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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email [Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca](mailto:Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca).

20 August 2014

**DOM104956.E**

Dominican Republic: Whether a person can obtain citizenship if one parent has Dominican citizenship that is not affected by the 2004 General Law on Migration, including requirements and procedures; documents required to prove that the parent is not retroactively affected by the 2004 law

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

### **1. Acquiring Citizenship**

#### **1.1 Constitution**

Chapter V of the Constitution of the Dominican Republic of 2010 defines who is considered a Dominican citizen (Dominican Republic 2010). Article 18 of the Constitution provides that Dominicans are:

1. The sons and daughters of a Dominican mother or father;
2. Those who enjoy the Dominican nationality before the entry into effect of this Constitution;
3. The persons born in [the] national territory, with the exception of the sons and daughters of foreign members of diplomatic and consular delegations, [and] of foreigners in transit or residing illegally in [the] Dominican territory. Any foreigner [masculine] or foreigner [feminine] defined as such in the Dominican laws is considered a person in transit;
4. Those born abroad, of Dominican father or mother, notwithstanding having acquired, by place of birth, a different nationality from [that of] their parents. Once having reached the age of eighteen years, they can express their will [voluntad], before the competent authority, to assume the double nationality or renounce one of them;
5. Those who contract matrimony with a Dominican [masculine] or Dominican [feminine], as long as opting for the nationality of his or her spouse and meet the requirements established by the law;
6. The direct descendants of Dominicans resident abroad;
7. Naturalized persons, in accordance with the conditions and formalities required by law. (ibid., Art. 18)

A copy of Chapter V is attached to this Response.

#### **1.2. Requirements to Obtain Dominican Citizenship**

The website of the Dominican Ministry of Interior and Police outlines the requirements to obtain Dominican citizenship in the following three categories:

**1.2.1 Children Born to Dominican Parents**

- Two recent photographs.
- An original copy of the child's birth certificate properly legalized and translated into Spanish by a legal translator and certified by the Attorney General (Procuraduría General de la República), if it is written in another language.
- A recent copy of the Dominican birth certificate of the father or the mother, and legalized by the Central Registry Office (Oficina Central del Estado Civil) (Dominican Republic n.d.c).

**1.2.2 Minor Children Born to Naturalized Dominican Parents**

- A letter addressed to the Ministry of Interior and Police and signed by both parents.
- Four recent photographs.
- An original copy of the child's birth certificate properly legalized and translated into Spanish by a legal translator and certified by the Attorney General, if it is written in another language.
- A recent copy of the birth certificate of the naturalized father or mother, and legalized by the Central Registry Office (Oficina Central del Estado Civil).
- The original copy of the citizenship certificate of the father or mother and issued by the Ministry of Interior and Police.
- A power of attorney from the other parent if the application is signed by one parent.
- A color photocopy of the first three pages of the applicant's passport.
- Two sets of copies of all the documents included in the application.
- A receipt of payment of 1,500 Dominican pesos (DOP) [approximately C\$37].
- The parent filing the application and the child concerned must attend an interview one week after submitting the application (ibid. n.d.d).

**1.2.3 Children of Legal Age Born to Naturalized Dominican Parents**

- A letter addressed to the Ministry of Interior and Police and signed by the applicant.
- Four recent photographs.
- An original copy of the child's birth certificate properly legalized and translated into Spanish by a legal translator certified by the Attorney General, if it is written in another language.
- Copy of the birth certificate of the naturalized father or mother, and legalized by the Central Registry Office (Oficina Central del Estado Civil).
- The original copy of the citizenship certificate of the naturalized father or mother which has been issued by the Ministry of Interior and Police.
- A police clearance check issued by the Attorney General (Procuraduría General de la República).
- A certification issued by the General Directorate for Migration which states that the applicant has been living in the Dominican Republic for more than six months.
- A copy of the current Provisional Residency permit (Residencia Provisional).
- An invoice issued by a nationwide newspaper to post a legal notice of citizenship.
- A colour copy of the national identity and elector's card of the naturalized parent.
- A colour copy of the first three pages of the applicant's passport.
- Four sets of copies of all the documents included in the application.
- A receipt of payment of 1,500 Dominican pesos (DOP) [approximately C\$37].
- A fee payment of 5,000 DOP [approximately C\$125] upon taking the oath of citizenship.
- A notarized document legalized by the Attorney General where the applicant declares that he or she would like to obtain Dominican citizenship.
- The applicant must attend an interview one week after submitting the application (ibid. n.d.e).

**1.3 Obstacles to Obtaining Citizenship**

In a telephone interview with the Research Directorate, a representative and program officer of Open Society Justice Initiative (OSJI) [1] who is based in the Dominican Republic indicated that,

[translation]

[i]n theory, any child born to a Dominican parent is considered a Dominican citizen. However, in practice, when the father is Dominican and the mother is Haitian, it is difficult to process the Dominican citizenship for the child because the law requires the mother's documents to be presented in all the procedures to this effect and usually, Haitian mothers do not have valid Dominican documents - the required documents are not only identity documents but usually include legal residency documents as well. Also, Haitian mothers suffer discrimination when trying to obtain birth certificates for their children born in the Dominican Republic. On the other hand, if the mother is Dominican, there are no major problems to register the child and obtain Dominican citizenship for him or her. (OSF 6 Aug. 2014)

Similarly, Acento.com, a Santo Domingo-based newspaper, reports that representatives of several national and international NGOs, who discussed women's rights issues in the Dominican Republic at a 2014 session of the Organization of American States (OAS) (OAS n.d.), stated that

[translation]

[a]ccording to the information received, Dominican women of Haitian descent who come to a health care facility during labor are exposed to scrutiny of their medical documents by medical staff; their newborns are excluded from acquiring citizenship; they are the subject of questioning about their origin or that of their parents; or they are simply assumed not to be Dominican based on stereotypes about their accent, name and skin colour. (Acento.com 25 Mar. 2014)

Additional information on obtaining Dominican citizenship that is not affected by the 2004 General Law on Migration could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## **2. Law 285-04 of 2004 (General Migration Law of 2004)**

### **2.1 Provisions and Application of 2004 General Migration Law**

According to the Open Society Foundations (OSF), the 2004 General Migration Law classified "non-residents" as persons "in transit," therefore excluding non-residents from being guaranteed Dominican nationality (Apr. 2011). Article 36 of the General Migration Law provides that the following persons are considered "non-residents:"

[translation]

1. Tourists, who are understood to be foreigners who enter the country for purposes of leisure, recreation, rest or fun, with sufficient resources to do so.
2. Business persons who are visiting the country because of their business or commercial activities and to evaluate the establishment of such activities.
3. Crew members and personnel of a means of transport.
4. Passengers in transit to other destinations abroad.
5. Temporary workers, who are understood to be foreigners who enter the national territory to provide fixed-term labour services under contract, individually or as part of a contingent, [to] individuals or companies that run economic units for production [or] distribution of goods and services in the country, and in keeping with the assigned quotas and plans of the migratory policy drafted by the National Migration Council. For the purposes of this law, seasonal contracts in the sugar industry shall be considered to be fixed-term employment contracts.
6. Inhabitants of border communities who carry out non-labour activities devoted to small business operations, who are understood to be foreigners who reside in areas bordering the national territory and who enter the country within a perimeter of the border with due authorization to conduct legal and productive activities, returning daily to their place of residence.
7. Members of groups due to their sports, artistic, academic or related activities.
8. Foreigners entering the national territory with a resident's visa with the intention of completing the formalities for Dominican residence from within the country.
9. Students who enter the country to pursue studies as regular students in officially recognized establishments.

10. Non-Residents are considered persons in transit for the purposes of Article 11 of the Constitution of the Republic. (Dominican Republic 2004, Art. 36)

Sources report that the government started to apply the General Migration Law of 2004 retroactively (US 27 Feb. 2014, 21; Rivera Juaristi and Serrano Marte 25 July 2012, para. 16; Open Society Foundations April 2011). According to OSF, the Dominican government applied the law retroactively in order to take the nationality of Dominicans of Haitian descent away (ibid.).

## 2.2 Constitutional Court's Ruling TC/0168/13

On 23 September 2013, the Constitutional Tribunal (Tribunal Constitucional) of the Dominican Republic ruled that the following groups of people would be considered [translation] "foreigner[s] in-transit" and, therefore, children born to them would not be considered Dominicans:

- visitors: business, study, recreation;
- people in transit through Dominican territory;
- employees of airlines or vessels; and
- temporary foreign workers and their families (ibid. 23 Sept. 2013, 65).

The ruling also indicated that children born to foreigners who overstayed their visas in the Dominican Republic or entered the country irregularly will not be considered Dominican citizens (ibid. 23 Sept. 2013, 66). In the ruling, the Constitutional Court ordered the Central Electoral Board (Junta Central Electoral, JCE) [2] to audit all Dominican birth registries since 21 June 1929 to identify foreigners whose births were [translation] "irregularly registered" for not meeting the conditions outlined in the Constitution to grant Dominican citizenship based on *jus soli* (ibid., 99). Sources indicate that the Constitutional Tribunal ruling strips Dominicans of foreign descent of their Dominican citizenship and renders them stateless (AI 14 Nov. 2013; OAS 8 Oct. 2013; Al Jazeera America 4 May 2014). Sources report that the ruling cannot be appealed (ibid.; *Diario Libre* with Agencia EFE 13 June 2014).

Sources report that the JCE published the results of the audit on 7 November 2014 and identified 53,847 persons born to foreign parents, 24,392 of whom were [translation] "irregularly registered" (AI 14 Nov. 2013; *Diario Libre* 8 Nov. 2013). However, other sources report that around 250,000 persons would be affected by the ruling (Agencia EFE 31 Oct. 2013; *La Vanguardia* 4 Nov. 2013). Similarly, *Eldiario.es*, a news website based in Madrid, reports that the ruling would affect more than 200,000 people (9 Dec. 2013). Sources indicate that most of the people who would be affected by the ruling are of Haitian descent (Agencia EFE 31 Oct. 2013; *La Vanguardia* 4 Nov. 2013). Similarly, the OAS notes that the ruling has a [translation] "disproportionate impact over people of Haitian descent" (8 Oct. 2013). Sources also report that the ruling will affect the children, grandchildren (*La Vanguardia* 4 Nov. 2013; *Eldiario.es* 9 Dec. 2013) great grandchildren (ibid.) or great great grandchildren (*La Vanguardia* 4 Nov. 2013) of foreigners who have been living in the country (ibid.; *Eldiario.es* 9 Dec. 2013).

## 2.3 Documentation of Foreign-born People Affected by Ruling TC/0168/13

Ruling TC/0168/13 ordered the JCE to notify, through the Ministry of Foreign Affairs and foreign diplomatic offices, all those who have been "irregularly registered" (ibid. 23 Sept. 2013, 100). Similarly, the US State Department's *Country Reports on Human Rights Practices for 2013* stated that the Constitutional Tribunal ordered the JCE to "transfer [those foreigners who were "irregularly registered"] to a separate foreign-birth registration list" (US 27 Feb. 2014, 23). Further information about documentation required to prove that a citizen is not affected by the 2004 General Migration Law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 2.4 Law 169-14 of 2014

On 16 May 2014, the Dominican government enacted Law 169-12 titled [translation] "Law Establishing a Special Regime for Persons Born in the National Territory but Registered Irregularly in the Dominican Civil Registry and on Naturalization" (Dominican Republic 2014a). According to Article 1, the purpose of the law is to establish:

[translation]

- a. special regime for the benefit of children of foreign non-resident fathers and mothers who were born in the country during the period between 16 June 1929 and

18 April 2007 and registered in the Dominican Civil Registry records based on documents not recognized by the regulations in force for such purposes at the time of registration; and

- b. the registration of children of foreign parents with irregular status born in the Dominican Republic but not registered in the Civil Registry. (ibid., Art. 1)

The relevant articles of the law are attached to this Response.

On 23 July 2014, the government issued guidelines (Decree 250-14), the purpose of which are to

[translation]

implement the provisions of Article 12 of Law No. 169-14 in order to facilitate the registration and migration regularization of children born to foreign parents with irregular migration status who, having been born in the territory of the Dominican Republic, are not registered in the Dominican Civil Registry records. (ibid. 2014b, Art. 1)

The relevant articles are attached to this Response.

Information on the implementation of Law 169-14 and Decree 250-14 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

#### Notes

[1] The Open Society Justice Initiative (OSJI) is a program of Open Society Foundations (OSF) that provides "litigation, advocacy, research, and technical assistance ... to secure legal remedies for human rights abuses" (OSF n.d.a). The OSF is an organization that funds "a range of programs around the world, from public health to education to business development" (OSF n.d.b).

[2] The Central Electoral Board is the government agency responsible for organizing elections in the country as well as for managing and regulating issues related to the civil status of its citizens (Dominican Republic n.d.a). It includes the National Directorate of Civil Registry (Dirección Nacional de Registro Civil) which is responsible for registering births, marriages, divorces, and deaths (ibid. n.d.b).

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### Additional Sources Consulted

**Oral sources:** Attempts to contact representatives of the following were unsuccessful: Centro Bonó; Dominican Ministry of Interior and Police; Muchachos and Muchachas con Don Bosco.

Representatives from the embassy of the Dominican Republic in Ottawa could not provide information within the time constraints of this Response.

**Internet sites, including:** Al Momento; *América Económica*; British Broadcasting Corporation; Desalambre; Dominican Republic - Dirección General de Migración, Presidencia de la República Dominicana; Dominican Today; eoi.net; *El Nuevo Día*; *El Nuevo Diario*; *El País*; Factiva; Fédération internationale des ligues des droits de l'homme; Freedom House; Human Rights Watch; Minority Rights Group International; Notimérica; Observatorio Político Dominicano; Reporters sans frontières; United Nations - Refworld, UNWomen; United States - Department of State.

### Attachments

1. Dominican Republic. 2010. Constitution of the Dominican Republic, 2010. Translated by Luis Francisco Valle Velasco In *World Constitutions Illustrated*. 2011. Edited by Jefri Jay Ruchti. Buffalo, NY: William S. Hein & Co. Inc.  
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