

Girls Yean and Bosico v. Dominican Republic

ABSTRACT¹

This is the case of two children, born in the Dominican Republic, from a Dominican mother of Haitian descent and a Haitian father, who had been denied Dominican nationality and left stateless for over four years. As a consequence, the children were prevented from attending school. This is one of the few cases to date where the Court addressed the Right to a Nationality contained in the American Convention.

I. FACTS

A. Chronology of Events

March 13, 1985: Violeta Bosico is born in Sabana Grande de Boyá, Dominican Republic, at the Social Insurance Maternity Clinic.² Her mother is Ms. Tiramen Bosico Cofi, of Dominican nationality, and her father is Mr. Delma Richard, of Haitian nationality. Violeta's maternal grandfather is also of Haitian descent.³ Ms. Bosico Cofi wants to register her daughter immediately following her birth, but does not do so because she does not have the money or time to return to the Clinic where Violeta was born to obtain the proper evidence.⁴ Instead, she obtains a document from the mayor saying Violeta was born at home.⁵

1991: Violeta starts primary school despite not having a birth certificate.⁶

1. Sascha Meisel, Author; Jennifer Barrera, Elise Cossart-Daly, Sarah Frost, Erika Green, Melissa Kurata, and Shamin Rostami, Editors; Laura Ybarra, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Girls Yean and Bosico v. Dominican Republic*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 130, ¶ 85(a)(1) (Sept. 8, 2005).

3. *Id.* ¶ 109(7).

4. *Id.* ¶ 85(a)(2).

5. *Id.*

6. *Id.* ¶ 109(34).

1992: Violeta goes to live with her sister, Ms. Teresa Tucent Mena, in Batey Verde (Batey Enriquillo), Dominican Republic.⁷

1993: Violeta and her sister move to Batey Palavé, outside Santo Domingo.⁸ When Violeta arrives at her new home her schooling is put on hold because she does not have a birth certificate.⁹

1994: Violeta returns to school.¹⁰

April 15, 1996: Dilcia Yean is born in the Municipality of Sabana Grande de Boyá, Dominican Republic.¹¹ Her mother is Mrs. Leonidas Oliven Yean, of Dominican nationality, but, like Violeta, her father and maternal grandfather are of Haitian descent.¹²

March 5, 1997: Mr. Genaro Rincón Miesse, a lawyer for the Movement of Haitian-Dominican Women (*Movimiento de Mujeres Dominicano-Haitianas*, “MUDHA”), goes to the Registry Office in Sabana Grande de Boyá to register several children, including Violeta and Dilcia.¹³ He presents their mothers’ identity cards, Dilcia’s birth certificate from the “local health center,” and Violeta’s birth certificate issued by the auxiliary mayor of Batey Las Charcas, Sabana Grande de Boyá.¹⁴ The register informs Mr. Miesse that he cannot register the children because they do not have all the necessary documents required by the Central Electoral Board.¹⁵ According to the laws of the Dominican Republic, in order to obtain a late registration of birth, children under thirteen years of age are required to present: (1) a birth certificate; (2) their parents’ identity cards; and, (3) their parent’s marriage certificate if the parents are married.¹⁶

September 11, 1997: Mr. Miesse and Mr. Marcelino De La Cruz Nuñez,

7. *Id.* ¶ 109(8).

8. *Id.*

9. *Id.* ¶ 109(34).

10. *Id.*

11. *Id.* ¶ 109(6).

12. *Id.*

13. *Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 109(14).

14. *Id.* ¶ 109(15).

15. *Id.* ¶ 109(17).

16. *Id.* ¶ 109(16).

a lawyer for the Dominican Committee for Human Rights (*Comité Dominicano de Derechos Humanos*), file a petition with the Public Prosecutor of the Court of First Instance of the Judicial District of the Province of Monte Plata requesting authorization for late declarations of birth for a group of children that includes Dilcia and Violeta.¹⁷

July 20, 1998: The Public Prosecutor refuses the request for late declaration of birth, stating that “[the request is] not accompanied by the appropriate documentation and procedure.”¹⁸ He refers the parties to the Civil Status Registrar of Sabana Grande de Boyá.¹⁹

September and October 1998: Violeta is again refused enrollment in day school because she does not have a birth certificate.²⁰ She attends an evening school for adults where students take a “compressed” curriculum and complete two grades in a single year.²¹ The emphasis in these classes is on teaching adults to read and write and it is less demanding than the day school curriculum.²²

October 28, 1998: Mr. Miesse and Ms. Solain Pierre of MUDHA present a petition on behalf of Dilcia Yean and Violeta Bosico to the Inter-American Commission on Human Rights.²³

September 8, 1999: The State orders the Directorate General of Migration to issue temporary certificates of residence to Dilcia and Violeta until their migratory status in the Dominican Republic is defined.²⁴

September 3, 2001: The Central Electoral Board and the Secretariat of State for Education signs an agreement whereby the Central Electoral Board is to begin a campaign to facilitate the procedure for late declarations of births in schools for children under thirteen years of age

17. *Id.* ¶ 109(19).

18. *Id.* ¶ 109(20).

19. *Id.*

20. *Id.* ¶ 109(35).

21. *Id.* ¶ 109(36).

22. *Id.*

23. Dilcia Yean and Violeta Bosico v. Dominican Republic, Petition No. 12.189, Inter-Am. Comm’n H.R., ¶ 1 (Oct. 28, 1998).

24. Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, ¶ 109(30).

who are enrolled in school without a birth certificate.²⁵

September 21, 2001: The mothers of both girls, along with Mr. Miesse, go to the Registry Office to register their daughters. They are not asked to pay any fees or sign any documents.²⁶

September 25, 2001: The State issues both Dilcia²⁷ and Violeta their birth certificates.²⁸

July 11, 2003: The Commission refers the case to the Court.²⁹

August 2003: Dilcia is allowed to enroll at the Alegría Infantil School.³⁰

August 2005: Violeta begins secondary school at the Palavé School.³¹

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

October 28, 1998: The Boalt Hall International Human Rights Law Clinic, Center for Justice and International Law (*Centro por la Justicia y Derecho Internacional*, “CEJIL”), and MUDHA present a petition on behalf of Dilcia Yean and Violeta Bosico to the Inter-American Commission on Human Rights.³²

March 25, 1999: The Dominican Republic accepts the contentious jurisdiction of the Court.³³

25. *Id.* ¶ 109(24).

26. *Id.* ¶ 109(31).

27. *Id.* ¶ 109(32).

28. *Id.* ¶ 109(33).

29. *Id.* ¶ 33.

30. *Id.* ¶ 109(6).

31. *Id.* ¶ 109(8).

32. Dilcia Yean and Violeta Bosico v. Dominican Republic, Petition No. 12.189, Inter-Am. Comm'n H.R., ¶ 1 (Oct. 28, 1998).

33. Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

April 27, 1999: The petitioners submit a request for precautionary measures.³⁴

August 27, 1999: The Commission adopts precautionary measures in favor of Dilcia and Violeta so that the children will not be expelled from Dominican Territory and so that Violeta may continue to attend school without interruption.³⁵

September 30, 1999: The State submits objections, arguing that the petitioners have not exhausted domestic remedies.³⁶

February 22, 2001: The Commission declares the victims' petition to the Commission submitted on October 28, 1998 admissible.³⁷ According to Dominican Legislation given to the Commission, the petitioners lack the authentication of their documents needed to initiate a court case.³⁸ However, in order for a State to allege non-exhaustion of domestic remedies, the State must show that suitable and effective remedies exist for the alleged harm.³⁹ The State has not shown such remedies to exist or that they were exhausted by the petitioners.⁴⁰ Thus, the Commission considers the petitioners to have exhausted all the domestic remedies available to them.⁴¹

October 1, 2001: The State agrees to issue the children birth certificates.⁴²

March 6, 2003: The Commission adopts its final report recommending that the State:⁴³ (1) establish guidelines with reasonable requirements that do not impose excessive or discriminatory obligations to facilitate

34. *Id.* ¶ 6. The request was submitted by Mr. Miesse, María Claudia Pulido of the Center for Justice and International Law, and Laurel Fletcher and Roxana Altholz of the International Human Rights Law Clinic, Boalt Hall School of Law, UC Berkeley.

35. *Id.* ¶ 8.

36. Dilcia Yean and Violeta Bosica v. Dominican Republic, Admissibility Report, Report No. 28/01, Inter-Am. Comm'n H.R., Case No. 12.189, ¶ 9 (Feb. 22, 2001).

37. *Id.* ¶ 53.

38. *Id.* ¶ 39.

39. *Id.* ¶ 40.

40. *Id.*

41. *Id.* ¶ 42.

42. Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, ¶ 25.

43. *Id.* ¶ 29.

the registration of Dominican-Haitian children with the Registry Office officials; (2) create a legal mechanism that allows individuals without a birth certificate to file reports directly to a judicial officer and provide a simple, prompt and inexpensive recourse for individuals without a birth certificate; (3) ensure that Dilcia Yean, Violeta Bosico, and their mothers receive adequate and timely reparations and public acknowledgment of the violations of their human rights.

June 5 and July 3, 2003: The State submits its brief on the measures adopted to comply with the recommendations.⁴⁴ It argues that: (1) it has not failed to meet the obligation to provide the children with a nationality because they would have been Haitian nationals if they had not been granted Dominican nationality; and the Petitioners had not filed their petition with the competent court. The State also asserted that those who wished to obtain a late birth certificate could use a passport as an identity document.⁴⁵

B. Before the Court

July 11, 2003: The Commission refers the case to the Court, after the State failed to adopt its recommendations.⁴⁶

1. Violations Alleged by Commission⁴⁷

Article 3 (Right to Juridical Personality)

Article 8 (Right to a Fair Trial)

Article 19 (Rights of the Child)

Article 20 (Right to Nationality)

Article 24 (Right to Equal Protection)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

44. *Id.* ¶ 32.

45. *Id.*

46. *Id.* ¶ 33.

47. *Id.* ¶ 2.

2. Violations Alleged by Representatives of the Victims⁴⁸

Same violations alleged by the Commission, plus:

Article 5 (Right to Humane Treatment)

Article 12 (Freedom of Conscience and Religion)

Article 17 (Rights of the Family)

Article 18 (Right to a Name)

Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the American Convention

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights).⁴⁹

November 13, 2003: The State raises two preliminary objections.⁵⁰ First, the State argues that petitioners failed to exhaust domestic remedies because the case was not filed before the appropriate domestic courts.⁵¹ Second, the State asserts that the petitioners refused to comply with the friendly settlement proposal submitted by the Commission.⁵²

March 14 and 15, 2005: The State alleges a third preliminary objection: that the Court lacks competence *ratione temporis*.⁵³ The State argues that the alleged violation occurred two years before the State accepted the contentious jurisdiction of the Court and that the Court cannot exercise jurisdiction over facts that occurred before the State accepted the Court's jurisdiction.⁵⁴

48. Genaro Rincón Miese on behalf of MUDHA; María Claudia Pulido on behalf of the Center for Justice and International Law; and Laurel Fletcher and Roxana Altholz, on behalf of the International Human Rights Law Clinic, Boalt Hall School of Law, University of California, Berkeley, represented the petitioners.

49. *Girls Yean and Bosico v. Dominican Republic*, Merits, Reparations, and Costs, ¶ 38.

50. *Id.* ¶ 39.

51. *Id.* ¶ 56.

52. *Id.* ¶ 66.

53. *Id.* ¶ 55.

54. *Id.* ¶ 75.

III. MERITS

A. *Composition of the Court*⁵⁵

Sergio García Ramírez, President
Alirio Abreu Burelli, Vice President
Oliver Jackman, Judge
Antônio A. Cançado Trindade, Judge
Manuel E. Ventura Robles, Judge
Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

September 8, 2005: The Court issues its Decision on Preliminary Objections, Merits, Reparations and Costs.⁵⁶

The Court found unanimously that the Dominican Republic had violated:

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Article 1(1) of the Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁵⁷ because:

*“The requirements for late declaration of birth cannot be an obstacle for enjoying the right to nationality, particularly for Dominicans of Haitian origin, who belong to a vulnerable sector of the population in the Dominican Republic.”*⁵⁸

Article 3 (Right to Juridical Personality), in relation to Article 1(1) and Article 19 (Rights of the Child) of the Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁵⁹ because:

55. *Id.* ¶ 1. Judge Cecilia Medina Quiroga and Judge Diego García-Sayán did not take part in the decision on the merits. *Id.*

56. *Girls Yean and Bosico v. Dominican Republic, Merits, Reparations, and Costs.*

57. *Id.* ¶ 192.

58. *Id.*

59. *Id.* ¶ 187.

The Yean and Bosico children existed in a ‘legal limbo.’⁶⁰ Without a recognized nationality, Dilcia and Violeta were denied the “condition of being a subject of rights,” and were vulnerable to non-observance of their rights by the State or other individuals.⁶¹

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of Leonidas Oliven Yean, Tiramén Bosico Cofi, and Teresa Tucent Mena,⁶² because:

The children’s mothers and Violeta’s sister were caused uncertainty and insecurity by the situation of vulnerability the State imposed on Dilcia and Violeta. The families legitimately feared that the children could be expelled from the State because they lacked birth certificates and obtaining the documents was difficult.⁶³

Article 17 (Rights of the Family), in relation to Article 1(1) of the Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁶⁴ because:

The State discriminated against the children when it denied them a nationality, leaving them stateless and placing them in a situation of continuing vulnerability.⁶⁵

The State was obligated to guarantee the children the rights embodied in the American Convention, and to adopt measures to guarantee their rights. The Dominican Republic failed to comply with its obligations when it denied Dilcia and Violeta the protection of the State and access to the benefits due Dominican nationals.⁶⁶

Article 18 (Right to a Name), in relation to Article 1(1) and Article 19 (Rights of the Child) of the American Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁶⁷ because:

60. *Id.* ¶ 180.

61. *Id.* ¶¶ 178-179.

62. *Id.* ¶¶ 204, 206.

63. *Id.* ¶ 205.

64. *Id.* ¶ 197.

65. *Id.* ¶ 172.

66. *Id.* ¶ 173.

67. *Id.* ¶ 187.

*An individual without a name cannot be recognized by society or registered by a State.*⁶⁸

*States have an affirmative duty to facilitate the registration of an individual immediately following their birth.*⁶⁹

*Registration ensures the possibility that an individual's name and surname will be preserved, which is essential to establishing a formal connection to the State. The Yean and Bosico children were denied this right.*⁷⁰

Article 20 (Right to Nationality), in relation to Article 1(1) and Article 19 (Rights of the Child) of the Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁷¹ because:

*The children claimed their right to nationality when they appeared before the Civil Status Registrar, made a request for late registration of birth, and presented the two documents required by State legislation.*⁷²

*Dilcia and Violeta were denied Dominican nationality and left stateless for over four years, until September 2001.*⁷³

The State unlawfully took the position that Dilicia's and Violeta's Haitian fathers were "in transit."⁷⁴ The legality or illegality of their fathers notwithstanding, the fact that a person has been born in the State is all that needs to be proved to acquire nationality.⁷⁵ Dilcia and Violeta were born in the Dominican Republic to Dominican mothers, and thus satisfied the requirements for nationality under Article 11 of the Constitution.⁷⁶

The migratory status of a person cannot be a condition for the State to grant nationality, and the migratory status of a person is not

68. *Id.* ¶ 182.

69. *Id.* ¶ 183.

70. *Id.* ¶ 184.

71. *Id.* ¶ 174.

72. *Id.* ¶ 163.

73. *Id.* ¶ 172.

74. *Id.* ¶ 152.

75. *Id.* ¶ 156.

76. *Id.* ¶ 158.

transmitted to his children.⁷⁷ Section V of the Migration Regulations of the Dominican Republic No. 279 of May 12, 1939, established that ten days is the “temporal limit” of a person in transit.⁷⁸ The fathers of Dilcia and Violeta had lived in the State for several years.

Article 24 (Right to Equal Protection), in relation to Article 1(1) and Article 19 (Rights of the Child) of the Convention, to the detriment of Dilcia Yean and Violeta Bosico,⁷⁹ because:

*The State deprived the children of their nationality by denying their request for Dominican nationality, leaving them stateless for over four years.*⁸⁰

The Court did not rule on:

Article 12 (Freedom of Conscience and Religion), in relation to Article 1(1) of the Convention,⁸¹ because:

*The Court determined the facts of the case did not support a finding that the State violated Article 12 (Freedom of Conscience and Religion).*⁸²

The Court did not refer to the alleged violations of:

Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) of the Convention because it lacked jurisdiction on violation based on the facts or acts occurring prior to March 25, 1999. On this date, the Dominican Republic accepted the contentious jurisdiction of the Court.⁸³

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Antônio Augusto Cançado Trindade⁸⁴

77. *Id.* ¶ 156.

78. *Id.* ¶ 157.

79. *Id.* ¶ 174.

80. *Id.*

81. *Id.* ¶ 207.

82. *Id.* ¶

83. *Id.* ¶ 201.

84. *Girls Yean and Bosico v. Dominican Republic*, Preliminary Objections, Merits, Reparations, and Costs, Separate Opinion of Judge Antônio Augusto Cançado-Trindade, Inter-Am. Ct. H.R. (ser. C) No. 130 (Sept. 8, 2005).

As this case was the first in which the Court ruled on the right to nationality under the American Convention, Judge Cançado Trindade discussed what he perceives as three particularly relevant key issues in regards to the right to nationality.⁸⁵ First, he addressed normative advances in nationality and the persistence of the causes of statelessness.⁸⁶ Judge Cançado Trindade considered that the right to nationality is no longer a matter reserved exclusively to the State, but is a matter for the international judicial system.⁸⁷

Judge Cançado Trindade also discussed the legal response to the manifestations of statelessness.⁸⁸ He lamented the increased risk of statelessness intrinsic to a “globalized” world.⁸⁹ Examples include conflicts over laws of nationality, laws of marriage, and situations of abandoned children whose births have not been registered.⁹⁰ To this end, Judge Cançado Trindade analogized the current case to the Courts Advisory Opinions No. 17 on the Juridical Status and Human Rights of the Child⁹¹ and No. 19 on the Juridical Status and Rights of Undocumented Migrants.⁹²

Finally, Judge Cançado Trindade discussed the broad scope of the general protection obligations in Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.⁹³ Judge Cançado Trindade took the position that additional violations, unrelated to the original violation, arise per se out of the State’s failure to protect and respect the rights guaranteed by Article 1(1) of the American Convention.⁹⁴ In keeping with the goal of maximizing the protection afforded under the Convention,⁹⁵ he encouraged the Court to follow its own case law and to emphasize “the broad scope of the general obligations of Articles 1(1) and 2 of the American Convention.”⁹⁶

85. *Id.* ¶ 1.

86. *Id.* ¶¶ 2-9.

87. *Id.* ¶ 2.

88. *Id.* ¶¶ 10-14.

89. *Id.* ¶ 10.

90. *Id.*

91. *Id.* ¶ 13.

92. *Id.* ¶ 14.

93. *Id.* ¶¶ 15-21.

94. *Id.* ¶ 15.

95. *Id.* ¶ 16.

96. *Id.* ¶ 21.

IV. REPARATIONS

The Court ruled unanimously that the Dominican Republic had the following obligations:

A. *Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgment as a Form of Reparation

The Court found that the judgment constitutes per se a form of reparation for the anxiety and insecurity caused to the children's next of kin for the real fear that they could be expelled from their country due to the lack of birth certificates.⁹⁷

2. Publish Portions of the Judgment

The State should publish the "Proven Facts" and operative paragraphs of the judgment in the official gazette and in another newspaper with national circulation in the Dominican Republic.⁹⁸

3. Publically Acknowledge International Responsibility

The State must perform a public act to acknowledge its international responsibility for the facts referred to in the judgment and a public apology to the children, their mothers, and next of kin.⁹⁹

4. Reform Domestic Legislation¹⁰⁰

The Dominican Republic should adopt within its domestic laws legislative and administrative measures to regulate the requirements for acquiring Dominican nationality by late declaration of birth through a simple, accessible, and reasonable procedure.¹⁰¹

The State should take into consideration the situation of

97. *Girls Yean and Bosico v. Dominican Republic*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 229.

98. *Id.* ¶ 234.

99. *Id.* ¶ 235.

100. *Id.* ¶ 236.

101. *Id.* ¶ 239.

Dominican children of Haitian origin when making the requirements for late registration of birth. The requirements should be only those essential for establishing that the birth occurred in the Dominican Republic. Thus, the State should accept an appropriate document other than the identity card of the father or mother of the child because only Dominican citizens have an identity card. The requirements should be clear and standardized and the application should not be left to the discretion of State officials.¹⁰²

To reduce the number of individuals who must resort to the late registration procedure, the State should take measures to facilitate early registration.¹⁰³

A training program for State officials responsible for registering births should be developed. It should emphasize the right to equal protection, tolerance, and non-discrimination and it should offer guidance on the special situation of children.¹⁰⁴

5. Guarantee Primary Education

The State should comply with its obligation to guarantee access to free primary education for all children.¹⁰⁵

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

The Court awarded \$8,000 to Dilcia Yean¹⁰⁶ to compensate her for being denied Dominican nationality and for being placed in a situation of extreme vulnerability for discriminatory reasons, and for violations of her right to nationality, right to juridical personality, right to a name,

102. *Id.* ¶ 240.

103. *Id.* ¶ 241.

104. *Id.* ¶ 242.

105. *Id.* ¶ 244.

106. *Id.* ¶ 226.

and right to equal protection, all in relation to the rights of a child.¹⁰⁷

The Court also ordered the State to pay \$8,000 to Violeta Bosico¹⁰⁸ for the same reasons as Dilcia Yean and for the anxiety and uncertainty caused by being prevented from attending a day school with her peers and instead having to attend school at night.¹⁰⁹

3. Costs and Expenses

The Court ordered the State to pay \$6,000 to Leonidas Oliven Yean and Tiramen Bosico Cofi for payments to MUDHA (for expenses incurred representing the victims at the domestic level), CEJIL, and the International Human Rights Law Clinic (for expenses incurred representing the victims in the international proceedings).¹¹⁰

4. Total Compensation (including Costs and Expenses ordered):

\$22,000

C. Deadlines

The State must publish pertinent sections of the judgment, and publically acknowledge responsibility within six months from the notification of the judgment.¹¹¹

The State must compensate the victims and reimburse costs and expenses within one year of notification of the judgment.¹¹²

The State must complete the other measures ordered within a reasonable time.¹¹³

V. INTERPRETATION AND REVISION OF JUDGMENT

January 5, 2006: The State requested an Interpretation and Revision of Judgment.¹¹⁴ The State asserted that: (1) it could not be established that

107. *Id.* ¶ 224.

108. *Id.* ¶ 226.

109. *Id.* ¶ 225.

110. *Id.* ¶ 250.

111. *Id.* ¶¶ 234, 235.

112. *Id.*

113. *Id.* ¶ 251.

114. *Girls Yean and Bosico v. Dominican Republic*, Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 130, ¶ 2 (Nov. 23, 2006).

the girls were Dominican, (2) the girls were not stateless, because they could adopt the Haitian nationality of their grandparents; (3) though the State provided the girls with birth certificates, the girls must comply with the legal formalities of acquiring the certificates; and (4) because judicial officers are liable for the harm to the victims, the State has diminished liability.¹¹⁵

November 23, 2006: The Court found that the State's arguments seek to challenge the Court's decisions, which is an improper use of the interpretation of judgment stage.¹¹⁶ The Court, therefore, dismissed the State's request for interpretation of judgment.¹¹⁷

VI. COMPLIANCE AND FOLLOW-UP

November 28, 2007: The Court found that the State had fully paid non-pecuniary damages, costs, and expenses.¹¹⁸ However, the State still had not fully complied with the order to publish portions of the judgment,¹¹⁹ and had not organized a public act acknowledging international responsibility.¹²⁰

The Court requested that the State provide additional updated information regarding: the publication of the judgment, the public act acknowledging its international responsibility, and the adoption of domestic laws to regulate the procedure and requirements for acquiring Dominican nationality based on late declaration of birth.¹²¹

June 15, 2009: The State published the pertinent parts of the Judgment in "El Nuevo Diario" newspaper.¹²²

September 29, 2009: The State published the pertinent parts of the Judgment in the Official Gazette. The Court considered the State had satisfied its obligation to publish the Judgment.¹²³

115. *Id.* ¶ 3.

116. *Id.* ¶ 23.

117. *Id.* ¶ 24.

118. *Girls Yean and Bosico v. Dominican Republic, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen,"* ¶ 10 (Nov. 28, 2007).

119. *Id.*

120. *Id.*

121. *Id.* ¶ 11.

122. *Girls Yean and Bosico v. Dominican Republic, Monitoring of Compliance with Judgment, Order of the Court, "Considering" ¶ 10* (Aug. 27, 2010).

123. *Id.*

August 27, 2010: The Court found that the State had not yet fully complied with the order to publically acknowledge responsibility and adopt domestic legislation in compliance with the American Convention.¹²⁴

The Court requested that the State present a clear, concise, and detailed report indicating the specific measures adopted to comply with the Court's orders.¹²⁵

October 10, 2011: The Court declared that, five years after the Judgment, the State had still not complied with the order to organize a public act of acknowledgment of responsibility, nor fulfilled its obligation to indicate to the Court measures taken to organize the act.¹²⁶ The State had also failed to comply "with its obligation to inform, in a clear, concise, and detailed manner on the measures adopted to" make the rights established in the American Convention effective.¹²⁷

The Court decided:¹²⁸ to reiterate to the State its obligation to adopt all necessary measures to promptly and effectively organize a public act to acknowledge its international responsibility and apologize to the victims of the case and to adopt domestic legislation and other measures to regulate the procedures and requirements for late registration of birth to acquire Dominican nationality.¹²⁹ Additionally, the Court will continue monitoring the State's actions with respect to its outstanding obligations of the Judgment of September 8, 2005.¹³⁰

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

124. *Id.* ¶¶ 12, 25.

125. *Id.* ¶ 26.

126. *Girls Yean and Bosico v. Dominican Republic, Monitoring of Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares that,"* ¶ 1 (Oct. 10, 2011).

127. *Id.* ¶ 2.

128. Judge Rhadys Abreu Blondet, of Dominican nationality, excused herself from hearing this Order on Monitoring Compliance and Judge Leonardo A. Franco, for reasons of *force majeure*, informed the Court he could not be present at the deliberation and signing of this Order.

129. *Girls Yean and Bosico v. Dominican Republic, Monitoring of Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares that,"* ¶ 1 (Oct. 10, 2011).

130. *Id.* ¶ 4. At the time of publication, the Court has not published additional Monitoring Compliance Documents.

1. Preliminary Objections

[Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 130 \(Sept. 8, 2005\).](#)

2. Decisions on Merits, Reparations and Costs

[Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 130 \(Sept. 8, 2005\).](#)

[Girls Yean and Bosico v. Dominican Republic, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Antônio Augusto Cançado-Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 130 \(Sept. 8, 2005\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Girls Yean and Bosico v. Dominican Republic, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Oct. 10, 2011\).](#)

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