



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

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**Committee against Torture**

**Third periodic report submitted by Costa Rica  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2012\* \*\***

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\* The present document is being issued without formal editing.  
\*\* The annexes to the present report are available on the Committee's web page.



## **Institutional framework and methodology**

1. As a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Costa Rica hereby submits its third and fourth periodic reports under article 19, detailing the measures taken during the period 2008–2016 to comply with its obligations under the Convention, for consideration by the Committee against Torture.
2. This report was prepared by the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations, established by Decree No. 36776-RE of 9 August 2011. The Commission is a permanent interministerial mechanism that acts as the executive's standing advisory body on the subject of compliance with international human rights obligations. It also coordinates the preparation of reports to human rights treaty bodies through consultations with central government institutions, other branches of government and civil society organizations. The Commission is chaired by the Directorate General for Foreign Policy of the Ministry of Foreign Affairs.
3. The Commission established a specific subcommission to draft the third and fourth periodic reports under the Convention against Torture. Of the 12 bodies that were invited to participate in this work, 10 did so: the Ministry of Foreign Affairs, the Supreme Court of Justice, the Public Prosecution Service, the Ministry of Justice and Peace, the Ministry of Public Security, the Directorate General for Migration, the Costa Rican Social Insurance Fund, the National Institute for Women, the National Child Welfare Agency and the National Mechanism for the Prevention of Torture.
4. Once the first draft of the report was completed, it was presented at a public event on 30 April 2019 and then shared with the Commission as a whole.
5. The report was prepared in accordance with the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3, dated 10 May 2006), under the simplified reporting procedure (documents HRI/GEN/2/Rev.6 of 3 June 2009 and HRI/ICM/2010/3 of 19 May 2010).
6. The Committee's concluding observations on the second periodic report of Costa Rica (CAT/C/CRI/CO/2), issued on 7 July 2008, and the list of issues to be considered prior to submission of the third periodic report of Costa Rica (CAT/C/CRI/Q/3), dated 16 February 2011, were taken as the basis for the drafting of this report. Using these documents and information previously provided by the State, a matrix was prepared to facilitate the gathering and processing of inputs provided by institutions.
7. The information received from the bodies participating in the subcommission was verified and supplemented using other documentary sources, including articles in the press, studies conducted by public institutions and telephone consultations.

## **Articles 1 and 4**

### **A. Background and developments in law for the prevention of torture**

8. Costa Rica has a broad constitutional and legal framework that guarantees the protection, in full equality, of the rights of all its inhabitants, including the right to physical and psychological integrity and the right not to be "subjected to cruel or degrading treatment, life imprisonment or the penalty of confiscation", as established in article 40 of the Constitution of 7 November 1949. The same article provides that "any statement obtained by violent means shall be null and void".
9. Article 48 of the Constitution provides for the right of everyone to the remedy of habeas corpus "to protect his or her personal freedom and integrity, and to the remedy of *amparo* to maintain his or her enjoyment of the other rights embodied in this Constitution and of the fundamental rights recognized in the international human rights instruments in force in the Republic".

10. Article 48 of the Constitution is linked to article 10, which provides for the creation of a specialized chamber of the Supreme Court to settle any conflicts of jurisdiction between the branches of government, to hear any consultations on constitutional amendment bills, ratification of international agreements or treaties and other bills, and to declare the unconstitutionality of provisions of any nature and of acts subject to public law. The Constitutional Chamber thus represents an essential pillar of the rule of law and in particular of the human rights protection system in Costa Rica.

11. Article 7 of the Constitution establishes that international treaties have a higher authority than the law, while the consistent case law of the Constitutional Chamber has firmly established the interpretation that human rights treaties, insofar as they guarantee greater rights and freedoms, prevail over the Constitution.

12. In keeping with its record of protecting and safeguarding rights, Costa Rica has ratified a large number of international and regional human rights instruments. It ratified the Convention against Torture by Act No. 7351 of 13 August 1993, the Inter-American Convention to Prevent and Punish Torture by Act No. 7934 of 11 November 1999 and the Optional Protocol to the Convention against Torture by Act No. 8459 of 25 November 2005.

13. Having already ratified the Inter-American Convention on Forced Disappearance of Persons by Act No. 7573 of 25 January 1996, during the reporting period Costa Rica also became a party to the International Convention for the Protection of All Persons from Enforced Disappearance, by Act No. 9005 of 31 October 2011, thus reaffirming its commitment to the universal human rights protection system.

14. Over the reporting period, the country made significant progress in giving effect to article 4 of the Convention and other guarantees arising from the above-mentioned instruments. By Executive Decree No. 33568 of 19 February 2007, the Government provisionally empowered the Ombudsman's Office to conduct visits for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in prisons, detention centres and holding centres, including those under the responsibility of the Ministry of Justice and Peace and the Ministry of Public Security.

15. The National Mechanism for the Prevention of Torture was established by Act No. 9204 of 10 February 2014. Its purpose is to "protect the fundamental and human rights of persons subjected to any form of deprivation of liberty and prevent any acts of torture or other cruel, inhuman or degrading treatment or punishment through the regular inspection of holding centres, detention centres and places of deprivation of liberty".

16. By virtue of this Act and its implementing regulations, set forth in Decree No. 39062 of 21 April 2015, the Mechanism is responsible for periodically reviewing the treatment of persons held in places of deprivation of liberty through such inspections and investigations as it may deem necessary; making recommendations to the authorities to improve the treatment and the conditions of persons deprived of their liberty and prevent torture and other cruel, inhuman or degrading treatment or punishment; and submitting proposals and observations concerning existing or draft legislation on the subject.

17. The State guarantees the Mechanism's access to holding centres and to information concerning detention, treatment and conditions of deprivation of liberty. No person or organization may be punished or harmed in any way, by any authority or official, for disclosing information, whether true or false, to the Mechanism.

18. Article 13 of Act No. 9204 states that "all competent public authorities are required to comply with the recommendations of the National Mechanism for the Prevention of Torture and to depart from them only upon provision of a duly reasoned notification in writing; they must also enter into dialogue with the Mechanism to discuss the implementation of these recommendations".

## **B. Provisions of criminal law currently in force**

19. Since the adoption of Act No. 8189 of 18 December 2001 (see annex 18), which added an article 123 bis to the Criminal Code, the offence of torture has been set forth under the “Injury” section of the title “Offences against life” of the Code.

20. Article 123 bis represents a significant advance in the fulfilment of the Convention insofar as it incorporates a definition of the offence that is closely aligned with the one contained in article 1 of the Convention.

21. The definition of this offence has reinforced other guarantees contained in the Code of Criminal Procedure (Act No. 7594 of 10 April 1996). For example, article 96 states that under no circumstances may accused persons be subjected to any form of coercion or threat; nor may any means be used to oblige, induce or cause them to make statements against their will; nor may any charges or counterclaims be laid against them with a view to obtaining a confession.

22. Similarly, article 181 contains provisions on the legality of evidence (see annex 18).

23. The constitutionality of this article was challenged by the Ombudsman’s Office before the Constitutional Chamber, which responded to the issues raised in its Opinion No. 2002-6511, issued on 3 July 2002 at 2.55 p.m. (see annex 18).

24. The article is based on the realistic premise that justice systems are staffed by fallible human beings. The Chamber rejected the constitutional challenge, finding that article 181 does not encourage the obtaining of evidence by illegal means and that it is consistent with the principle of *pro libertate* and the general principle of fairness. This view was supported by the Counsel General’s Office in its Legal Opinion No. 011-J of 20 February 2007, issued in response to a request for its views on a bill amending the article (legislative file No. 16.275).

25. Furthermore, article 338 of the Criminal Code (Act No. 4573 of 4 May 1970) provides that any public official who “abuses his or her office by ordering or committing an arbitrary act prejudicial to the rights of any person”, including the right to physical and psychological integrity and the right not to be tortured, will be liable to 3 months’ to 2 years’ imprisonment.

26. The national prison system regulations were updated by Decree No. 40849-JP of 9 January 2018. Article 16 of the regulations prohibits “any act, omission or measure amounting to torture or other cruel, inhuman or degrading treatment or punishment of persons deprived of their liberty”, including “the automatic application of disciplinary sanctions, corporal punishment, confinement in dark cells or cells without access to basic services, solitary confinement as a punishment, collective punishments, deprivation of family contact, deprivation of sexual relations, reduction of diet, denial of access to professional care and any other methods prejudicial to fundamental rights”.

27. Costa Rica takes the view that tackling the problem of torture requires the State to provide victims with assistance and protection and to safeguard their rights, including the means of obtaining redress and rehabilitation and the right to fair and adequate compensation.

## **C. Number of cases in which legal provisions were applied**

28. During the reporting period, the management system of the Office of the Prosecutor for Probity, Transparency and Anti-Corruption Measures was used to identify 5,508 cases of abuse of authority. Eight cases of torture were reported in the period 2010–2017 (see annex 1) and two more in 2018 (see annex 19, table 1).

29. In these 10 cases, the criminal courts convicted five people of torture. Two people were sentenced to 5 to 7 years’ imprisonment, one was sentenced to 10 to 15 years, one was sentenced to 15 to 20 years and one was sentenced to 25 to 30 years (see annex 19, table 1).

## Article 2

### A. Legislative and other provisions for reducing the duration of pretrial detention and eliminating prolonged incommunicado detention

30. Article 37 of the Constitution states that “no one may be detained without circumstantial evidence of having committed an offence or without a written warrant from a judge or authority responsible for public order, unless he or she is a fugitive from justice or is found in flagrante delicto; in all cases where a person is detained, he or she must be brought before a competent judge within a mandatory period of 24 hours”.

31. In 2016, Act No. 9271 on the Use of Electronic Monitoring Devices in Criminal Justice was passed to regulate the wearing of electronic devices as an alternative to deprivation of liberty. This measure is overseen by the Directorate General for Social Adaptation of the Ministry of Justice and Peace and is authorized only after the judge has clearly and thoroughly explained the device’s functioning and conditions of use, and the consequences of violating those conditions, to the person who has been accused or detained, and only with that individual’s express consent. Electronic devices should be of such a nature as to be non-stigmatizing.

32. With the adoption of Act No. 9525 of 7 March 2018, an amendment was introduced to article 56 bis of the Criminal Code to afford judges greater latitude to make use of community service as an alternative to pretrial detention and custodial sentences. This Act was supplemented by regulations on the enforcement of community service sentences (Executive Decree No. 41419 of 14 September 2009).

33. Loan Agreement No. 2526/OC-CR, signed by Costa Rica and the Inter-American Development Bank to implement the Programme for the Prevention of Violence and the Promotion of Social Inclusion, was approved by Act No. 9025 of 29 March 2012. Decree No. 37324-JP, containing the Programme’s operating regulations, was issued in October 2012. Under this programme, the Ministry of Justice and Peace administers Civic Centres for Peace geared towards vulnerable persons, particularly children aged 12 to 18 years.

34. The Public Prosecution Service has taken a number of measures to reduce the duration of deprivation of liberty. One example is the issuance of General Instruction No. 01/2018, which contains several binding guidelines that prosecutors must immediately apply.<sup>1</sup>

35. The Public Defence Service visits the detention cells of the Judicial Investigation Agency on a daily basis to check the conditions in which detainees are held. If it finds that a fundamental right has been violated, it proposes the appropriate steps that should be taken, which might be administrative actions or applications for habeas corpus or *amparo*.

36. Act No. 9582, the Restorative Justice Act, was published on 20 July 2018. It carries benefits for people who are sentenced to less than 3 years’ imprisonment for offences such as reckless driving, disobedience of authority, insurance fraud, theft, causing minor injury and fraud by false representation. It does not cover violent offences or organized crime.

37. Since 2015, the Centre for Support, Coordination and Improvement of the Jurisdictional Function has monitored the courts and the regional administrators of judicial circuits to support their administrative functions and ensure the fulfilment of the goals established.

38. According to data provided by the judiciary’s Planning Directorate, as at 31 December 2017 there were 1,865 people detained by order of the courts without having been convicted, of whom 2 had been deprived of their liberty in 2012, 1 in 2014 and 8 in 2015, although most had been detained in the course of 2017 (see annex 2, table 5). Indeed, the majority had been

<sup>1</sup> Office of the Attorney General of the Republic, General Instruction No. 01/2018, “Lineamientos emitidos para el personal del Ministerio Público, posterior al nombramiento de la Fiscalía General Emilia Navas Aparicio”. Available at [https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos\\_2018/Circulares/IG-01-2018-1.pdf](https://ministeriopublico.poder-judicial.go.cr/documentos/Documentos_2018/Circulares/IG-01-2018-1.pdf) (accessed on 4 March 2019).

deprived of their liberty for between three and six months, while 163 had been detained for a period of nine months to one year and 141 for between one year and 18 months; 11 had been awaiting trial for over two years and six months (see annex 2, table 6).

39. The records also show that, as at 31 December 2017, there were 674 persons in detention who had been convicted but who had not yet been assessed by the National Institute of Criminology for various reasons, mainly – in 85.2 per cent of these cases – because they were awaiting either a definitive judgment or the outcome of an appeal (see annex 2, table 13). Nine of these persons had been in detention for periods ranging from one year to two years and seven months, although the great majority had been in pretrial detention for one to nine months (see annex 2, table 11).

40. Slow dispensation of justice might be caused by factors such as the complexity of the case, the behaviour of the applicant, the way the case was processed, the human factor, and the capacity and volume of work of the court in question. To mitigate the problem, the institutional modernization unit of the Planning Directorate sets work quotas, with a view to establishing performance benchmarks, when redesigning the processes of different courts.

## **B. Legislative and other provisions to prevent and combat trafficking in persons**

41. Costa Rica recognizes the serious social and economic consequences of trafficking in persons and other activities related to transnational organized crime, and the State's responsibility to prevent and combat trafficking, to protect victims, and to fully safeguard and restore their rights.

42. In 2002, Costa Rica ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking in Persons Protocol). The same year, it ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

43. In 2005, the National Coalition against Smuggling of Migrants and Trafficking in Persons was created by executive decree to prepare, define, coordinate and implement actions, strategies and public policies to prevent, combat, punish and eradicate trafficking in persons and migrant smuggling. Its functions and structure were strengthened by Decree No. 34199-G-MSP-J-MEP-S-MTSS-RREE of 12 March 2007.

44. Act No. 8720 on the Protection of Victims, Witnesses and Other Parties Involved in Criminal Proceedings was adopted on 4 March 2009. It established rules on the protection of trafficking victims and introduced an amendment to the former article 172 of the Criminal Code, concerning the trafficking of women and minors, to increase the penalties and broaden the scope of the offence.

45. On the same date, the Immediate Response Team for Situations of Trafficking in Persons was established by Decree No. 35144-MG-MTSS as a specialized inter-institutional body responsible for activating measures to meet the immediate care needs of trafficking victims and their dependents.

46. The Team is composed of representatives of numerous institutions, including the Ministry of Public Security in its capacity as technical secretariat of the National Coalition against Smuggling of Migrants and Trafficking in Persons, the Costa Rican Social Insurance Fund, the National Institute for Women, the Ministry of Labour and Social Security, the Judicial Investigation Agency, the Public Prosecution Service and the National Child Welfare Agency, as well as representatives of United Nations specialized agencies. The Team's protocol for the identification and formal recognition of trafficking victims was issued in 2015.

47. The purpose of the Immediate Response Team is to respond to any potential situations of trafficking in persons that are referred to it, and to take steps to ensure the care, protection and safety of persons who are suspected of being trafficked or are formally recognized as victims.

48. Act No. 8764 of 19 August 2009, the General Act on Migration, created a special migration category for victims of trafficking in persons, and laid down the mechanism for granting this status. The Act also provides for special categories for asylum seekers and refugees, so that persons who successfully apply to be included in these categories are permitted to remain in the national territory (arts. 90 and 103 ff. and related articles).

49. Act No. 9095, the Trafficking in Persons Act, was adopted on 26 October 2012 to combat trafficking on all fronts and to define a specific complementary framework for the protection and assistance of victims of trafficking and their dependents.

50. Under the Act, the National Coalition against Smuggling of Migrants and Trafficking in Persons is responsible for promoting the formulation, implementation, monitoring and evaluation of national, regional and local public policies for the prevention of people smuggling and trafficking in persons, the care and protection of victims and the prosecution and punishment of perpetrators. The Act envisages the development of a national anti-trafficking policy, regulates the composition and structure of the Immediate Response Team, establishes the rights of victims and provides for the creation of the National Fund against Trafficking in Persons and Smuggling of Migrants.

51. This fund, which is financed through the addition of a US\$ 1 charge to the country's departure tax, is intended solely to cover the cost of combating trafficking in persons on all fronts and ensuring the protection, care and social reintegration of victims.

52. At the operational level, the Coalition's technical secretariat pursues a comprehensive approach and facilitates and promotes the establishment of inter-institutional communication and coordination channels, among other actions. The Coalition approves financial assistance for victims, in follow-up to the immediate care that they receive. Persons recognized as victims of trafficking are granted access to care, protection and security services and, in the case of foreign nationals, to identification and documentation processes.

53. The implementing regulations of Act No. 9095, adopted by Decree No. 39325 of 9 September 2015, provide, *inter alia*, for the establishment of permanent technical commissions on victim support; prevention; the pursuit of justice; information, analysis and research; and project management.

54. More recently, Act No. 9545 of 24 April 2018 introduced amendments to several articles of the Criminal Code and of Act No. 9095 to bring the definition of trafficking in persons into line with international standards and the human rights commitments entered into by Costa Rica, and to step up the fight against trafficking in persons through broader legal categories intended to facilitate the work of State agents specializing in this area (see annex 18).

55. One of these amendments refers to article 189 bis of the Criminal Code, concerning labour exploitation, the definition of which was extended to cover labour or services obtained through force, deception, coercion or threat. The penalty for the offence was increased to 10 years' imprisonment, or 16 years if the victim is underage, is in a situation of vulnerability, or has a disability.

56. In addition, articles 5 and 6 of Act No. 9095 were amended to broaden the concept of trafficking in persons and the legal understanding of related activities, in accordance with the provisions of the Trafficking in Persons Protocol.

57. In 2015, the Permanent Technical Commission on Victim Support – an intersectoral, interdisciplinary, inter-institutional group established under the implementing regulations of Act No. 9095 – reviewed and updated the comprehensive care model for victims of trafficking in persons, developed in 2009, to provide comprehensive care to victims while respecting and safeguarding their rights.<sup>2</sup>

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<sup>2</sup> National Coalition against Smuggling of Migrants and Trafficking in Persons, "Modelo de atención integral para sobrevivientes víctimas del delito de Trata de Personas". Available at <https://pani.go.cr/descargas/conatt/580-modelo-de-atencion-integral-vdt-conatt/file> (accessed on 4 March 2019).

58. This commission harmonizes the criteria used by the competent institutions to conceptualize trafficking in persons; to detect, identify, refer and recognize victims; and to provide comprehensive care. The comprehensive care model is based on 11 components, ranging from detection, identification, recognition and protection to legal assistance and the regularization of migration status.

59. Against this backdrop of legal reform, the National Child Welfare Agency has developed three protocols for the specific care of child victims: one on commercial sexual exploitation, one on the repatriation of child and adolescent victims of trafficking and one on trafficking in minors. A manual for the inter-institutional care of exploited children, prepared by a commission composed of authorities in the health, labour, migration and children's sectors, was published in 2015.

60. Under Act No. 8811 of 12 May 2010 on the Promotion of Corporate Social Responsibility in Tourism, an article 168 bis was added to the Criminal Code stipulating that the owners, managers or persons in charge of companies that promote or facilitate the commercial sexual exploitation of minors will be barred from conducting business for 3 to 10 years. Based on this Act, the Costa Rican Tourism Board carries out actions such as monitoring the implementation of the Code of Conduct for the Protection of Children and Adolescents from Commercial Sexual Exploitation in Travel and Tourism, with a view to issuing a "Tourism Declaration" to eligible companies.

61. The judiciary has investigative personnel who specialize in cases involving trafficking in persons and who are based in various regional offices of the Judicial Investigation Agency.

62. The Ministry of Public Security takes steps to prevent and detect trafficking in persons and prosecute perpetrators, including by carrying out inter-institutional operations in different locations and communities throughout the country. These include the regional plan known as "Operación Esperanza" [Operation Hope], implemented in June 2014 in the Provinces of Guanacaste, San José and Cartago, in which two victims were rescued and training was provided to 310 police officers; and the second iteration of the plan, which was carried out in October 2014. Between August and October 2015, the regional plan "Operación Dignidad I" [Operation Dignity] extended the scope of these measures to the Provinces of Limón, Puntarenas and Guanacaste, enabling the identification and rescue of nine victims (one of them a minor), the closure of four premises, the delivery of awareness-raising talks to 10,371 students and the holding of 107 training sessions with a total of 3,334 participants.

63. The most recent efforts by the Ministry of Public Security concern the first and second editions of the regional plan "Operación ROCA", which not only resulted in 24 investigations into trafficking in persons, 7 of which have led to a prosecution process, but also allowed for the training of public officials and members of the public, in partnership with the National Commission on the Administration of Justice, the training unit of the Judicial Investigation Agency and regional prosecution services and police forces.

### **C. Information, disaggregated by the sex, age and nationality of the victims, regarding the number of investigations, convictions and sentences imposed in cases of trafficking in persons and commercial sexual exploitation**

64. The National Coalition against Smuggling of Migrants and Trafficking in Persons reports that there were 144 confirmed cases of trafficking in persons between 2011 and 2018, with 39 cases in 2017 and 15 in 2018 (see annex 3). Records indicate that in 2011 all eight confirmed cases of trafficking were for the purpose of sexual exploitation, whereas in 2016, 60 per cent of cases were for sexual exploitation, 15 per cent for labour exploitation and 10 per cent for irregular adoption. Sexual exploitation continued to be the main purpose of trafficking in 2018, accounting for 53 per cent of cases, although there was an increase in cases of trafficking for labour exploitation (27 per cent), domestic servitude (7 per cent) and domestic and sexual servitude (6 per cent).



65. Of the 144 persons recognized as victims of trafficking between 2011 and 2018, 110 were female and 34 were male; 106 were adults and 37 were minors. Eighty-nine were foreign nationals, including 42 Nicaraguans, 13 Dominicans, 8 Colombians, 6 Salvadorans, 4 Chinese, 3 Hondurans, 2 persons each from Haiti, Venezuela, Panama and Albania, and 1 person each from South Africa, Ghana, the Congo and Guatemala. The majority (103) of these foreign nationals were being reintegrated, 18 were being returned and 14 were being repatriated (see annex 3).

66. In 2017, the Crime Victim Support and Protection Office, which reports to the Attorney General's Office, assisted 55 victims of trafficking: 84 per cent through its protection programme and 16 per cent through its care programme (see annex 4, tables 2 and 6).

67. According to the Office of the Assistant Public Prosecutor for Trafficking in Persons and Smuggling of Migrants, established in 2013, 182 cases of trafficking in persons were reported to the Public Prosecution Service between 2014 and 2018 (see annex 19, table 2).

68. The judiciary reports that between 2015 and 2018, 220 investigations were opened into cases of trafficking in persons and people smuggling: 60 in 2015, 46 in 2016, 58 in 2017 and 56 in 2018. Convictions were handed down in 14 of these cases, with sentences ranging from 5 years and 4 months' imprisonment to 16 years' imprisonment.

69. In these 14 cases, 67 people were prosecuted, 63 were convicted, 1 was acquitted, 2 are awaiting trial and 1 was tried in absentia. Forty-seven of those prosecuted were men and 20 were women. They included Costa Rican, Nicaraguan, Dominican, Guatemalan and Honduran nationals.

70. The 73 victims in these cases included 20 female victims, 3 of whom were minors, and 12 male victims. In one case related to people smuggling, 41 victims were identified, although their gender was not reported. In three of the cases no victims were identified.

71. Within the framework of the network of specialized prosecutors established in Central America and the Dominican Republic to address cases of trafficking in persons, 27 investigations into trafficking were opened in 2016 and 54 in 2017. These investigations led to 511 recorded police actions in 2017; 2 raids conducted in 2016 and 15 in 2017; 31 victims rescued in 2016 and 57 in 2017; 8 charges brought; 2 persons placed in pretrial detention in 2016 and 26 in 2017; and 7 convictions for trafficking during the period 2016–2017.

#### **D. Number of shelters available to victims of trafficking and their geographical location; treatment and services available to victims in shelters**

72. Survivors of trafficking in persons are placed in various safe and confidential accommodation facilities in the metropolitan area. In some cases, if the persons concerned are women, they are taken to shelters run by the National Institute for Women, which have all the necessary services, including health-care, counselling and comprehensive care services. Minors are placed in shelters run by the National Child Welfare Agency, where survivors of trafficking in persons are dealt with in a comprehensive manner and a strategy for the provision of care and the mobilization of resources to support trafficking victims and their dependents is implemented (see annex 20).

73. During the process of identifying potential victims of trafficking in persons, a specialized form is used to assess their immediate needs in order to coordinate the allocation of primary resources, while ensuring that victims are treated as rights holders.

74. Both foreign victims and Costa Rican victims abroad may be allocated funds for other needs that are considered necessary by the victim and/or the institution and that are not covered by the strategy in order to ensure that individualized care is provided to each victim and his or her dependents in accordance with their particular needs.

## **E. Training and awareness-raising campaigns on trafficking in persons for public officials**

75. Costa Rica acknowledges that the State must take strategic preventive action in order to tackle and prosecute cases of trafficking in persons and people smuggling. Such actions include raising public awareness and providing ongoing training to public servants, particularly police and prison officers.

76. The Ministry of Public Security is working with the police and the general public to prevent trafficking in persons and raise awareness of it. In 2008, prevention campaigns were carried out in conjunction with the United Nations Children's Fund (UNICEF) and the National Coalition against Smuggling of Migrants and Trafficking in Persons, including a training-of-trainers course for police officers on the prevention of trafficking in children.

77. This group of officials piloted a community-level prevention plan in order to raise awareness of concepts associated with this offence.

78. Workshops on community-based processes for preventing trafficking in persons have been held for officials working on community outreach. A workshop on identifying victims of trafficking has also been held to provide officials with tools based on a victim-centred approach. In 2017, officials of the Directorate for Preventive Police Programmes were given a refresher course on the Trafficking in Persons Act.

79. The Ministry of Public Security has included measures intended to generate knowledge and raise awareness of the issue in its institutional plans. By way of example, the local plan drawn up for the canton of San Carlos, where the incidence of trafficking cases is particularly high, includes a training module on the subject. Training has been provided to a group of women police officers who take part in operations by conducting specialized interviews to identify cases of trafficking.

80. The judiciary has participated in initiatives such as the establishment of a network of specialized prosecutors in Central America and the Dominican Republic to handle cases of trafficking in persons. As part of its preventive work, this regional network has given talks and training to 427 students in educational centres, 206 government officials, 96 persons representing organized communities and 227 managers and employees in the hospitality sector.

81. The Training and Oversight Unit of the Public Prosecution Service reports that it conducted at least 13 courses for 316 staff members (167 women and 149 men) between 2007 and 2018 (see annex 5).

82. The Ministry of Justice and Peace developed a course on the detection of trafficking for public servants that was first delivered in September 2016 to staff of the national prison system.

83. Awareness-raising and training activities conducted by institutions involve communities as leading stakeholders in the prevention of torture and the promotion of community action. For example, prior to the amendment of various articles of the Criminal Code and of Act No. 9095 in accordance with Act No. 9545, the Ministry of Public Security provided training to young persons in educational establishments on the redefinition of the offence in accordance with the Trafficking in Persons Protocol.

84. Efforts are being made to update the community security strategy to ensure that trafficking in persons and migrant smuggling are included in the training modules on community security delivered to the communities that participate in this programme. The issue of trafficking will be included in training sessions on trade security. These campaigns are aimed at strengthening the culture of prevention in educational establishments.

85. The Office of the Assistant Public Prosecutor for the Prevention of Trafficking in Persons and Migrant Smuggling has also provided training to the members of the National Coalition against Smuggling of Migrants and Trafficking in Persons on the reform carried out under Act No. 9545. In addition, the Office on Migrant Smuggling and Human Trafficking of the Directorate General for Migration trained 1,883 staff members in

theoretical and conceptual aspects of trafficking in persons and in detection and referral indicators and tools for prevention.

86. The Office of the Deputy Minister of Peace is working along the same lines, giving talks and holding workshops with students in schools located in different parts of the country. Public events carried out to disseminate materials include the opening of the San Carlos Civic Centre for Peace, the San José fair and the meetings of the Los Chiles Cantonal Network for the Prevention of Violence.

87. The Commission on the Control and Rating of Public Entertainment is responsible for developing educational initiatives for secondary-school students on the subject of trafficking. Since 2017, the work carried out with the National Youth Network has included a component on the prevention of trafficking.

88. Since 2008, the National Institute for Women, the International Organization for Migration (IOM) and the non-governmental organization Centro Feminista de Información y Acción (CEFEMINA) have been conducting a campaign entitled “No to the Trafficking of Women in Costa Rica”. In 2011, the Judicial Investigation Agency and IOM launched another campaign entitled “Not Everything Is What It Seems” and a radio drama series was produced in 2011 and 2012 with the support of the IOM Regional Office. Radio information spots provide information on detecting situations where there is a risk of trafficking and smuggling to promote collaboration between the general public and the authorities and to improve prevention efforts. These spots are supplemented by other information campaigns developed by the technical secretariat and the National Coalition against Smuggling of Migrants and Trafficking in Persons and deployed at strategic sites, including airports, and on public transport, social media and television.

89. One of the most successful campaigns in this regard has been the Blue Heart Campaign against Human Trafficking, which was launched in 2016 in partnership with the United Nations Office on Drugs and Crime. The campaign, which is represented by a blue heart symbolizing the suffering and the situation of trafficking victims, engages with public opinion and institutions and has established spaces for dialogue between the Government and civil society and provided training to public officials responsible for investigating cases of trafficking in persons and prosecuting the perpetrators. The Blue Heart Pact has been signed as a commitment to joint work against trafficking.

## **F. Restructuring and transfer of the Directorate on Trafficking to the Directorate General for Migration**

90. Since the adoption of Act No. 9095 and the establishment of the National Coalition against Smuggling of Migrants and Trafficking in Persons and, in particular, of the National Fund against Trafficking in Persons and Smuggling of Migrants, the State has had a budget with which to meet the costs associated with the situation and needs of victims of this offence. At the same time, efforts are being made to strengthen institutions and improve tools for the comprehensive care of victims and the prevention and prosecution of the offence.

91. In accordance with the law establishing the Fund, it has been set up and used solely to finance administrative and operational expenses for the prevention, investigation, prosecution and detection of the offence of trafficking in persons; the comprehensive care, protection and social reintegration of recognized trafficking victims, both Costa Rican and foreign; and comprehensive action against migrant smuggling. No more than 20 per cent of the Fund’s resources may be used for administrative costs.

92. In 2018, over 756 million colones (₡), more than in any previous year, was invested in comprehensive measures to combat these offences. Almost ₡115 million was invested in the implementation of a strategy for the provision of comprehensive care and the mobilization of resources to support trafficking victims and their dependents.

93. Through the National Coalition against Smuggling of Migrants and Trafficking in Persons, the Costa Rican State has invested ₡583 million in the prevention of trafficking in persons and the provision of primary care to victims. It has also trained many members of civil society and staff of the various institutions responsible for detecting, reporting on and

supporting potential victims of the offence of trafficking in persons, enabling it to achieve its goal for the provision of primary care in 2018.

94. Since the establishment of the National Fund against Trafficking in Persons and Smuggling of Migrants, investigation, detection and prosecution activities have been strengthened. As of 2018, almost €150 million had been allocated to such activities, specifically to the professional immigration police of the Directorate General for Migration and the border police of the Ministry of Public Security.

95. The Office on Migrant Smuggling and Human Trafficking of the Directorate General for Migration, which provides technical support to the technical secretariat of the National Coalition against Smuggling of Migrants and Trafficking in Persons, has been coordinating all actions related to the primary and comprehensive care of victims, who are supported by the various member institutions of the Coalition.

96. In December 2018, the Office of the Comptroller General of the Republic approved an investment of €1,827.3 million by the Costa Rican State in combating the offences of trafficking in persons and migrant smuggling. This sum will allow the Ministry of Public Security, the Directorate General for Migration and the National Coalition against Smuggling of Migrants and Trafficking in Persons to strengthen and continuously improve their processes.

## **G. New measures taken to combat domestic violence**

97. On 25 April 2007, the Violence against Women Act (No. 8589) was adopted to protect the rights of victims of violence and to punish the various forms of physical, psychological, sexual and property-related violence against adult women as forms of gender discrimination within a marriage or a de facto union, whether publicly acknowledged or not.

98. The Violence against Women Act provides for, inter alia, the protective measures established in the Domestic Violence Act and the precautionary measures detailed in the Code of Criminal Procedure for victims who request them from the outset of the judicial investigation. In accordance with the international instruments ratified by Costa Rica, the main penalty for the offences defined in the Act is imprisonment, although alternative penalties may be considered if they would not endanger the victim's life or integrity or hinder his or her ability to exercise other rights.

99. The offences covered by the Act include femicide, ill-treatment, restriction of freedom of movement, affronts to dignity, restriction of the right to self-determination, threats against a woman, rape of a woman, abusive sexual behaviour, sexual exploitation of a woman, theft or damage of property, restriction of the exercise of property rights, defrauding a woman of community property, economic exploitation of a woman and obstruction of access to justice.

100. Articles 22 and 25 of the 2007 Act, corresponding to the offences of ill-treatment and emotional abuse, respectively, were declared unconstitutional by the Constitutional Chamber in decision No. 15447 of 15 October 2008 on the grounds that their wording did not safeguard the principles of legality and definition as an offence under criminal law.

101. Although the same court, in its decision No. 7398 of 6 May 2009, ordered the annulment of the provisions that had previously been declared unconstitutional, the debate on the legality and definition of the offences covered by articles 22 and 25 of Act No. 8589 was resolved by Act No. 8929 of 8 March 2011, which re-established the offences of ill-treatment and affront to dignity in the law (see annex 18).

102. In 2008, a national system for addressing and preventing violence against women and domestic violence was established pursuant to Act No. 8688. The system is a forum for discussion, consensus, coordination and evaluation involving the National Institute for Women, relevant ministries, decentralized State institutions and organizations whose work relates to this issue.

103. The system has become a formal mechanism at three levels: the political level, through the National Council of the National System for Addressing and Preventing Violence against Women and Domestic Violence, which is made up of eight ministerial-level institutions, the

judiciary and other governing bodies and is led by the National Institute for Women; the technical level, through a follow-up committee made up of 26 government bodies and civil society organizations and a technical secretariat provided by the National Institute for Women; and the operational level, through the activities of 77 local networks that work to address and prevent such violence in 8 regions of the country.

104. Pursuant to Decree No. 39208-MP-MCM of 3 August 2015, the regulations implementing the Act that created the system were promulgated, establishing the structure of the system, including the configuration and functions of local and inter-agency networks for addressing and preventing violence against women and domestic violence. A policy evaluation and compliance committee was established to ensure compliance with the responsibilities assumed by each institution, and subcommittees of the follow-up committee were set up to monitor the protection of women in the media and the harmonization of public policy, among other tasks.

105. Act No. 8720 on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings and on amendments and additions to the Code of Criminal Procedure and the Criminal Code created a legal framework for the activities of the Crime Victim Support and Protection Office in supporting and protecting victims. The Office was established under the authority of the Attorney General by decision of the High Council of the Judiciary at session No. 95-99 of 30 November 1999.

106. In the same year, a number of internal actions were carried out with the aim of establishing the Office's technical and administrative structure, which includes units that provide individual and group counselling services; social assistance; legal advice on criminal proceedings, victims' rights and the status of cases; support with various legal proceedings; contact with social support networks; and referrals to other medical, social and protection institutions.

107. The figures show that, in 2017, 62 per cent and 65 per cent of the total number of cases referred to the protection and care programmes, respectively, were related to offences covered by the Violence against Women Act.<sup>3</sup> Other offences identified include sexual abuse, rape, affronts to dignity, threats against a woman, assault with a weapon, and making threats, which account for 47 per cent of the total number of cases registered. Of the 15,843 persons in vulnerable situations who were assisted in 2017, 81 per cent were women.<sup>4</sup>

108. The Crime Victim Support and Protection Office provides a number of services to victims, including group activities in the form of workshops for women who are victims of domestic violence or of other offences covered by the Violence against Women Act. At these workshops, participants acquire tools for learning and personal growth and receive advice on criminal matters and the prevention of possible acts of violence. The Office also has the "73 Hours" support programme for victims of sexual offences, under which a rapid response team takes comprehensive, interdisciplinary, effective and timely action. In 2017, the team provided support to 218 persons.

109. In 2011, Act No. 8925, amending articles 1, 3, 4, 5, 6, 12 and 20 of the Domestic Violence Act, was adopted. These amendments made it possible to establish an internal register of perpetrators administered by the judiciary; to extend the initial duration of protection measures from six months to one year, with no need for action on the part of the victim; to strengthen victims' access to justice by providing support, advice and assistance; and to allow the criminal justice authorities to apply measures in the absence of courts specializing in domestic violence.

110. In 2016, Act No. 9406 was adopted to strengthen the legal protection of children and adolescents in situations of gender-based violence associated with abusive relationships. This Act, which is known as the Improper Relationships Act, introduces amendments to several articles of the Criminal Code, the Family Code, the Civil Code and the Organic Act of the Supreme Electoral Tribunal and the Civil Registry in order to prohibit child marriage and

<sup>3</sup> Crime Victim Support and Protection Office, progress report for 2017. Available at <https://ministeriopublico.poder-judicial.go.cr/index.php/es/categorias-de-documentos/oapvd/5535-informe-de-labores-oapvd-2017/file>, p. 35 (accessed on 21 April 2019).

<sup>4</sup> *Ibid.*, p. 56.

establish an age limit below which sexual relations between adults and minors are considered an offence.

111. Pursuant to Act No. 9406, any person who has sexual relations with a person over 13 and under 15 years of age, where there is an age difference of 5 years or more between the parties concerned, is liable to a term of imprisonment of up to 6 years. The penalty is up to 3 years' imprisonment for an adult who has relations with a person over 15 and under 18 years of age, where the difference in age between the two parties is 7 years or more. The penalty is 4 to 10 years' imprisonment if the perpetrator of the sexual offence is a relative, guardian or friend of the child victim or has authority over him or her. This penalty applies regardless of whether the two parties have a family relationship, and provided that the act does not constitute the offence of rape.

112. Another legislative advance was the amendment of the regulations on the national prison system in 2018, which includes provisions to guarantee the right to complementary health care for women (art. 135), including assistance if sexual abuse or other forms of violence are found to have occurred prior to admission; discharge procedures for cases involving domestic or sexual violence offences (art. 232 (d)); and assessment of applications for conjugal visits (art. 303).

113. Since 2008, the Office of the Assistant Public Prosecutor for Gender Affairs of the Public Prosecution Service has issued statements, internal memorandums and administrative circulars aimed at guiding and overseeing the support provided to victims of these forms of violence, the investigations to be carried out, and the timely collection of the necessary evidence.

114. Internal memorandums Nos. 01-2009, 02-FAVDD-2009 and 02-FAAG-2011, for example, set out guidelines for the application of the special summary procedure and the necessary minimum conditions that must be stipulated if a conditional sentence is to be granted to an accused person, with a view to protecting the physical, psychological, sexual and emotional integrity of the victims. Memorandum No. 05-FAAG-2014 and Circular No. 24-2012 on the Gesell Chamber User Manual of the High Council provide for the use of Gesell chambers as an alternative to revictimization.

115. Administrative circulars Nos. 15-ADM-2008, 22-ADM-2008, 01-ADM-2009, 02-ADM-2009, 22-ADM-2009, 01-FAAG-2011, 20-ADM-2010, 05-ADM-2016 and 01-ADM-2018 concern the approach to, and investigation of, matters related to the implementation of the Violence against Women Act, as well as acts of domestic and gender-based violence, with a view to providing immediate support to victims, including psychosocial support and an urgent initial investigation. Circular No. 02-PPP-2008 prohibits the application of prosecutorial discretion in relation to domestic violence offences.

116. The Office of the Assistant Public Prosecutor for Gender Affairs has issued memorandum No. 01-FAAG-2018, which is aimed at harmonizing the approach taken in investigations into offences involving sexual relations with minors. Such investigations must also incorporate the gender perspective and concepts related to violence against women.

117. In accordance with instruction No. 01-2018, a series of guidelines was issued to prioritize attention to cases involving violence against women (see annex 18).

118. In addition to the above provisions, the following regulations serve to harmonize and guide actions taken to promote victims' rights and protect their physical, psychological, sexual and emotional integrity:

- Inter-institutional protocol for the comprehensive care of rape victims within the first 72 hours
- Manual on procedures for inter-institutional action by rapid response teams for the comprehensive care of rape victims within the first 72 hours
- Inter-institutional protocol for intervention and risk assessment in situations of violence against women
- Inter-institutional protocol for intervention to assist women at high risk of death from violence

- Protocol for the care of victims of sexual harassment
- Protocol for the care of persons affected by domestic violence and gender-based violence, issued by the emergency services of the Costa Rican Social Insurance Fund
- Protocol for the care of victims of domestic violence offences committed by adults
- Circular No. 11-ADM-2018 of the Attorney General's Office, setting out the channels of communication and coordination between the offices of the Public Prosecution Service and the Crime Victim Support and Protection Office
- Guide to the assessment of risk in situations of intimate partner violence against women (Memorandum No. 01-FADDVS-2010)
- Approved guidelines for the provision of support in the prison system in cases of sexual and domestic violence

119. Under the National Plan for Addressing and Preventing Violence against Women: Intimate Partner Violence, Domestic Violence, Sexual Harassment and Rape, 2010–2015 (PLANOVI-MUJER 2010–2015), institutional responses to the problem of violence against women have been strengthened through the promotion of technical and policy coordination in order to implement the Domestic Violence Act, the Violence against Women Act and Act No. 8688, establishing the national system for addressing and preventing violence against women and domestic violence.

120. Within a regulatory, institutional and operational framework, institutions that have relevant obligations develop specific programmes and services to address the various forms of violence against women. These institutions have established their own units or offices to promote gender equality and equity and institutional policies on gender equality and equity.

121. For example, the Unified System of Statistics on Gender-based Violence in Costa Rica was established in 2008 in accordance with an inter-institutional letter of understanding. The participating agencies currently include the judiciary, the National Statistics and Census Institute, the 911 national emergency system, the Ministry of Public Security, the Ministry of Health, the Ministry of Justice and Peace, the Ombudsman's Office and the National Institute for Women, which coordinates the system.

122. In the first phase, 22 indicators were designed and compiled for 2006 and 2007 and were published in November 2009. In the second phase, the indicators were redefined in relation to administrative records and collection tools, and 15 indicators were obtained as a result. In the third phase, the indicators were disaggregated to a greater extent and information for 2012–2016 was made available. Overall, the information obtained helps to improve and refine knowledge about violence against women in Costa Rica (see annexes 6 and 7).

123. In this connection, mention should also be made of the establishment of the Observatory on Gender-based Violence against Women and Access to Justice, which was approved by the High Council of the Judiciary at session No. 27-14 of 26 March 2014. The Observatory collects legal information and systematizes it in reports and graphs that are published online.

124. The Integrated Victim Services Platform was established as a pilot plan within the framework of the sixteenth Ibero-American Judicial Summit, for which the first round of workshops was held in San José, Costa Rica, from 23 to 25 March 2010, with the aim of integrating the services provided by the judicial system to victims of domestic violence and sexual offences.

125. At its session No. 029-11, held on 30 March 2011, the High Council approved report No. 033-PLA-PI-2011 of the Planning Department, which defined the structure of the Integrated Victim Services Platform. In 2013, a service protocol for persons using the Platform was drawn up. Three integrated platforms are currently in operation.

126. The judiciary, the National Institute for Women, the Ministry of Public Security, the Ministry of Justice and Peace, the Directorate General for Migration and the Ministry of Foreign Affairs are participating in a project aimed at preventing violence against women, trafficking and femicide in Central America, known as the B.A.1 Project. This is a regional initiative, conducted in accordance with the Central American Security Strategy, in which

seven countries are participating. It receives technical and administrative support from the United Nations Population Fund and IOM and has led to the establishment of local committees for the provision of immediate care and follow-up in high-risk cases involving violence against women.

127. The committees are local inter-agency teams composed of judges, prosecutors, law enforcement officers and local representatives of the National Institute for Women that specialize in providing immediate support in situations where a woman's life or integrity is in danger.

128. The committees currently operate in 15 cities or geographical regions. Within each committee, officials remain in close contact with each other so that victims of gender-based violence may be approached and supported simultaneously.

129. In 2015, the judiciary, the National Institute for Women and the Costa Rican Bar Association signed an agreement to develop a pilot programme of social advocacy services to provide information, advice, support and free legal aid to women involved in legal proceedings related to the implementation of the Violence against Women Act or to other sexual offences committed against women over 15 years of age and other legal proceedings related to domestic violence. The project began in March 2016, when two offices were opened, and was strengthened in July of the same year when a further two offices were opened. In 2016, 98 cases were addressed.

130. In April 2009, the National Institute for Women signed an agreement with the University of Costa Rica to set up free legal clinics to meet the demand for legal aid and advice for women arising from gender-based violence and legal proceedings involving children and adolescents. Three legal clinics have dealt with between 50 and 60 new cases per year since their inception and have maintained over 200 open cases per year in San José, while 120 cases were initiated in San Ramón de Alajuela in 2016.

131. Since 2015, geolocation devices have been purchased and allocated to women who face a risk of death from violence. The emergency kit is composed of this geolocation device (a panic button), an address book, a document holder for storing legal documents, a bag and personal care items, depending on the woman's needs.

132. The panic button triggers an emergency call to the 911 emergency system. This call is registered with the central police station, which then sends a radio patrol car to the place indicated by the geolocation device. This procedure was set up through prior coordination between the Costa Rican Electricity Institute and the 911 emergency system, within which the National Institute for Women and law enforcement agencies also have response units. Between 2015 and 2016, 49 emergency kits were allocated to women in different parts of the country.

133. With regard to raising public servants' awareness of domestic violence, including sexual violence and violence against children, the National Policy for Addressing and Preventing Violence against Women of All Ages 2017–2032, a public policy that follows on from PLANNOVI-MUJER 2010–2015, stresses the need to place cultural change at the centre of all public actions.

134. In the period from 2011 to 2016, the Ministry of Public Security trained over 4,555 police officers to take action in response to workplace issues, to receive and deal with complaints of sexual harassment and harassment in the workplace, to support women in the areas of maternity, breastfeeding and disability and to be available as professionals who know how to listen to women victims of violence and provide them with support and advice. Since 2017, a methodological workshop on alternative masculinities has been held for law enforcement officers.

135. Training and awareness-raising workshops are held in all regional directorates of the law enforcement agencies and in the Coast Guard Directorate, the National Police Academy, the Personnel Council, national directorates and the Legal Department for Disciplinary Matters. To this end, manuals on domestic and family violence and the prevention of intimate partner violence among adolescents have been produced.



136. According to data provided by the Ministry of Public Security, over 1,200 law enforcement personnel are estimated to have been trained in gender issues. Furthermore, 60 workshops on these issues, 6 recreational and cultural activities and 1 self-care fair have been held and 16 newsletters have been distributed. Thanks to the Ministry's programmes on domestic violence, 32,153 students around the country benefited from awareness-raising initiatives in 2010 alone and 560 counselling sessions were organized for victims of sexual harassment and workplace harassment.

137. Institutional policies on gender equality and equity ensure respect for the rights of women and girls. For example, the children of law enforcement officers and other police forces of the Ministry of Public Security have been supported by the National Directorate for Education and Nutrition Centres and Comprehensive Childcare Centres. These centres operate throughout the country.

138. The Ministry of Public Security has an Institutional Coordination Group for Cases of Sexual Harassment that has launched information campaigns on sexual harassment in the workplace for all units of the Ministry. In addition, officers in the 12 regional directorates have been trained to tackle domestic violence and authorized to register complaints of sexual harassment and refer them to the Legal Department for Disciplinary Matters or the Gender Office.

## **H. Provide updated statistical data on the results of proceedings initiated, the number and types of cases of violence against women, and the convictions and sentences handed down against the perpetrators**

139. Between 2012 and 2017, the Ministry of Public Security reported 44,895 cases involving violations of the Domestic Violence Act and the Violence against Women Act, in addition to 60,815 arrests for offences related to those two laws, which are the third most common cause of arrest after violations of the Psychotropic Drugs Act and offences against property (see annex 19, table 3).

140. The criminal prosecution service and the juvenile criminal prosecution service reported 18,812 cases of violations of the Violence against Women Act and 10,144 cases of sexual offences in 2017 (see annex 19, table 4).

141. According to data from the Observatory on Gender-based Violence against Women and Access to Justice, between 2007, when the Violence against Women Act was adopted, and 2017, 177,177 new cases concerning violations of the Act were received by the offices of the criminal prosecution service for adult offenders (see annex 8). The five main categories of violations of the Act that were brought before the Public Prosecution Service, which accounted for 95.48 per cent of the cases filed in the period 2007–2015, were failure to comply with a protection measure (31.10 per cent), ill-treatment (28.96 per cent), threats against a woman or psychological violence (17.86 per cent), affronts to dignity (10.81 per cent) and emotional abuse (6.73 per cent).<sup>5</sup>

142. In the period 2009–2016, 5,380 judgments were handed down in the adult criminal courts for violations of the Violence against Women Act, including 3,031 convictions (approximately 56.3 per cent) and 2,349 acquittals. It should be noted that, while the percentage of convictions did not reach 50 per cent in 2009, it has progressively increased, reaching 67.1 per cent in 2016 (see annex 8).

143. Sexual offences represent approximately 4 per cent of all complaints filed with the Public Prosecution Service and are the fourth most common offence, by section of the Criminal Code, among the new cases filed each year, after offences against property, offences against life and violations of the Violence against Women Act. Between 2010 and 2017, 55,572 complaints of sexual offences were filed with the criminal prosecution service for adult offenders, the three most prevalent offences being sexual abuse of a minor or legally

<sup>5</sup> Website of the Observatory on Gender-based Violence against Women and Access to Justice, at <https://observatoriodegenero.poder-judicial.go.cr/soy-especialista-y-busco/estadisticas/ley-de-penalizacion-de-la-violencia-contra-la-mujer/> (accessed on 20 April 2019).

incompetent person, rape, and sexual relations with a minor (see annex 9). In the same period, 9,834 judgments were handed down in the adult criminal courts for sexual offences, of which 5,458, or 55.5 per cent, were convictions.

144. With respect to femicide, which is the most serious form of gender-based violence, from 2007 to 31 December 2017, there were 313 cases in which women were murdered because they were women (see annex 10). Of those cases, 199 were classified as “femicide broadly defined” under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), and 313 were covered by article 21 of the Violence against Women Act.

145. This is because the legal definition of femicide, contained in article 21 of the Act, criminalizes the killing of a woman by her current spouse or partner. The category of “femicide broadly defined”, which is based on the Convention of Belém do Pará, includes the gender-based violent death of a woman at the hands of a person other than her current spouse or partner.

146. Based on these data, it can be inferred that, between 2007 and 2015, out of the 88 cases classified as femicide under article 21 of the Violence against Women Act, 81 per cent were committed by former intimate partners and the remaining 19 per cent by former spouses.

147. Between 2009 and 2017, the criminal courts convicted 65 men of femicide under article 21 of the Violence against Women Act (which carries a penalty of 20 to 35 years’ imprisonment), and handed down 181 judgments, including 94 convictions and 87 acquittals, for attempted femicide (see annex 10).

148. With regard to the protection measures that may be ordered by a domestic violence court, misdemeanour court or family court under the Domestic Violence Act, between 2010 and 2018, a total of 433,483 protection measures were requested, with an average of 132 measures per day. Most of these measures were requested by women against men (with women representing 80 per cent of the victims).<sup>6</sup>

149. The Office for the Criminal Indemnification of Victims, for its part, has reported a total of 187 criminal indemnity actions in the country in connection with domestic violence proceedings, including 37 for ill-treatment, 51 for failure to comply with protection measures, 4 for femicide, 26 for rape of a woman, 32 for damage to property and 11 for abusive sexual behaviour.

## **I. Number and geographical location of shelters available to victims of domestic violence**

150. The State currently has three specialized care centres and temporary shelters for women affected by domestic violence and their children, including women victims of trafficking. Each of these centres can accommodate 20 families. They are strategically located in the Atlantic region, the western region and the metropolitan area, but their exact location is kept confidential for the safety of the users.

151. Each centre has a team that specializes in social work, law and psychology, which provides users with therapeutic services, advice and legal representation. The centres also offer programmes for strengthening women’s capacities and providing care for children and older persons. Between 2012 and 2016, the centres served 1,760 women, with an average of 350 women per year.

<sup>6</sup> Observatory on Gender-based Violence. See <https://observatoriodegenero.poder-judicial.go.cr/soy-especialista-y-busco/estadisticas/ley-de-penalizacion-de-la-violencia-contra-la-mujer/> (accessed on 20 April 2019).

## Article 3

### A. Updates on the General Act on Migration, in particular with regard to asylum, refugee status, return, extradition and expulsion of persons to another State where they might be in danger of being subjected to torture

152. The General Act on Migration (Act No. 8764 of 19 August 2009) establishes the principles of the country's migration policy, invoking the principles of equality, equity, non-discrimination and interculturalism.

153. One of the main principles of the General Act is the promotion and protection of the human rights of migrants and refugees (art. 3).

154. The Act provides that foreign nationals have the same rights and individual and social guarantees as Costa Rican nationals, except for the limitations established by the Constitution (art. 31). Similarly, every foreign national has the right to access to justice, the right to guarantees of due process, the right to a defence and the right to petition and receive a reply. The provisions concerning the fundamental rights of foreign nationals are interpreted in accordance with the human rights conventions and international treaties in force to which Costa Rica is a party.

155. Under article 116, when an application for recognition of refugee or asylum status is filed, "it shall have suspensive effect on the execution of extradition until the corresponding procedure has been completed by means of a final decision. The recognition of refugee or asylum status shall have the effect of terminating any extradition proceedings initiated against the refugee or asylum seeker at the request of the Government of the country where the alleged offence was committed, on the basis of the same facts that justified such recognition."

156. Article 215 of the Act guarantees that, in cases of expulsion, the person concerned will be given three working days in which to offer exculpatory evidence. Article 216 provides that a foreign national whose expulsion has been ordered may file a request for reconsideration with the Directorate General for Migration or an appeal with the Administrative Migration Tribunal, in which case the execution of the expulsion order is suspended. Article 185 provides that "minors shall not be subject to deportation or expulsion from the national territory, except when it is in their best interests".

157. In accordance with article 35 of the Act, the Directorate General for Migration oversees migration into and out of the national territory. Such information is to be made publicly accessible, except for information relating to minors, refugees and applicants for refugee status.

158. The Act also provides for the establishment of the Restricted Visa and Asylum Commission, an interministerial governmental body responsible for authorizing or denying applications for restricted visas and refugee status. However, a request for reconsideration of a decision denying refugee status may be lodged with the same Commission and an appeal may be filed with the Administrative Migration Tribunal.

159. By Decree No. 36626 of 23 May 2011, the Regulations for the Granting of Entry Visas to Costa Rica were adopted. Among other things, they regulate the powers and operations of the Commission, in particular the creation of a visa unit responsible for issuing technical recommendations regarding the cases dealt with by the Visa and Asylum Commission (art. 241). The Regulations also stipulate that its members may individually or jointly request the temporary suspension of a decision when there is some new fact that may affect the authorization or denial of a restricted visa (art. 246).

160. Under article 17 of the Regulations governing Refugees, adopted by Decree No. 36831-G of 1 November 2011, "no person who claims to be stateless and an asylum seeker may be refused entry at the border. He or she shall likewise be protected by the principle of non-refoulement guaranteed to refugees in accordance with international treaties on the subject signed by the country and with the General Act on Migration."

161. The Agreement between the Government of the Republic of Costa Rica and the Government of the Republic of Cuba on the Enforcement of Criminal Judgments has been submitted to the Legislative Assembly's Commission on International Affairs and Foreign Trade under file No. 20.732. This agreement is in addition to the Treaty on the Transfer of Sentenced Persons for the Enforcement of Criminal Judgments concluded between Costa Rica and Colombia in 1998 and the Treaty on the Transfer of Sentenced Persons concluded between Costa Rica and the Republic of Paraguay (Executive Decree No. 39935 of 12 September 2016), in accordance with the Inter-American Convention on Serving Criminal Sentences Abroad and the Convention on the Transfer of Sentenced Persons (Strasbourg), ratified by Costa Rica in 1996 and 1998, respectively.

162. In addition, article 5 of the General Act on Migration provides that the executive branch is to determine the State's migration policy, in which it must provide for the integration of migrants while respecting their cultures and promoting the social, economic and cultural development of the country, in a manner consistent with public security. Migration policy should be aimed at "ensuring, in accordance with duly ratified international and regional instruments, that the national territory provides asylum to any person who has a well-founded fear of being persecuted, faces a danger of being subjected to torture or is unable to return to another country, regardless of whether or not it is his or her country of origin, if in that country his or her life is in danger" (art. 6 (6)).

163. The main objective of the Comprehensive Migration Policy for the period 2013–2023 is to establish an inter-agency coordination system that promotes effective migration management. The National Integration Plan for the period 2018–2022 was drawn up under that policy as a tool for identifying the areas in which integration processes for migrants, refugees and asylum seekers can be enhanced.

164. In 2016, the judiciary, the National Commission on the Administration of Justice and the Office of the United Nations High Commissioner for Refugees (UNHCR) signed the Framework Agreement on Cooperation (No. 02-2016) to optimize access to justice for asylum seekers and refugees in Costa Rica. Meanwhile, the Directorate General for Migration signed an inter-agency cooperation agreement with the Ministry of Justice and Peace on the issuance of identification documents for foreign nationals in semi-open institutions, the Community Care Programme or another programme ordered by the competent judicial authority (Circular No. DG-002-11-2017 signed by the Directorate General for Migration on 18 October 2017).

165. The judiciary has an institutional policy on access to justice for migrants and refugees, adopted at session No. 32-10, held on 8 November 2010. The policy is implemented by the corresponding subcommission.

166. This subcommission has worked to ensure that directives are adopted at the highest levels of the judiciary to guide the actions of judicial personnel with regard to migrants' access to judicial services. High Council Decision No. 35-2013 established guidelines on the validity of identity documents of migrants, refugees and asylum seekers for the purpose of access to judicial proceedings.

167. Circular No. 220-2014 extends protection to persons affected by violations of their labour rights, regardless of their migration status. In 2016, the subcommission prepared guidelines for judges on the application of articles 72 and 94 (5) of the General Act on Migration, through High Council Decision No. 39-16. These articles govern the temporary residence of foreign nationals who are, for some reason, in an irregular situation in the country and are seeking protection of their rights, whether they are witnesses in a proceeding or defendants in a trial.

168. To ensure that foreign nationals have access to health insurance and pensions, and to support the Directorate General for Migration in the task of regularizing migrants' status, the Costa Rican Social Insurance Fund has issued interim provisions for migrants to join the voluntary and self-employed workers' insurance scheme. With regard to compulsory insurance for waged foreign workers, if the Inspection Service determines that there is an employment relationship, the worker in question will be added to the employer's payroll, irrespective of his or her immigration status.

169. The Ministry of Public Security has developed a project on the integration of the migrant population through the expansion of the coverage of preventive police programmes in border areas and in communities with a high immigrant presence, with a view to purchasing equipment for the district offices and improving the mobility of officers working with the migrant population. The project is intended to ensure that officials can enter hard-to-reach areas near the border where migrant and refugee populations live in order to provide information on issues such as domestic violence, complaint mechanisms and prevention of trafficking in persons and commercial sexual exploitation, among other offences.

170. The National Institute for Women provides free legal advice and psychological care in its regional units, in addition to the services provided by the local offices for women. These services, while not exclusively aimed at the migrant population, are also provided for migrants.

171. Since 2016, the Directorate General for Migration and UNHCR have been working together on mechanisms to expedite the processing of applications. Currently, under an agreement, 23 lawyers and 14 clerks have been hired and assigned to posts in the Refugee Unit. A building has been rented for the Refugee Unit's central offices with capacity for staff and for serving 300 to 400 people per day. In addition, a building has been rented in the northern part of the country, to which 5 of the 23 lawyers and 3 of the 14 clerks have been assigned. Equipment has been purchased and donated for both buildings.

172. The Directorate General for Migration, in coordination with the Restricted Visa and Asylum Commission and the Administrative Migration Tribunal, has established a series of profiles for use in identifying cases that require expedited processing.

173. In order to address the backlog more effectively, each lawyer is assigned old cases, but is also instructed to deal immediately with the new applicants whom he or she is assigned to interview, so that the new cases are not added to the backlog.

174. A comprehensive review of the documents that the lawyers were required to prepare for each case was carried out, and all superfluous documentation was eliminated, without affecting due process or the right to a defence. As a result, the daily number of cases dealt with nearly doubled.

175. In the current Regulations governing Refugees, which have been in force since 1 November 2011, reference is made to the principle of non-refoulement in articles 14, 39, 40 and 134 (see annex 18).

176. By virtue of the declaratory nature of the recognition of refugee status, from the moment a person submits an application for asylum, he or she has the same rights as a recognized refugee and therefore practically the same rights as a Costa Rican national, except those relating to political and electoral participation.

177. Thus, he or she has access to the public health and education systems, scholarship programmes and public and private banking, to name a few. To this end, on the day the person applies for refugee status, he or she is given a numbered identity card for foreign nationals that allows access to all these services.

178. With regard to employment, under article 54 of the Regulations governing Refugees, once three months have elapsed since the submission of the asylum application, the person is given a temporary permit authorizing him or her to work either on a self-employed basis or as an employee.

179. Family reunification is governed by article 106 of the General Act on Migration (see annex 18). In the Regulations governing Refugees, there are references to family unity in chapter 11, to family reunification in chapter 12 and to refugee status by extension in chapter 13, all of which ensure family unity by various means, including reunification.

180. The refugee status determination system consists of three bodies: the Refugee Unit, the Restricted Visa and Asylum Commission and the Administrative Migration Tribunal. These bodies must ensure, within their respective functions, that applications for refugee status are properly assessed.

181. By virtue of the principle of non-refoulement, which applies in this regard, a person cannot be returned to his or her country of origin until the relevant process has been completed and a negative conclusion has been reached. This ensures that there is no risk of torture.

182. There are no known cases of expulsion of refugees, but if such a case were to arise, article 122 of the General Act on Migration provides that “Such expulsion shall be determined within a reasonable period of time to enable the refugee to arrange for his or her legal admission to another country.” Therefore, the person would not be returned to a country where he or she is at risk.

183. The asylum process is covered by the principle of confidentiality, which is the cornerstone of international refugee law and is expressly enshrined in Costa Rican legislation through article 8 of the Regulations governing Refugees (see annex 18). The Administration may provide information on a case only to the applicant, his or her duly authorized legal representative for the case, any other person whom the applicant expressly authorizes to receive information in the case, or a competent judge in a court proceeding.

184. The Costa Rican Constitutional Chamber has stated that the Administration cannot provide any information on refugee status to persons other than those referred to in the previous paragraph, nor can it confirm whether or not an application has been filed, let alone give details about the process. If personnel fail to comply with these rules, disciplinary proceedings may be brought against them, which could even lead to dismissal or to criminal proceedings.

## **B. Training on asylum and international protection given to officials of the Migration Police and the Directorate General for Migration**

185. The judiciary’s Subcommittee on Access to Justice for Migrants and Refugees has been providing training on refugee issues to judicial and administrative officials since 2016.

186. Ten training sessions were held for the judiciary in 2016; one training session was held for staff of the judicial services inspectorate in 2017; and, in 2018, three training sessions on these topics were provided to the Public Prosecution Service, the Judicial Investigation Agency and officers of the Tourist Police, the Coast Guard and the Immigration Police.

187. The subject matter of the training sessions includes the requirements for and characteristics of refugees who enjoy international protection; the elements of the definitions of refugees and of statelessness; the procedure for and processing of applications for refugee status in Costa Rica; the competent bodies at the national level, as well as the resources available; and the judiciary’s provisions regarding access to justice.

## **C. Collective repatriations and expulsions of foreign nationals**

188. Collective expulsions are not carried out in Costa Rica. With regard to repatriations, it is important to highlight the actions taken between 2015 and 2016, when many Cuban nationals travelled towards the United States via the Central American migration route and crossed Costa Rican territory in transit. As a result of the closure of the border in the northern zone by the Government of Nicaragua, they had to stay in Costa Rica.

189. On 28 December 2016, after considerable diplomatic efforts vis-à-vis the other Central American countries, an agreement was reached to allow safe and orderly passage, on an exceptional basis, so that these Cuban nationals could continue their journey. As part of this operation, there were 35 flights out of Costa Rica, of which 7 were routed to El Salvador for onward travel by land to Mexico, and 28 were direct flights to Mexico. Thanks to the collaboration of most of the Central American countries, which responded to the Costa Rican authorities’ request to create this humanitarian bridge, 4,366 persons of Cuban origin were able to leave Costa Rica.

190. On 7 October 2017, Costa Rica repatriated a total of 36 Costa Ricans who were living in vulnerable circumstances in Puerto Rico following the emergency caused by Hurricane

Maria. The Ministry of Foreign Affairs and the Directorate General for Migration made all the arrangements and the Social Migration Fund covered the expenses, in accordance with the provisions of the General Act on Migration.

#### **D. Protection and assistance for unaccompanied minors detained when trying to enter the territory**

191. In Costa Rica, no minor is detained because of his or her immigration status. Unaccompanied minors are placed in the temporary custody of the Directorate General for Migration, and the National Child Welfare Agency, the country's lead agency for children and adolescents, is notified immediately.

192. In December 2010, a bipartite commission made up of officials of the National Child Welfare Agency and the Directorate General for Migration was established in order to provide comprehensive protection to minors, in accordance with the provisions of international and national human rights protection instruments.

193. The commission drew up a protocol for regularizing the status of foreign minors under the protection of the National Child Welfare Agency; a protocol for the care of foreign minors whose parents, relatives or guardians are the object of deportation proceedings; and a protocol for the care and protection of foreign minors who are unaccompanied or separated from their families outside their country of origin.

194. These protocols are consistent with the State's international human rights obligations, in particular the Convention on the Rights of the Child and general comment No. 6 (2005) of the Committee on the Rights of the Child. They are closely linked to the rights protected by the General Act on Migration, the Code on Children and Adolescents and the National Policy on Children and Adolescents, 2009–2021.

195. The National Policy on Children and Adolescents, 2009–2021, protects migrant minors' right to identity, to special protection, to protection from migrant smuggling and trafficking in minors, to respect for and inclusion of cultural diversity, to education and health, and to freedom from labour and economic exploitation. In addition, it specifies that minors involved in migratory processes will be guaranteed all their rights under national and international law.

196. In accordance with the protocol for the care and protection of unaccompanied or separated minors, the migration authority of the Specialized Unit for the Protection of Minors conducts informational interviews with foreign unaccompanied or separated minors and informs the National Child Welfare Agency immediately in order to coordinate the person's transfer, among other guidelines.

#### **E. Statistical data on asylum applications and cases of expulsion, return and extradition**

197. From 2008 to 2016, two requests for extradition related to the crime of torture were received. The progress of these cases is as follows:

(a) Arrest warrant issued by the International Criminal Court against Omar Hassan Ahmad Al Bashir. This case remains active and is being dealt with in Costa Rica. The authorities were requested to arrest him because, among many other offences, the International Criminal Court has reasonable grounds to believe that, as part of the unlawful attack by the Government of the Sudan on part of the civilian population of Darfur and with knowledge of such attack, forces of the Government of the Sudan subjected, throughout the Darfur region, civilians, belonging primarily to the Fur, Masalit and Zaghawa groups, to acts of torture. Investigations by the International Criminal Police Organization (INTERPOL) office in San José have found no evidence to suggest that he is in Costa Rica.

(b) Arrest warrant issued by the International Criminal Court against Ahmad Muhammad Harun. This case remains active and is being dealt with in Costa Rica. He is wanted because, among many other offences, he is accused of torture constituting a crime

against humanity under article 7 (1) (f) of the Rome Statute, namely, the torture of at least 60 civilians from the primarily Fur population of Mukjar town and surrounding areas in West Darfur, beginning in or about August 2003. No evidence has been found to suggest that he is in Costa Rica.

## **Articles 5, 7 and 8**

### **Rejection of an extradition application presented by another State with regard to a person suspected of having committed an act of torture**

198. According to the records of the judiciary's Office of Technical Assistance and International Relations, since 2008, there has not been a single case in which Costa Rica has rejected, for any reason, a request for extradition submitted by another State with regard to a person suspected of having committed torture.

## **Article 10**

### **A. Training programmes offered to ensure that prison personnel and law enforcement officials and bodies are fully aware of the provisions of the Convention**

199. The Sentence Enforcement Unit of the Public Defence Service assists in the training process, both internally in the judiciary, through the Training Unit, and externally in relation to prison staff and persons deprived of their liberty, with a special focus on recognizing and eliminating any type of conduct that violates the provisions of the Convention.

200. In the judiciary, the Public Defence Service offers a workshop on human rights monitoring in prisons, and also offers a yearly course on tools for ensuring that persons deprived of their liberty have access to justice.

201. Actions have been carried out in conjunction with the Inter-American Court of Human Rights to train public defence personnel on topics such as the Court's case law and its links with the subject of torture, including training on the Istanbul Protocol.

202. Similarly, the Training and Oversight Unit of the Public Prosecution Service has given three different courses on human rights, in various modalities, in which 51 people (men and women) have participated. Other training by the Public Prosecution Service focuses on the application of alternative penalties and precautionary measures, such as electronic monitoring and community service sentences.

203. The Office of the Deputy Minister for Peace has worked on providing (developing and implementing) modules on trafficking in persons and commercial sexual exploitation as part of the curriculum offered to users of the Prison Training School.

204. Prison police personnel have been trained in these subjects, which have been included in the following courses given by the Training School:

- Basic prison policing
- Induction of new prison police
- Certification in Human Rights
- Training of peace facilitators
- Human rights for lesbian, gay, bisexual, transgender and intersex persons deprived of their liberty

205. The Judicial Investigation Agency has held a course for investigators, chiefs and administrative staff, among others, on human rights and access to justice. Similarly, a



workshop on the human rights of persons deprived of their liberty was held for guards who are responsible for the custody of such persons.

206. The Public Defence Service also actively participated in the organization and conduct of the Congress of the Euro-Latin American Network for the Prevention of Torture and Institutional Violence, which took place on 17 and 18 February 2016.

**B. Programmes intended to train prosecutors, judges and forensic and medical staff dealing with prisoners to detect and document the physical and mental after-effects of torture**

207. The Public Prosecution Service provides various courses on subjects such as the importance of sentences and their effective enforcement, the investigation of offences against life, and the functions of the Crime Victim Support and Protection Office, in addition to the judicial training programmes, the training programme for medical specialists in forensic medicine and the Public Defence Service training plan.

208. The Training and Oversight Unit of the Public Prosecution Service has given seven different courses on the subject of forensic medicine and forensic sciences, in different modalities, in which 146 women and men have participated (see annex 5).

209. The Office of the Assistant Special Prosecutor for Sentence Enforcement of the Public Prosecution Service has a protocol for prison visits, which was communicated to the relevant officials through Memorandum No. 3-2011 of 18 July 2011. This protocol was amended by Memorandum No. 1-2014, entitled “Addendum to the Protocol for Prison Visits”.

210. Since its establishment in 1996, the Office of the Assistant Prosecutor for Juvenile Criminal Justice has adopted a model for managing the various prison populations, aimed specifically at the administration of justice for these populations, the processing of complaints related to the proper exercise of their rights, and the strengthening of their right to be heard.

211. This protocol is implemented through prison visits by sentence enforcement prosecutors who provide young people with up-to-date information on the status of their cases, inspect conditions regarding the human and social environment in prisons, and gather statements from young persons who request improvements in their conditions. In addition, arrangements are made with the relevant authorities to deal with the issues arising from each visit, and these are duly recorded in writing. When a potential human rights violation is identified, a specific action protocol is implemented and assistance is requested from the competent authorities, the relevant regional prosecutors’ offices, the Crime Victim Support and Protection Office and all relevant ministerial offices.

212. The Judicial Investigation Agency conducts trainings on human rights issues, focusing on the application of the Istanbul Protocol and the Minnesota Protocol for the forensic documentation of suspected cases of torture. Training is also provided on the recommendations produced by the Colombian authorities on forensic procedures in cases in which the use of torture or other cruel, inhuman or degrading treatment or punishment is being investigated or is suspected, and on the International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in Cases of Enforced Disappearance or Arbitrary or Extrajudicial Execution.

213. On this basis, signs of torture are detected in individuals, and also in remains through interdisciplinary involvement in forensic autopsies.

## **Article 11**

### **A. Newly introduced standards, instructions, methods and practices of interrogation; custody arrangements**

214. Two courses have been offered in the judicial branch on the examination of witnesses and experts at trial, in different modes, with 51 men and women participating. The courses were intended to expand prosecutors' knowledge of the weighing of evidence and the role of legal reasoning as a procedural safeguard; the nature of expert evidence, the purpose and limits of expert assessments, the role of experts in criminal trials and the professional ethics that govern their participation; and issues surrounding the role of expert opinions as procedural safeguards that benefit all individuals involved in a criminal trial when they are given by expert witnesses registered with the judicial branch, under examination and in the presence of the parties.

### **B. Persons deprived of their liberty and the occupancy rate of prisons and detention centres for immigrants in an irregular situation**

215. In June 2016, the actual capacity of the facilities in the closed regime – closed prisons, facilities for persons who are delinquent in making maintenance payments and juvenile prisons together – was 9,406, compared with 11,607 in July 2018. In absolute terms, the number of inmates in excess of capacity was 3,866 in June 2016 and 3,549 in August 2018. This was related to the opening of the Comprehensive Rehabilitation Units. The use of alternatives to imprisonment, such as housing prisoners in semi-open institutions, using electronic monitoring devices and conducting preliminary assessments, has been promoted, and changes have been made to article 77 of Act No. 82014 (77 bis), concerning community service, through the amendment of article 56 bis of the Criminal Code. As a result of these steps, the rate of overcrowding decreased from 48.1 per cent in May 2016 to 31.1 per cent in July 2018 (see annex 22).

216. There are 435 prisoners of African descent in closed facilities, making up 3.25 per cent of the population if the Comprehensive Rehabilitation Units are excluded and 3.0 per cent if they are included. The 82 indigenous persons among the prisoners make up 0.6 per cent of the population if the Comprehensive Rehabilitation Units are excluded and 0.6 per cent if they are included. In semi-open facilities, there are 133 persons of African descent who have been deprived of their liberty, making up 3.2 per cent of the population as at 30 June 2018, and 20 indigenous persons, who make up 0.5 per cent. In the juvenile justice programme, there are 29 persons of African descent, accounting for 12.3 per cent of the population as at 30 June 2018, and 2 indigenous persons, accounting for 0.8 per cent (see annex 17).

### **C. Strengthening of the system of alternatives to deprivation of liberty prior to and following trial**

217. The Directorate of the Public Defence Service, through its Sentence Enforcement Unit, ensures that individuals who have been sentenced receive effective counsel and initiates the necessary procedures to safeguard their fundamental rights. It has consequently been working to, for example:

- Have persons deprived of their liberty transferred out of institutions;
- Provide prompt assistance to persons deprived of their liberty who are in a situation of vulnerability or at imminent risk;
- Follow up on any corrective measures ordered by the sentence enforcement courts;
- Provide legal representation before the courts to persons deprived of their liberty;
- Advocate the use of alternatives to imprisonment;

- Follow up on security measures ordered with respect to individuals lacking capacity;
- Promote the social outreach work of the Directorate of the Public Defence Service among persons deprived of their liberty;
- Engage in internal and inter-institutional coordination efforts with the Subcommission on Access to Justice for persons in situations of vulnerability.

218. The Office of the Assistant Prosecutor for Restorative Justice of the Public Prosecution Service indicates that alternative pretrial measures have been reinforced and a restorative justice model has been developed (see statistics from 2012 to 2017, annex 11).

219. With respect to immigration matters, the second chapter of the Immigration Control Regulations, adopted under Executive Decree No. 36769 of 23 May 2011, sets out the procedure for deportation. See article 232 (annex 18).

#### **D. Progress on the regionalization of women's prisons and the implementation of a gender-specific policy**

220. Act No. 9161 was adopted in 2013. It amends Act No. 8204, which replaced in its entirety the previous law on narcotic drugs, psychotropic substances, unauthorized drugs, related activities, money-laundering and the financing of terrorism, and allows for sentences of alternatives to imprisonment to be handed down to women who are in the criminal justice system because they committed the offence of introducing drugs into a prison and who are heads of household, have dependents, are in a situation of poverty or are older adults.

221. This important amendment added article 77 bis to Act No. 8204 (see annex 18).

222. The Act was amended in parallel to the creation, in 2014, of the Comprehensive Support Network for Women Involved in Criminal Cases and Their Dependents in Situations of Vulnerability. The Network brings together the National Institute for Women, the Institute on Alcohol and Drug Dependency, the Costa Rican Drug Institute, the Inter-Agency Institute for Social Assistance, the National Child Welfare Agency, the National Training Institute, the Ministry of Justice and Peace and the Ministry of Economic Affairs and Trade and aims to provide comprehensive support to women who have left prison.

223. An inter-institutional coordination protocol was drawn up to formalize the Network and set out the following purpose: "to empower women to improve their quality of life in the context of their human rights and thereby contribute to minimizing the risk of recidivism".

224. The Network helped bring about a paradigm shift with respect to women involved in criminal cases, with the women being seen as rights holders and users of institutional services. For example, the Judicial Registry and Archives Act has been amended to gradually readjust the time periods for expunging a criminal record, the programme on entrepreneurship and business plans has been adjusted to fit the profile of the Network's target population, the children of women involved in criminal cases are given priority for placement in childcare centres, "rights fairs" have been held to bring institutions and their services closer to this population, and groups have been created under the "Women Moving Ahead" programme to provide training to women involved in criminal cases. Such training has included a course on entrepreneurship and business plans, which in 2017 was attended by 13 women who had been in the prison or semi-open systems, and in 2018 by 14 such women. A total of 314 families and 271 women have been served since it was created.

225. This inter-institutional and intersectoral response has helped women involved in criminal cases to avoid being placed in prisons or to be moved out of prisons, thereby minimizing the effects of sentences on the dependent family members of these individuals, who, on the basis of their gender, have direct care roles and responsibilities.

226. Article 15 of the 2018 Prison System Regulations lays down the principle of regionalization, applied with a gender perspective (see annex 18).

227. Instruction No. 01-2018 of the Public Prosecution Service sets out a series of measures to ascertain the health status of the accused as his or her statement is taken (see annex 18).

228. In addition, the Ministry of Public Security has taken steps to improve the working conditions of female security officers, in part by means of the following instruments:

- Official note No. 51-2014-DV-UR requesting the placement of women police officers who have children or are single mothers in units near their place of residence;
- Circular No. 1182-2017, aimed at the inclusion of women police officers in internal and external skills-development and training programmes and the elimination of any form of discrimination in the recruitment and selection of personnel;
- Circular No. DMGMV-1510-2017 on the selection criteria for the Education and Nutrition Centres and Comprehensive Childcare Centres programme for children of women police officers;
- Circular No. 138-2017-DV-JJAM-DGFP on care as a social responsibility. The Education and Nutrition Centres and Comprehensive Childcare Centres programme for children of women police officers.

### **E. Number of prisons in the State, their maximum capacity and their occupancy levels**

229. Data reported by the Ministry of Justice and Peace as at 31 August 2018 show that the three programmes comprising the prison network have an actual capacity of 11,607 and currently house, in total, 15,156 persons deprived of their liberty. This means that, in absolute terms, the number of inmates in excess of capacity is 3,549, for an overcrowding rate of 30.58 per cent (see annexes 12 and 22).

230. The Directorate of the Public Defence Service has taken steps to minimize the harmful effects of the critical overcrowding afflicting the country's prisons by, for example, filing *amparo* and habeas corpus appeals. It also coordinates the High-level Inter-Institutional Commission against Prison Overcrowding, which has been active since 2012.

231. The Directorate of the Public Defence Service has issued several internal circulars to impress upon its staff the critical importance of the issue in question:

- Circular No. 8-2013 on the duty to periodically visit Judicial Investigation Agency cells
- Circular No. 11-2013, a joint communiqué of the Directorate of the Public Defence Service and the Directorate of the Judicial Investigation Agency on cell visits
- Circular No. 6-2014 on prison monitoring visits
- Circular No. 5-2016 on the organization of monitoring visits to Judicial Investigation Agency cells in the First and Second Judicial Districts of San José
- Circular No. 12-2016 on the mandatory nature of prison visits
- Circular No. 16-2016, the protocol for carrying out monitoring visits to Judicial Investigation Agency cells
- Circular No. 13-2018 on requests for sentences of house arrest with electronic monitoring
- Official note No. JEFDP-763-2018 (4 July 2018) on joint arrangements by the Judicial Investigation Agency with the Costa Rican Social Insurance Fund for the provision of daily medical care for detainees in holding cells.

232. It has been seen that many of the actions taken to apply and implement them have resulted in the adoption of preventive measures or, where that was not possible, the filing of complaints with the bodies competent to investigate potential cases of torture or cruel, inhuman or degrading treatment.

233. Similarly, the provisions of Instruction No. 01-2018 of the Public Prosecution Service address the timeliness and effectiveness of proceedings, which also serve to reduce overcrowding in Judicial Investigation Agency cells (see annex 18).

## **F. Health care, education and vocational training available to prisoners**

234. Health-care services are provided in prisons at the primary care level, in facilities that have been equipped and that have health-care, support and transportation staff, security officers and guards. Services are available from 8 a.m. to 4 p.m. In the western region, services are provided until 10 p.m. However, care is guaranteed 24 hours a day, as individuals presenting with medical problems when the medical services are closed are taken to the hospital.

235. Health, medical, nursing and dental services are available in all closed centres, the Comprehensive Rehabilitation Units and the Zurquí Juvenile Training Centre. The Costa Rican Social Insurance Fund provides the supplies needed to run the health clinics and, when required, specialized and hospital services for persons deprived of their liberty.

236. The Counsel General's Office addressed the responsibilities of the Ministry of Justice and Peace and the Costa Rican Social Insurance Fund with respect to the health of persons deprived of their liberty in its opinion No. C-133, dated 31 May 2012, and determined that the two bodies had a shared duty. The Costa Rican Social Insurance Fund must ensure that care is provided when a prisoner's health condition requires it, and the prison authorities must transfer such prisoners as necessary.

237. The insurance provided by the State to persons deprived of their liberty is covered by the Ministry of Justice and Peace under Act No. 6577, on the inclusion of State obligations to the Costa Rican Social Insurance Fund in budgets. The National Budget Act for each financial period ensures that the Ministry of Justice and Peace will provide the funding required of it under the Agreement by including the amount indicated by the Costa Rican Social Insurance Fund under programme 783, "Prison administration", more specifically under sub-item No. 60103, "Current transfers to decentralized non-enterprise institutions".

238. With respect to education and vocational training, the Ministry of Justice and Peace issued the first "Scientific, Humanist Prison Policy" in March 2018, committing to clear objectives for reducing the deleterious effects of prison, addressing priority needs and providing human development opportunities for the prison population. The Prison Employment Strategy, "Building Opportunities", was developed within this framework to provide tools for social reintegration (see annex 21).

## **Articles 12 and 13**

### **A. Statistical data regarding complaints of torture and ill-treatment, investigations conducted into those complaints, prosecutions and penalties**

239. The cases handled through the Integrated Victim Services Platform involve offences under the Violence against Women Act or matters related to the Comprehensive Act for Older Adults. To date, no matters related to torture and abuse by the police have been handled.

240. The Crime Victim Support and Protection Office, which was strengthened under Act No. 8720 on the Protection of Victims, Witnesses and Other Parties Involved in Criminal Proceedings, currently has 20 branches in different parts of the country. According to figures from the Attorney General's Office, the number of cases handled increased from 1,909 in 2008 to 26,556 in 2017. Since 2014, there has been a 14 per cent annual increase in the intake of cases. The Office had 164 staff members (63 per cent female and 37 per cent male) in 2017, or 266 including the Victim and Witness Protection Unit of the Judicial Investigation Agency, which comes under programme 950, "Victim and Witness Support and Protection Service".

241. Between 2014 and 2017, 85,342 cases were opened and 83,907 were closed, with the balance of open cases for those years at 34,443. With respect to cases closed, it can be seen that, from 2014 to 2017, the Crime Victim Support and Protection Office increased the number of cases it closed by 13 per cent. The difference between the number of cases opened

and the number closed between 2014 and 2017 amounts to 1 per cent. It should be mentioned that there is no correlation between the balance of open cases and the intake of new cases, as cases in which criminal proceedings have not yet concluded are carried over.<sup>7</sup>

242. A detailed review of the services provided by the Crime Victim Support and Protection Office shows that, in 2017, the Office provided assistance and other services in relation to judicial proceedings on 9,376 occasions (of these, 42 per cent were home visits and 35 per cent involved crisis care or other support); prepared 38 technical reports for procedural protection, the hearing of evidence prior to trial and pretrial detention; and made 35,592 appointments with users. Another indicator related to the work of accompanying individuals to trial is the fact that, of the 261 cases in which the Office performed that task in 2017, 82 per cent resulted in a conviction.

243. The data also indicate that 60 per cent of the individuals to whom services were provided nationwide in 2017 were members of groups in situations of vulnerability (minors, older persons, persons with disabilities, indigenous people, people of African descent, and women). Of those persons, 9 per cent were minors, 4 per cent were older persons, 4 per cent were persons with disabilities, 1 per cent were indigenous people, 1 per cent were people of African descent, and 81 per cent were women. This last figure reflects the fact that the offences of ill-treatment and failure to comply with protection measures are the ones most often dealt with by the Office.

## **B. Statistical data on deaths in custody during the period under consideration**

244. According to data from the Ministry of Justice and Peace, between 2008 and 2016, there were 92 homicides in closed facilities of the prison system, 158 deaths from natural causes and 24 suicides (see annex 13). In the semi-open regime, there were 21 homicides, 11 deaths from natural causes and 7 suicides between 2010 and 2016.

245. The Office of the Assistant Special Prosecutor for Sentence Enforcement reports that natural, accidental, self-inflicted, violent and homicidal deaths of persons serving sentences have been detected, and can be broken down by judicial district as follows:

- First Judicial District of Alajuela: one individual at the JAMC closed rehabilitation centre; two individuals at the GRE closed rehabilitation centre (one of the deaths is being investigated by the Judicial Investigation Agency and the other was self-inflicted); and three deaths by natural causes at the NM closed rehabilitation centre
- Judicial District of Cartago: one death by natural causes (heart attack) at the JD closed rehabilitation centre
- First Judicial District of the Southern Region (Pérez Zeledón): two individuals (their deaths, apparently self-inflicted, are under investigation) at the ABP closed rehabilitation centre, and four deaths by natural causes in the semi-open regime (community programme)
- First Judicial District of the Atlantic Region (Limón): one death by natural causes in the MG closed rehabilitation centre
- Second Judicial District of the Atlantic Region (Pococí): two deaths from natural causes at the CLF closed rehabilitation centre
- First Judicial District of Guanacaste (Liberia): five accidental deaths, four deaths from natural causes and one self-inflicted death in the community rehabilitation programme (semi-open regime)
- Judicial District of Puntarenas: three deaths from natural causes and one accidental death in the “26 de Julio” closed rehabilitation centre.

<sup>7</sup> Crime Victim Support and Protection Office, 2017 activity report. Available at <https://ministeriopublico.poder-judicial.go.cr/index.php/es/categorias-de-documentos/oapvd/5535-informe-de-labores-oapvd-2017/file> (accessed on 21 April 2019).

## Article 14

### A. Services for the treatment of traumas, or other forms of rehabilitation for torture victims

246. According to data from the Crime Victim Support and Protection Office, none of the cases handled by the Office from 2011 to 2017, either in its protection programme or its support programme, were related to the offence of torture (see annexes 14 and 15).

### B. Indicate whether the right to compensation is based on criminal judgments imposing payment of compensation

247. An individual who is a victim of torture or cruel, inhuman or degrading treatment may apply directly to a civil court for compensation through a so-called “ordinary” process when the perpetrator is a private individual. If the perpetrator is a public official, the victim may bring an action before an administrative court, with the State as a party (pursuant to articles 1045 and 1048 of the Civil Code, and articles 190 et seq. of the General Act on Public Administration).

248. The victim does not need to have obtained a criminal or administrative ruling in order to initiate civil proceedings, but if the victim has obtained a disciplinary ruling, it may be adduced as evidence. For purposes of compensation, it is not necessary to prove that an offence was committed; rather, the injury, a causal link (the relationship between the injury and the result) and the result must be shown.

## Article 16

### A. Abolition of all corporal punishment of children in all circumstances

249. Under the Act on the Rights of Children and Adolescents to be Disciplined without Physical Punishment or Degrading Treatment (No. 8654 of 1 August 2008), article 24 bis was added to the Code on Children (see annex 18).

250. Act No. 8654 also amended article 143 of the Family Code with respect to the rights and duties of parents and guardians (see annex 18).

251. Because physical punishment is rooted in the culture and seen as a proper or tolerable way to parent, long-term strategies must be developed to establish healthy parenting patterns that do not involve violence. Under the new Act, the National Child Welfare Agency carries out preventive actions aimed at abolishing physical punishment and restoring the ability of children and adolescents who have been victims of this form of violence to exercise their rights.

252. The Ministry of Justice and Peace, for its part, offers human rights-based discussion and training opportunities for security personnel aimed at promoting actions to prevent any measures that involve the physical punishment of young people deprived of their liberty.

### B. Measures taken to protect homosexual and transgender prisoners from discrimination, sexual abuse and physical violence

253. Under the Prison System Regulations adopted in 2011, the rights of persons deprived of their liberty include the right to gender identity, gender expression and sexual orientation (art. 140). The mere exercise of these rights cannot therefore give rise to any form of punishment or discrimination.

254. On 12 May 2015, by Executive Decree No. 38999, the executive branch adopted a policy to eradicate from its institutions discrimination against lesbian, gay, bisexual, transgender and intersex persons. The policy requires each body within the executive branch

to, inter alia, develop institutional plans to counter discrimination against the sexually diverse population and create an Institutional Commission for Equality and Non-Discrimination vis-à-vis the Sexually Diverse Population.

255. On 8 January 2018, the National Institute of Criminology issued Circular No. 1-2018 on the Care and Monitoring of the Transgender Population, which was supplemented by the issuance of guidelines on the care of persons with diverse sexual orientation, gender expression or gender identity, under any of the regimes of the national prison system.

256. The Ministry of Public Security, for its part, has implemented the following:

- Circular No. 746-2017, a guide to the care of transgender or sexually nonconforming individuals
- A police handbook on the care of transgender, intersex and gender nonconforming individuals
- Changes to its internal regulations to bring them into line with the goal of protecting the rights of the lesbian, gay, bisexual, transgender and intersex population
- Training sessions for police personnel on human rights and sexual diversity issues, with support from the legal department (430 people trained).

257. The Directorate General for Migration also reports that courses have been held to raise awareness of sexual orientation and gender identity, including a course on the human rights of lesbian, gay, bisexual, transgender and intersex persons (provided by the civil service office in 2017) and a workshop on gay, lesbian, transgender and intersex migrants provided by IOM in 2017.

258. The Office of the Assistant Special Prosecutor for Sentence Enforcement reports the following, by judicial district, with respect to lesbian, gay, bisexual, transgender and intersex persons who have been deprived of their liberty:

- First Judicial District of San José: one transgender individual at the Rehabilitation Centre for Persons with Mental Illness in Conflict with the Law
- Judicial District of Cartago: one transgender and two homosexual individuals at the JD closed rehabilitation centre
- Judicial District of the Southern Region: three members of the lesbian, gay, bisexual, transgender and intersex community at the ABP closed rehabilitation centre; protocols were activated for those individuals in order to prevent ill-treatment or discrimination by the rest of the population
- First Judicial District of the Atlantic Region (Limón): one homosexual individual, who harassed other persons deprived of their liberty and was consequently placed in a special ward in order to prevent potential attacks or ill-treatment directed against that individual
- First Judicial District of Guanacaste (Liberia): Members of the lesbian, gay, bisexual and transgender community identified at the CR closed rehabilitation centre; couples' break-ups or searches for new relationships led to transfers to other wards to prevent fights or disagreements; one transgender individual, who was placed in a setting appropriate to the person's gender identity
- Judicial District of Puntarenas: one homosexual individual at the "26 de Julio" closed rehabilitation centre, who as a result of good behaviour and compliance with prison rules performs the duties of a messenger and gardener and other miscellaneous tasks; the individual's identity is respected
- The juvenile criminal justice system includes three prisons that house sentenced individuals under the age of 18, including the Zurquí Juvenile Centre, which has separate areas for men and women. Minors are also housed at the Young Adult Centre at La Reforma and the Vilma Curling Centre.

259. Article 98 of the Juvenile Criminal Penalties Enforcement Act allows judges to order such extraordinary measures as may be necessary to safeguard the rights of sentenced minors.



Under National Institute of Criminology Circular No. 12-2016, the various centres may adopt extraordinary measures to safeguard the rights of persons in situations of vulnerability.

260. To date, there has been one case in which communal living under normal conditions was no longer possible for a homosexual individual because of conflicts based on the individual's sexual preference. The rules adopted allow for the testing of different alternatives – including temporary placement in separate settings, relocation to other prisons that provide more favourable communal living conditions for the individual, or the preparation of a special space for the minor – that ensure such persons' safety and exercise of their rights.

261. A similar case was addressed in decision No. 414-2015 of the Appellate Court for Juvenile Criminal Justice, which ordered that the status of a minor as a transgender individual be protected.

262. It should be noted that, to date, the lesbian, gay, bisexual, transgender and intersex persons who have had to serve prison sentences make up a very small percentage of the overall population of convicted persons.

263. In 2010, the National Institute for Women, together with the non-governmental organization Centro de Investigación y Promoción para América Central en Derechos Humanos (Centre for Research and Promotion of Human Rights in Central America), drafted a guide to raise awareness of and counter discrimination on the grounds of sexual orientation and gender identity. The guide was reprinted in 2016 and is a reference for public servants.

## Other issues

### A. National mechanism for the prevention of torture and its access to any place under the jurisdiction and control of the State where persons are or may be deprived of their liberty

264. The National Mechanism for the Prevention of Torture began operating in 2009 under Decree No. 33568-RE-MSP-G-J, which provisionally designated the Ombudsman's Office as the national preventive mechanism, pending publication of the relevant law.

265. Legislative file No. 18.273, on the creation of the Mechanism, underwent a second debate in the Legislative Assembly on 12 December 2013, and was published as Act No. 9204 on 28 February 2014 in Official Gazette No. 42. Executive Decree No. 39062-MJP was published in 2015, setting out the regulations for Act No. 9204.

266. The Mechanism has the legal status of a body with the highest level of independence under article 83 of the General Act on Public Administration. It has nationwide jurisdiction, is independent in its decision-making and operations and is attached administratively to the Ombudsman's Office for budget purposes. Pursuant to the first transitional provision under chapter III of Act No. 9204, the Ministry of Finance must provide for its financial resources.

267. Since it began operations, first under Executive Decree No. 33568-RE-MSP-G-J and then under Act No. 9204, the Mechanism has had access to all places of detention under the jurisdiction of the State without any objections from the authorities, in compliance with article 4 of the Optional Protocol to the Convention against Torture.

268. The Mechanism carries out inspections in prisons, Judicial Investigation Agency and law enforcement agency facilities, municipal police stations, psychiatric hospitals, National Child Welfare Agency shelters, the centre for migrants in an irregular situation and, when necessary, the temporary holding facility at Juan Santamaría International Airport.

**B. Measures taken by the State party to prevent or prohibit the production, trading, export or use of equipment designed to inflict torture or other cruel, inhuman or degrading treatment**

269. The Inter-American Convention on Transparency in Conventional Weapons Acquisitions was ratified by Costa Rica under Executive Decree No. 36520 of 22 March 2011. The Arms Trade Treaty was approved under Act No. 9164 of 10 September 2013.

270. Executive Decree No. 41084 of 24 April 2018 was issued following the adoption of the Act. It establishes the National Control System for Implementation of the Arms Trade Treaty as a national mechanism for the assessment of international transfers of controlled items, and creates a body to oversee its implementation and an assessment and verification committee.

**C. Measures adopted by the State party in response to terrorist threats**

271. The Office of the Assistant Prosecutor for Drug Trafficking and Related Offences, under the Public Prosecution Service, reports that between 2017 and 2018 there were 56 criminal cases in which organized crime was found to have been involved but in which no acts of terrorism were detected.

272. The Public Prosecution Service's Training and Supervision Unit gave 21 courses, workshops and talks on the subject of organized crime between 2008 and 2016, with the participation of 536 men and women.

**D. National human rights situation, including new measures and developments relating to the implementation of the Convention**

273. In 2009, the Constitutional Chamber, in Opinion No. 4555-09, ordered the Costa Rican Social Insurance Fund to open a psychiatric centre for persons deprived of their liberty. The Fund accordingly established the Rehabilitation Centre for Persons with Mental Illness in Conflict with the Law. In 2015, its medical office instructed the National Psychiatric Hospital to move the Rehabilitation Centre's patients to a separate area, in accordance with the operational plan developed by the infrastructure office.

274. The San José Sentence Enforcement Court instructed the Costa Rican Social Insurance Fund and the Ministry of Justice and Peace to form a standing intersectoral council, together with the national preventive mechanism, to run the Rehabilitation Centre.

275. Progress has been made since the Rehabilitation Centre's opening in the development of instruments and protocols for the treatment of users referred to it (see annex 16).

276. The Directorate of the Public Defence Service participated in a project called the "Regional Guide for Action in Cases of Institutional Violence in Prisons", a regional priority. The Regional Programme for Social Cohesion in Latin America and the European Union have provided support for the project's implementation. The goal of the project is to build institutional capacity among the entities under the Public Defence Service in order to ensure access to justice in cases of institutional violence.

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