



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture Seventy-eighth session

### Summary record of the 2044th meeting\*

Held at the Palais Wilson, Geneva, on Thursday, 2 November 2023, at 3 p.m.

*Chair:* Mr. Heller

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(*continued*)

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\* No summary record was issued for the 2043rd meeting.

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Third periodic report of Costa Rica (continued)* ([CAT/C/CRI/3](#); [CAT/C/CRI/Q/3](#))

1. *At the invitation of the Chair, the delegation of Costa Rica joined the meeting.*
2. **Mr. Guillermet Fernández** said that Costa Rica had a history of inward migration, mostly from neighbouring Nicaragua, and an estimated 500,000 Nicaraguans were currently living in the country. As well as fluctuating with natural events and changes in the political and economic situation in Nicaragua, the inward movement of people from that country had, particularly in the past, closely reflected the needs of the Costa Rican agricultural sector and had often taken the form of circular migration. In recent decades, the Costa Rican labour force had become more diversified with the growth of the service and construction industries.
3. The country of 5 million inhabitants was currently host to more than 270,000 people in need of international protection, including some 250,000 asylum-seekers. Nearly 200,000 of those cases had been pending resolution since 2018, and some 17,000 individuals had been granted refugee status. Approximately 180,000 of the pending applications had been lodged by Nicaraguan nationals, reflecting an increase in the number of people seeking refugee status in Costa Rica for political and security reasons as a result of events taking place in Nicaragua since 2018.
4. Because of the extraordinarily large number of persons seeking asylum, it was estimated that each asylum application would take between 9 and 11 years to fully process. The Government was working with the Office of the United Nations High Commissioner for Refugees (UNHCR) to expedite that process. More than 60 officials had been hired for the country's Refugee Unit, and the temporary protected status, which had been created to provide migrants with an alternative to applying for refugee status, had enjoyed some success. The Government was working with its national and international partners to ensure that migrants who needed international protection and wished to remain in the country were able to apply to do so. Decree No. 43810-MGP of 29 November 2022, which had imposed a number of restrictions on asylum-seekers, had been declared unconstitutional by the Constitutional Chamber and was therefore no longer in force.
5. The closure of many government offices during the coronavirus disease (COVID-19) pandemic had led to changes in how applications for refugee status were submitted, with certain processes having been moved online. That change had introduced a greater degree of flexibility into the system that had apparently opened it up to abuse. Migrants in an irregular situation in Costa Rica who did not necessarily require international protection had therefore been able to acquire documentation identifying them as applicants for refugee status. They could then use that documentation to regularize their situation and gain access to employment and services.
6. The Government was also working with UNHCR, along with the United Nations Children's Fund and the International Organization for Migration, to deal with the complex challenge posed by the transit migration of an average of 6,000 migrants entering the country each day on their way to the southern border of the United States of America. Upon arrival in Costa Rica, they were transported to temporary reception centres from which 70 buses left each day for the border with Nicaragua, some 300 kilometres away. The buses charged 30 United States dollars per passenger. That and other measures were helping to safeguard the human rights of migrants and to keep them out of the hands of migrant smugglers. An agreement was also in place with the Government of the United States of America whereby persons who wished to apply for protection or seek refugee status there could do so from Costa Rica.
7. Rather than being indicative of a crisis per se, the President's declaration in September 2023 of a national emergency in response to the migrant situation had been made in order to allow the release of ring-fenced funds that were needed to manage the movement of large numbers of people through the country each day. The resources were used to provide care and food for minors and to help relatively small host communities along migrant routes cope

with the added pressure created by thousands of additional temporary residents in terms, for example, of collecting and disposing of the rubbish that they left behind.

8. The Public Prosecution Service had received no complaints of torture in 2019 and two in each of the three subsequent years. No one had been convicted of the crime of torture in the criminal courts since 2019.

9. The Ministry of Justice and Peace had introduced a social and economic inclusion model for use in the prison system. It was designed to consolidate employment and training for the prison population by combining components of formal education, soft skills building, entrepreneurship and technology.

10. There was no immigrant detention centre at Juan Santamaría International Airport. A room in the airport was used for dealing with persons in special migration situations, and a procedural manual was currently being drawn up for use in that facility at the request of the national human rights institution. The staff of the Immigration Police had been increased from 30 to 52 members and, along with other police authorities, had been tasked by the Directorate General for Migration with conducting investigations and processing complaints concerning migration-related matters at the airport. The Customs Authority, airport police, International Criminal Police Organization, Judicial Investigation Agency and Directorate of Civil Aviation also helped apply migratory controls and safeguard national security at the airport.

11. The protocol for the care and protection of foreign minors who were unaccompanied or separated from their families established the procedure to be followed in such cases by the Directorate General for Migration and the National Child Welfare Agency. When unaccompanied minors arrived in the country, they were first interviewed by the migration authorities of the Specialized Unit for the Protection of Minors in a way that ensured their privacy, security and fundamental rights and that took into consideration their best interests. Following the interview, the migration authorities coordinated the minors' transfer with the National Child Welfare Agency and remained responsible for their protection and welfare until the arrival of an official from that agency. The whole process was registered and documented in order to ensure that unaccompanied minors remained traceable. The principle of the best interests of the child dictated the decision as to whether to return minors to their country of origin or allow them to stay in Costa Rica. In the former case, a protocol was applied to coordinate their repatriation between the Directorate General for Migration and the equivalent institution and consulate of the country of origin; in the latter case, a protocol for regularizing the status of foreign minors under the protection of the National Child Welfare Agency was applied.

12. Bill No. 22937, which was aimed at strengthening the tools available for the fight against corruption, sexual offences against minors, trafficking in persons, migrant smuggling and organ trafficking, had been submitted on 7 March 2022. It regulated the search, seizure and examination of private documents and the interception of communications in the course of the investigation of those crimes, bribery and other forms of illicit enrichment. The existing law permitted documents to be sought and seized only in the context of criminal proceedings and authorized the interception of communications only for particularly serious crimes and, in some cases, only in the event of aggravating circumstances as set out in the 1994 Act on the Search, Seizure and Examination of Private Documents and Interception of Communications.

13. In 2014, Costa Rica and Colombia had signed a cooperation agreement on the prevention and investigation of cases of human trafficking and migrant smuggling. A bilateral labour migration agreement between Costa Rica and Nicaragua, initially signed in 2013 and renewed annually, had enabled agricultural companies to bring foreign workers into Costa Rica safely and legally and would potentially soon do the same for firms in the construction and transportation sectors. The agreement had expired in October 2023 and was in the process of being expanded. The whereabouts of workers could be traced through the Labour Migration Traceability System, known as SITLAM, as they moved among plantations. The labour ministries of Costa Rica and Panama had formed a committee to develop joint measures to combat trafficking in persons and manage labour migration flows.

Costa Rica was also working to put labour migration agreements into place with Guatemala and El Salvador.

14. The private sector must play a role in efforts to prevent hate speech. Xenophobic comments and racial insults at football matches had resulted in some teams being fined and had led some teams to bar their fans from stadiums. The Constitution had been amended in 2019 to recognize that the country was pluri-ethnic and pluricultural.

15. The majority of the 247,470 protective measures requested between 1 January 2017 and 31 December 2021 had concerned cases of domestic violence. In 2022, the Ministry of Public Security had reported that arrests under the Domestic Violence Act and the Violence against Women Act accounted for the second-highest number of arrests made by police nationwide. In 2021, 8,950 such arrests had been made.

16. The Vilma Curling Rivera Closed Rehabilitation Centre was the only women's prison in the country. It was in poor condition because of its age but, unlike the country's prisons for men, was not overcrowded, although it was understaffed. Two men's prisons had areas for female prisoners.

17. If a prison could not provide a sick prisoner with appropriate treatment, the prisoner was transferred immediately to an outside health facility. There was a chronic shortage of professional staff throughout the prison system. The Ministry of Justice and Peace was working to increase the resources available to prisons so as to reduce overcrowding and increase staffing.

18. The Public Defence Service conducted an inspection of each of the country's prisons every six months in order to assess the condition of prison infrastructure, the extent of violence used against prisoners, the degree of overcrowding, the medical care available to prisoners, the ability of prison administrators to address prisoners' grievances and the extent to which members of vulnerable groups, including migrants, persons of African descent, LGBTQI+ persons, older adults and persons with psychosocial disabilities, received differentiated treatment. In addition, all prisoners were regularly visited by the Sentence Enforcement Units of the Public Defence Service, which could answer general questions or refer matters to sentence enforcement courts.

19. Financing for the National Fund to Combat Human Trafficking and Migrant Smuggling did not come from the national budget but from a portion – amounting to \$US 1 – of the departure tax paid by each person leaving the country. No more than 20 per cent of each dollar collected could be used for administrative expenses, while the remainder was spent exclusively on activities related to the prevention, identification, investigation and prosecution of cases of trafficking in persons, the protection and provision of care and social reintegration services to victims and the fight against the smuggling of migrants.

20. In February 2023, the Instituto Internacional de Responsabilidad Social y Derechos Humanos (International Institute for Social Accountability and Human Rights), in coordination with the Government and with the support of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders and the country's national preventive mechanism, had held a daylong training workshop on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) for health professionals affiliated with the prison system. Participants included representatives of the Judicial Investigation Agency, the hospital system and the National Child Welfare Agency.

21. The Judicial Training College addressed the subject of interrogations in several of its programmes and offered continuing education activities on interviewing, human rights and trafficking in persons. The procedures in place in Costa Rica – under which, for example, police could not question suspects once they had been arrested and judicial proceedings had been initiated – limited the likelihood of acts of torture occurring during interrogations. The Supreme Court of Justice had consistently affirmed that police officers must immediately inform suspects of their right to remain silent.

22. A protocol had been introduced as part of the system for dealing with institutional prison violence in 2022 under which reports of torture and ill-treatment would be referred to the public prosecution service. No trials had yet been concluded under that protocol.

23. The Juvenile Criminal Justice Act continued to apply to minors 12 years of age and older. Recent amendments to the Criminal Code classified the motive of hate based on, among other characteristics, a victim's sexual orientation as an aggravating circumstance for the offence of murder. Consequently, perpetrators of such murders faced terms of imprisonment of 20 to 35 years. There were currently no complaints pending against Costa Rica before the Inter-American Commission on Human Rights relating to acts of violence committed because of a person's sexual orientation. One complaint alleging discrimination on the basis of sexual orientation had been lodged with the courts in 2023 but had later been dismissed because the victim had not wished to file charges.

24. Following an open-justice workshop held in 2021 for judicial officials and representatives of the Inter-American Court of Human Rights and civil society organizations representing the LGBTQI+ community, efforts had been launched to collect data on LGBTQI+ persons in prisons and to make that data available through the Public Defence Service.

25. Costa Rica had received no specific requests for extradition from the International Criminal Court.

26. **The Chair** said that it would be of interest to the Committee to receive further information on the identity of the perpetrators of acts of torture and to learn whether the six trials of persons charged with torture were ongoing or had been dismissed. Given the scale of migration flows through Costa Rica and other Latin American countries, he would like to know whether the State party had requested international assistance from specific countries. It would also be useful to establish how the State party intended to address the issue of migration flows in international forums and what its position was with regard to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

27. **Ms. Maeda** said that she would like to receive specific information on the types of actions or procedures that were facilitated by the Virtual Stations Project and on whether it represented the first point of contact for an individual who wished to file a complaint with the police. While online tools could improve access to justice, they could also conflict with the right to a fair trial. Under certain circumstances, it was important for criminal proceedings to be held with the physical presence of the accused. She would therefore like to draw the delegation's attention to the guidance in the On-line Hearings in Justice Systems briefer that had been recently published by the Office of the United Nations High Commissioner for Human Rights. She would also welcome further information on the domestic legislation governing complaint mechanisms for persons deprived of their liberty and on how those mechanisms operated in practice.

28. It would be of interest to hear how civil society was encouraged to participate in the process of drafting the State party report and in the constructive dialogue and how information on the Convention and other international instruments and recommendations was disseminated among the population of Costa Rica. The Committee welcomed the State party's previous contributions to the United Nations Voluntary Fund for Victims of Torture and encouraged it to consider contributing again and joining the Group of Friends of the Fund to promote redress for victims of torture.

*The meeting was suspended at 4.40 p.m. and resumed at 5 p.m.*

29. **Mr. Guillermet Fernández** (Costa Rica) said that comprehensive treatment for prisoners suffering from drug or alcohol addictions was being provided in two separate centres. More information on that initiative would be submitted to the Committee in writing, as would details on the status of the six court cases concerning acts of torture and on the identity of the perpetrators.

30. Costa Rica had been very vocal in international forums on the issue of migration and asylum and had organized meetings with donors in an effort to garner their political and financial support by raising their awareness of the extreme pressure that the current level of migration flows and asylum requests were putting on the country in terms of its ability to process cases and to manage important services, such as in the health and education sectors.

31. While some Costa Ricans had emigrated to other countries, in-country migration flows predominated. Since the 1970s, a steady number of Costa Ricans had been migrating to the United States of America, typically in search of better employment prospects. However, that number had always been relatively small, and there was undoubtedly a much higher number of Americans living in Costa Rica than Costa Ricans living in the United States of America. The Government had emphasized the importance of taking a regional approach and examining the entire migration process as a whole, including the reasons why people left a country and how States could guarantee migrants' safe passage.

32. The Virtual Stations Project was not intended to be used for handling cases or administering justice; rather, it was a tool that made legal advice available to all citizens in every part of the country through mobile phones or computers. More detailed information on the project, such as its results and its scope, would be submitted to the Committee in writing.

33. Costa Rica had an inter-institutional commission on human rights and international humanitarian law in which all relevant State institutions were represented. The recommendations of the treaty bodies were delivered to those institutions before a decision was made as to which entities would be responsible for implementing the recommendations. Under the direction of the Ministry of Foreign Affairs, the inter-institutional commission was tasked with drafting a report that would be shared with civil society with a view to receiving feedback. As it was not always possible to reflect the observations made by members of civil society in the State party report, the Government encouraged them to submit their own report.

34. While it was not currently possible to contribute financially to the United Nations Voluntary Fund for Victims of Torture, Costa Rica would continue to actively promote and support it.

35. **The Chair** said that the dialogue with the State party had been extremely positive. It had focused on the key challenges faced by the country while also recognizing its outstanding performance in terms of the fulfilment of its human rights obligations, to which the unusual absence of members from international and civil society organizations in the meeting was testimony. The Committee looked forward to continuing and strengthening its dialogue with the State party.

*The meeting rose at 5.20 p.m.*