR reiterates its appreciation for the actions taken by the Dominican State to regularize the immigration status of migrants in the country. According to official statistics, under this plan, 288,486 persons have been registered, 239,956 of which were granted regularization.<sup>108</sup> The IACHR reaffirms the importance of regularization of immigration status as well as enabling other channels for individuals persons to be able to immigrate in a regular, safe and orderly way, such as progressive expansion of visa liberalization, as well as rules to facilitate easy access visas and/or measures such as refugee resettlement, complementary protection, temporary protection, humanitarian visas, visitors visas, family reunification, work, residency, retirement and student visas, as well as private sponsorship programs. These are some of the principal measures that the Dominican State could implement to prevent human rights violations against migrants and their families and ensure effective enjoyment of their human rights.

102. With respect to the situation of women's rights, the IACHR received information about the persistence of the prohibition of abortion in every circumstance. The IACHR's recommendation to amend the Criminal Code has still not materialized into action by the State. The petition regarding this case was lodged with the IACHR this year. On this topic, the Minister of Women mentioned sexual health programs that will be implemented beginning next year in the schools of the country.

103. The Commission appreciates that over 2017 the Dominican State has been carrying out several actions aimed at engaging in talks with the IACHR to find solutions to the critical situations raised throughout this Chapter. Among these actions, the IACHR particularly notes the invitation extended by the Dominican Republic for the IACHR to gather information and follow up on the status of its recommendations in November 2017, as well as the meetings and the information received from the different authorities. The IACHR also welcomes the information submitted by the State in response to the request for information issued on November 7, 2017. In particular, the IACHR views as positive the interest and willingness shown by the Dominican State, through different authorities, to continue to work together with the Inter-American Commission through a "Working Group on Implementation of Human Rights Policies in the Dominican Republic" (*Mesa de Trabajo sobre Implementación de Políticas de Derechos Humanos en República Dominicana*). On December 1, 2017, the Permanent Mission of the Dominican Republic to the Organization of American States forwarded a note to the IACHR putting forward a proposal for the creation of the aforementioned working group. In response, the IACHR informed the Dominican State in a note of December 18, 2017 that it welcomed and accepted the creation of the working group. The text specifying the mandate and work methodology of the aforementioned working group between the Dominican State and the IACHR reads as follows:

#### **Working Group on Implementation of Human Rights Policies in the Dominican Republic**

In the framework of its ongoing constructive dialogue with the Inter-American Commission on Human Rights (IACHR) and of affirming its international commitments to the promotion and protection of human rights, the State of the Dominican Republic proposes a Working Group for topics of interest to the Inter-American system in accordance with State actions underway for development on the subject of acquisition of nationality and migration, policies to combat all forms of discrimination and policies on the women's rights and gender equality.

<sup>107</sup> In this regard, see IACHR, *Situación de los Derechos Humanos en República Dominicana*, OEA/Ser.L/V/II., Doc. 45/15, ['Situation of Human Rights in the Dominican Republic'], December 31, 2015, par. 623; IACHR, *CIDH llama a República Dominicana a cumplir sus obligaciones en materia del derecho a la nacionalidad y del debido proceso migratorio*. ['IACHR Calls on the Dominican Republic to Meet its Obligations regarding the Right to Nationality and Due Process in Immigration'], August 27, 2015.

<sup>108</sup> IACHR, *Situación de los Derechos Humanos en República Dominicana*, ['Situation of Human Rights in the Dominican Republic'], OEA/Ser.L/V/II., Doc. 45/15, December 31, 2015, par. 629.

The Group will be established in conjunction with the IACHR and is expected to function for a period of 12 months.

#### **A. Topics for the Working Group to Address**

1. Acquisition of Nationality and Migration (public policies post Judgment 168-13: Law 169-14 and the National Regularization Plan for Foreigners):
  - (1) State measures necessary to ensure access to documentation, on an equal basis and without discrimination and expand paths to effective access to the civil register.
  - (2) Measures to ensure birth registration, on an equal basis and without discrimination, including late registration of births.
  - (3) Full enforcement of Law 169-14, which brings the State in full compliance and measures to facilitate the means to guarantee effective access of the population to its documentation.
  - (4) Mechanisms to investigate and address potential cases of persons born from 2007 to 2010, who never had a birth record and did not apply through the statutory procedure, as well as the children of mixed couples.
  - (5) Measures to advance in the implementation of the National Regularization Plan for Foreigners and offer alternatives in order to gain access to immigrant registration and documentation.
  - (6) Measures to improve and ensure the security and safety of migrants.
  - (7) Actions to prevent unlawful expulsions and deportations.
2. Policies to Combat All Forms of Discrimination
  - (8) State measures to strengthen anti-discrimination efforts. In particular, laws and concrete programs specifically targeted to eradicate discrimination against vulnerable populations.
3. Women's Rights and Gender Equality
  - (9) Measures required to amend the regulatory and legal framework in order to ensure for all women, without discrimination, effective enjoyment of their sexual and reproductive rights;
  - (10) Concrete actions to ensure access, on an equal basis, to services of sexual and reproductive health, in particular for women and girls with disabilities, in a situation of vulnerability because of their socioeconomic origin, their race or ethnicity, for their sexual orientation, gender identity, their immigration status and/or for their geographic location.
  - (11) Programs aimed at achieving universal coverage, on an equal basis, of the health care system for gestating women and women in reproductive age—from 15 to 49 years old.
  - (12) Measures to strengthen the gender perspective in the country's criminal justice system, including the training of judges and justice operators, through an inter-institutional approach with the relevant entities of the State to contribute to combating impunity for violence against women.

#### **B. Activities and Work Methodology of the Group**

1. The Group will meet twice a year during the period of its operation, once in Santo Domingo and once in Washington, D.C., with the participation of representatives of the State and the IACHR. During the life of the Group, spaces will be arranged for meetings with the participation of civil society organizations to learn about progress or new situations that arise requiring a State response.
2. At the meetings, the IACHR will be represented by the country rapporteur commissioner and/or by the corresponding thematic rapporteur commissioner, along with the team of the Executive Secretariat.
3. After each working meeting, the IACHR will forward a private note to the State with observations on progress in the discussions of the Group, as technical assistance.
4. At end of the period of operation of the Working Group, the IACHR will publish a Final Report.

104. The Commission finds that the proposal put forward to the IACHR by the Dominican State to continue to work jointly on following up on its recommendations, through the creation of a Working Group that will make it possible to follow up periodically on them over the course of 2018, constitutes an expression of the State's interest in overcoming serious omissions in its response to the recommendations made by the Commission, and updates information on Law 169-14 and the National Regularization Plan for Foreigners.

105. Additionally, the creation of the Working Group is one of the measures that could in the long term, gradually help to overcome the circumstances that gave rise to the inclusion of the Dominican Republic in Chapter IV B of its 2016 Annual Report. Therefore, based on Article 59.9 of its Rules of Procedure, the IACHR decided to include the Dominican Republic in Chapter V of its 2017 Annual Report and gather information about compliance with the recommendations issued in its report on the "Situation of Human Rights in the Dominican Republic," as well as in Chapter IV of its 2016 Annual Report.

106. The Inter-American Commission reiterates its commitment to work together with the Dominican State to find solutions to the problems identified herein. The Commission urges the State to maintain this attitude of openness, and to implement the recommendations and reparations issued by the Commission and the Inter-American Court, in order to ensure that the existing legal framework and the application thereof by Dominican authorities ensure effective enjoyment of the human rights of all persons in the Dominican Republic in accordance with its international human rights obligations. Within the framework of its mandate to provide technical assistance to the Member States of the Organization of American States, the IACHR reaffirms its interest in working together with the Dominican State to attain solutions that ensure the effective enjoyment of the human rights of all persons in the Dominican Republic.