



**Conference of the States Parties
to the United Nations
Convention against Corruption**

Distr.: General
26 May 2016
English
Original: Spanish

Implementation Review Group

Seventh session

Vienna, 20-24 June 2016

Agenda item 2

**Review of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Executive summary.....	2
Costa Rica	2



II. Executive summary

Republic of Costa Rica

1. Introduction: Overview of the legal and institutional framework of the Republic of Costa Rica in the context of implementation of the United Nations Convention against Corruption

Costa Rica signed the United Nations Convention against Corruption on 10 December 2003 and ratified it on 9 January 2007. Costa Rica deposited its instrument of ratification with the Secretary-General on 21 March 2007.

The legal system of Costa Rica is based on continental law. The most relevant legislative provisions with respect to implementation of the Convention are contained in the Criminal Code, the Code of Criminal Procedure and applicable laws, such as Act No. 8422 against corruption and illicit enrichment in public service, Act No. 8204 on narcotic drugs, psychotropic substances, illicit drugs, related activities, money-laundering and the financing of terrorism and Act No. 8574 on organized crime.

According to article 7 of the Political Constitution of 1949, ratified treaties prevail over domestic laws.

Costa Rica has a number of competent authorities responsible for combating corruption, including the Office of the Counsel for Ethics in Public Service (PEP), the Public Prosecution Service, the Financial Intelligence Unit, the Criminal Court for Economic and Public Service Offences, the Ombudsman's Office (DHR), the Supreme Electoral Tribunal, internal oversight offices, the Office of the Comptroller-General, the Civil Service Tribunal and the Office of the Superintendent General for Financial Institutions (SUGEF).

The concept of "public official" is defined in article 2 of the Act against Corruption and that definition is in line with the Convention.

The national anti-corruption strategy is integrated into the National Development Plan.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

The passive bribery of national public officials is established as an offence under articles 347 and 348 of the Criminal Code.

Active bribery is an offence under article 352 of the Criminal Code, which establishes that the penalties provided for in the five preceding articles are applicable to the giving, offering or promise to a public official of a gift or undue advantage.

Costa Rican legislation also establishes criminal liability for the active and passive bribery of foreign public officials and officials of public international organizations, under article 55 of Act No. 8422 of 2004. However, the element of promise is not covered.

Article 52 of Act No. 8422 of 2004 establishes the offence of trading in influence, but it refers to the relationship between the actor and the person taking the decision, whereas article 18 of the Convention refers to the relationship between the actor and another person who influences the person taking the decision. Article 52 of Act No. 8422 does not cover the elements of promise, offering, giving, solicitation or acceptance of an undue advantage.

Bribery in the private sector has not been established as a separate offence.

Money-laundering, concealment (arts. 23 and 24)

Costa Rica has criminalized money-laundering through article 69 of Act No. 8204 of 2001, which establishes criminal liability for the conversion, transfer, concealment, disguise, acquisition or use of proceeds of crime, which are punishable by imprisonment for a term of four years or more, and for participation in such acts.

Articles 23 and 24 of Act No. 8754 are applicable where the offence is committed in the context of organized crime. That Act applies where corruption offences are committed in a transnational context.

For an offence to be considered a predicate offence, it must be punishable by a term of imprisonment of four years or more (art. 69 of Act No. 8204). Not all offences established in accordance with the Convention (corruption offences) meet that requirement. Article 57 of Act No. 8204 of 2001 provides that criminal law applies subsidiarily to offences other than those to which the Act applies.

Concealment is covered by articles 330 and 331 of the Criminal Code, and article 47 of Act No. 8422 of 2004 relates to the concealment, legalization and disguise of property derived from illicit enrichment or the criminal activities of public officials.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

The provisions of articles 361-363 bis of the Criminal Code establish criminal liability for embezzlement by public officials, and cover all types of property. The legislation sets out general provisions covering the embezzlement or misappropriation of funds by a public official and the misuse and mismanagement of public funds and resources for purposes other than those for which they were intended, for the benefit of that official him- or herself or for the benefit of a third party.

The Criminal Code establishes abuse of functions as an offence (arts. 338 and 345). Articles 51 and 56-58 of the Act against Corruption also provide for specific cases of abuse of functions.

Illicit enrichment was established as an offence through articles 45 and 61 of Act No. 8422 of 2004, which establish abuse of functions by the public official concerned as an element of the offence.

Article 20 of Act No. 8754 of 2009 also establishes liability for illicit enrichment in cases linked to organized crime.

Costa Rican legislation establishes liability for various acts of embezzlement in the private sector, such as fraudulent administration and misappropriation (arts. 222, 223 and 361 of the Criminal Code).

Obstruction of justice (art. 25)

Article 324 of the Criminal Code establishes liability for the promise or offering of a gift or any other advantage to a witness, expert, interpreter or translator in order to induce false testimony. Article 193 of the Criminal Code punishes any person who uses serious threats, physical violence or psychological intimidation to compel a person to do, refrain from doing or tolerate something where they are not obliged to do so.

Articles 60 and 61 of Act No. 8204 of 2001 specifically establish as a criminal offence the intimidation or deterring of another person by any means in order to prevent the reporting of an offence, the giving of testimony or an investigation, and the promise or offering of payment to a public official in exchange for impunity and for concealing evidence, within the scope of application of that Act.

Articles 311, 312, 313, 315 and 316 of the Criminal Code of Costa Rica cover the use of intimidation, force or violence against a public official.

Liability of legal persons (art. 26)

Costa Rica has not established the criminal liability of legal persons. The civil liability of legal persons is established in article 106 of the Criminal Code. Article 240 of the Criminal Code governs the liability of legal persons for certain crimes. The authorities confirmed that the liability of legal persons is without prejudice to the criminal liability of the natural persons who have committed the offences.

With respect to sanctions, article 44 bis of Act No. 8422 provides for the possibility of imposing administrative sanctions, such as fines, on legal persons.

Participation and attempt (art. 27)

Article 45 of the Criminal Code defines “principal” and “co-principal”, and articles 46-48 establish liability for instigation and complicity.

Attempt is established as an offence (art. 24 of the Criminal Code) and the applicable penalties are equivalent to those applicable where the offence has been committed, whether or not those penalties are reduced, although the judge may exercise discretion in that regard. However, Costa Rica has not criminalized preparation for an offence established in accordance with the Convention.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Costa Rica has adopted, for the range of corruption offences, penalties ranging from 3 months to 12 years in prison, as well as accessory penalties such as disqualification from holding public office for 10 to 15 years.

In the search for an appropriate balance between immunities and the effectiveness of the investigation and prosecution of corruption offences, the members of the branches of government — namely the President and Vice-President of the Republic, the judges of the Supreme Electoral Tribunal and of the judiciary, deputies, the Comptroller and Deputy Comptroller, ministers and diplomats — enjoy immunity.

Immunities do not constitute an obstacle to the initial investigation of corruption offences. However, the lifting of immunity requires the approval of the Legislative Assembly, except in cases of flagrante delicto (arts. 391-399 of the Code of Criminal Procedure).

Article 22 of the Code of Criminal Procedure provides that a member of the Public Prosecution Service may request (subject to prior authorization by the requestor's superior) the full or partial exemption of an accused person from criminal prosecution where that person cooperates in the investigation by providing vital information to prevent the commission of an offence from continuing or to prevent the commission of new offences.

Costa Rican legislation provides for precautionary measures to ensure the presence of the accused person in criminal proceedings, especially if it is feared that the accused might evade prosecution (art. 237-239 bis of the Code of Criminal Procedure).

Articles 64-68 of the Criminal Code cover parole, which may be granted if the convicted person making the request has served half of an enforceable sentence and receives a favourable expert opinion from the Institute of Criminology.

The suspension of an accused public official is possible provided that the presumptions warranting preventive custody can be reasonably avoided through application of the suspension, and disqualification may be imposed as a preventive measure (art. 244 of the Code of Criminal Procedure).

In accordance with article 4 of Act No. 8422, violation of the duty of probity by a public official is one of the grounds for removal from public office without liability on the part of the employer.

Both suspension from office and temporary reassignment are provided for in article 67 of the Civil Service Statute, which was adopted through Act No. 1581. The authorities confirmed that, in practice, the reassignment of public officials not covered by the Civil Service Statute is possible.

Disqualification is provided for in articles 50, 57 and 58 of the Criminal Code and article 59 of Act No. 8422, and is established for all public positions. Disciplinary sanctions, ranging from verbal and written warnings to temporary suspension with pay and dismissal without liability on the part of the Administration, can be applied in addition to criminal sanctions. Various resolutions of the Constitutional Court (resolution 15995/2006 of 3 November 2006; resolution 13201/2009 of 21 August 2009; resolution 1474/2011 of 4 February 2011) establish various degrees of liability of public officials. Article 211 of Act No. 6227 establishes disciplinary liability.

Costa Rica has taken a series of measures to promote the reintegration into society of convicted persons, such as the provision of criminological expert support. Subject to prior authorization by his or her superior, a representative of the Public Prosecution Service may request the full or partial exemption of an accused person from criminal prosecution, inter alia where the offence in question is serious or complex and the accused person cooperates effectively in the investigation and provides essential information that helps to shed light on the act under investigation or related acts, or provides useful information to prove the involvement of other accused persons, provided that the conduct of the collaborator is less reprehensible

than the punishable acts prosecution of which is facilitated or continued commission of which is prevented through such cooperation (art. 22, para. (b), of the Code of Criminal Procedure).

The expedited proceedings provided for in articles 373-375 of the Code of Criminal Procedure make it possible for a reduced sentence to be imposed (art. 374 of the Code of Criminal Procedure). Persons who cooperate with the law enforcement authorities may be provided with protection under the Act on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings (art. 3).

Costa Rica has not signed any agreements on the treatment of persons who cooperate with the law enforcement authorities at the international level.

Protection of witnesses and reporting persons (arts. 32 and 33)

Act No. 8720 of 2009 on the protection of victims, witnesses and other parties involved in criminal proceedings establishes a programme for the protection of persons who are at risk because of their involvement in, or relationship with a person involved in, an investigation or trial.

The use of visual and auditory media to receive witness testimony and expert statements is provided for in article 324 of the Code of Criminal Procedure.

Costa Rica considers that the Victim Support Office of the Public Prosecution Service is competent to conclude agreements with States Parties and institutions to facilitate compliance with Act No. 8720 (art. 6). The legislation also applies to victims insofar as they are witnesses. A victim who is directly affected by the criminal act has the right to be heard in court, even if the Public Prosecution Service does not present him or her as a witness (art. 71, para. 3 (b) of the Code of Criminal Procedure).

The protection of reporting persons is covered by article 6 of Act No. 8292 of 2002 on internal oversight, which refers to the obligation of the Administration to ensure the confidentiality of the identity of citizens who report acts of corruption. Article 8 of Act No. 8422 of 2004 protects the rights of persons who report acts of corruption in good faith. The Regulations implementing the Act against Corruption and Illicit Enrichment in Public Service (Executive Decree No. 32333) establish the right of citizens to report acts of corruption (art. 8) and other parameters to ensure confidentiality (art. 10). Anonymous complaints are not accepted, but the preliminary investigation may be initiated ex proprio motu where the evidence provided so warrants (art. 13).

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Article 110 of the Criminal Code regulates confiscation of the proceeds of crime and instrumentalities used in the commission of the offence, but not of property, equipment or instrumentalities destined for use in the commission of corruption offences. The authorities reported that draft laws on the termination of ownership had been prepared, providing for the possibility of extending confiscation to property, equipment or other instrumentalities destined for use in the commission of offences.

Freezing as a precautionary measure is regulated in articles 263 and 264 of the Code of Criminal Procedure and confiscation in article 33 of Act No. 8204 of 2001. The

administration by the competent authorities of seized property is regulated by the Act on the Distribution of Confiscated or Seized Property, as well as by the Regulations implementing the Act against Corruption and Illicit Enrichment in Public Service (arts. 5 and 53), and by Act No. 8204.

The authorities indicated that, on the basis of the definition used in article 110 of the Criminal Code (“things or items of value derived from [the commission of the offence]”), that article can also be applied to property into which the proceeds of crime have been transformed or converted, in part or in full; to income or other benefits derived from the proceeds of crime or from property into which such proceeds have been transformed or converted; and to proceeds of crime intermingled with property acquired from legitimate sources and income or other benefits derived from property with which proceeds of crime have been intermingled. Furthermore, the authorities indicated that the latter two are covered by the draft act on termination of ownership.

Pursuant to article 2 of Act No. 7425, where essential in order to ascertain the truth, the judge may order a search for and confiscation or examination of any private document, including bank records, provided that it may serve as indispensable evidence that a criminal act has been committed (see also art. 132 (b) of Act No. 7558).

Article 110 of the Criminal Code protects third parties who, in good faith, have acquired proceeds of crime.

The lifting of bank secrecy can be authorized only by order of the competent criminal court (art. 24 of the Constitution, arts. 2 and 3 of Act No. 7425 on the Confiscation and Examination of Private Documents and art. 615 of the Code of Commerce).

Statute of limitations; criminal record (arts. 29 and 41)

The statute of limitations is governed by article 31 of the Code of Criminal Procedure. The limitation period for criminal prosecution depends on the classification of the offence and is calculated on the basis of the maximum duration of the sentence. In the case of a custodial sentence, the statute of limitations period shall in no case be less than three years nor more than 10. Act No. 8422 of 2004 contains specific provisions on the statute of limitations period for offences committed in violation of the duties of public office.

The statute of limitations is suspended if the accused person fails to appear before the court (art. 34 of the Code of Criminal Procedure). Costa Rican law provides for suspension of the limitation period upon expiry of which a sentence may no longer be enforced (art. 87 of the Criminal Code) “where the convicted person appears or is turned in or where he or she commits a new offence before the limitation period ends”.

With regard to previous convictions of an alleged offender in another State, recidivism is defined in article 39 of the Criminal Code.

According to Costa Rican criminal law, it is possible to consider the criminal record of a convicted person who in the past has committed offences in Costa Rica or abroad, for the purpose of determining a sentence.

Jurisdiction (art. 42)

Costa Rica has established its jurisdiction over offences committed in its territory, including on board its vessels and aircraft (art. 4 of the Criminal Code), and offences against the security of the State or against its economy or public administration (art. 5 of the Criminal Code).

Costa Rica does not extradite its nationals; cases involving its nationals are tried by national courts. The principle of *aut dedere aut judicare* has not been established as generally applicable, but the law provides that nationals who are not extradited be tried by national courts (art. 3 of the Extradition Act).

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Costa Rica provides for a number of consequences of acts of corruption. In accordance with article 6 of Act No. 8422 of 2004, fraudulent contracts shall be rendered null and void. Such invalidity may be declared by the relevant public entity or by the Office of the Comptroller-General. If the invalidity relates to instruments declarative of rights, the relevant procedure to establish that harm has been caused to those rights must be initiated, except as provided for in article 173 of the General Public Administration Act (Act No. 6227), in which case action shall be taken in accordance with those provisions.

Costa Rica has an Integrated System for Contractual Activity (SIAC) and a Government Procurement System (ComprRed).

As part of criminal proceedings, a claimant may bring a civil claim for damages resulting from an offence under articles 37 to 41 of the Code of Criminal Procedure, which allows the victim to obtain compensation for the damage suffered. In addition, article 38 provides that a civil claim for social damages may be brought by the Office of the Counsel General of the Republic in the case of offences affecting collective interests. Lastly, article 39 provides that a civil claim may be delegated to a law firm specialized in assisting victims of crime in pursuing such claims in connection with a criminal offence, including in cases where the original claimant lacks resources.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Costa Rica has several competent bodies responsible for combating corruption: the Office of the Counsel for Ethics in Public Service (PEP), which is responsible for preventing corruption and improving ethics and transparency in State institutions; the Public Prosecution Service, which has a unit specialized in corruption cases, known as the Office of the Deputy Prosecutor for Probity, Transparency and Anti-Corruption (FAPTA), which has jurisdiction over corruption offences; and the Criminal Court for Economic and Public Service Offences. The above-mentioned bodies operate with adequate independence and have the necessary staff, who are provided with appropriate training in order to carry out their functions.

In 2010, Costa Rica launched a partnership between the Public Prosecution Service, the Office of the Comptroller-General of the Republic, the Counsel General's Office and the Costa Rican Drug Institute in order to establish inter-agency cooperation to facilitate assistance and cooperation in addressing corruption. This partnership was formalized in 2012 with the establishment of the Inter-Agency Commission. Public

officials have a duty to report to the competent authorities alleged corrupt acts that are committed in public office and that have come to their knowledge (art. 9 of Executive Decree No. 32333).

The Public Prosecution Service, the police authorities, the Costa Rican Drug Institute and all institutions responsible for the prosecution and punishment of offences established in accordance with the Convention have been encouraged to establish and maintain relations with the public and private sectors. Financial institutions have a duty to report any unlawful act to the Public Prosecution Service (art. 160 of Act No. 7558 establishing the Central Bank of Costa Rica).

The Office of the Superintendent General for Financial Institutions maintains a list of reports of suspected money-laundering transactions.

Costa Rica has established several telephone hotlines, funded by the State, in order to enable persons wishing to report acts of corruption to do so and to provide citizens with advice on issues related to the phenomenon of corruption.

2.2. Successes and good practices

Overall, the following successes in implementing chapter III of the Convention are highlighted:

- The possibility of obtaining civil compensation for the social damage caused by corruption offences (art. 35)
- The establishment of an inter-agency commission that fosters citizen participation in the various stages of investigation and prosecution of corruption offences (art. 36).

2.3. Challenges in implementation

Taking into account the Costa Rican legal regime for combating corruption, a number of challenges in implementation have been highlighted. It is recommended that Costa Rica:

- Criminalize the promise of an undue advantage as a form of active bribery of foreign public officials and officials of public international organizations, and consider criminalizing the passive bribery of such officials (art. 16);
- Consider bringing its legislative provisions on trading in influence into line with the corresponding provisions of the Convention (art. 18 (a) and (b));
- Subject to its Constitution and the fundamental principles of its legal system, consider bringing its legislative provisions on the offence of illicit enrichment into line with the corresponding provisions of the Convention (art. 20);
- Consider the possibility of criminalizing bribery in the private sector (art. 21);
- Include as predicate offences a comprehensive range of criminal offences established in accordance with the Convention, including where such offences cannot be punished by imprisonment for a term of four years or more (art. 23, paras. 2 (b) and (c));
- Taking into account the scope of articles 193 and 324 of the Criminal Code, criminalize the promise, offering or giving of an undue advantage to interfere

in the giving of testimony or the production of evidence, as well as the giving of an undue advantage to induce false testimony (art. 25, para. (a));

- Consistent with its legal principles, consider establishing the criminal liability of legal persons (art. 26);
- Consider criminalizing, in accordance with its domestic law, preparation for an offence (art. 27, para 3);
- Consider increasing penalties for corruption offences, in accordance with its domestic law, in order to ensure that those penalties are effective in deterring and preventing the commission of such offences (art. 30, para. 1);
- Continue its efforts to establish provisions for the confiscation of property, equipment or other instrumentalities destined for use in the commission of corruption offences (art. 31, para. 1 (b));
- Consider entering into agreements or arrangements with other States for the relocation of protected persons (art. 32, para. 3);
- Consider taking appropriate measures, beyond the confidentiality of reporting and physical protection, to provide protection against any unjustified treatment for persons who report acts of corruption (art. 33);
- Consider entering into agreements or arrangements enabling provision of the treatment set forth in paragraphs 2 and 3 of article 37 in international cases (art. 37, para. 5);
- Encourage cooperation with the private sector (art. 39, para. 1);
- Provide for the possibility for its competent authorities to consult with those of other States Parties with a view to coordinating their actions where a number of States conduct proceedings in respect of the same conduct (art. 42, para. 5).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

*Extradition; transfer of sentenced persons; transfer of criminal proceedings
(articles 44, 45, and 47)*

The basic provisions on extradition are contained in the Constitution, the Extradition Act (Act. No. 4795 of 1971, as amended by Act No. 5497 and Act No. 5991) and the 14 treaties ratified by Costa Rica.

The principle of dual criminality is applied. However, the nature of the act giving rise to a request for extradition is the main element taken into account in considering such a request (art. 3 (d) of Act No. 4795 of 1971). Costa Rica may extradite a person in the absence of an international treaty or international convention, on the basis of the principle of reciprocity. Costa Rica may use the Convention as a legal basis for extradition.

An offence is not extraditable if the applicable penalty is deprivation of liberty for a term of less than one year and if preventive detention or custody of the accused has been authorized or approved (art. 3 (e) of Act No. 4795 as amended). Corruption offences may in no case be considered to be political offences. Costa Rica has

undertaken to include corruption offences as extraditable offences in every extradition treaty it concludes.

The Extradition Act provides for the preventive custody of the person whose extradition is requested, in order to ensure that person's presence during extradition proceedings (art. 9 (b) of the Act).

In accordance with art. 3 of Act No. 4795 of 1971, Costa Rica cannot extradite its nationals. This exception applies also to foreign nationals naturalized in Costa Rica, unless the naturalization procedure has been completed by fraudulent means.

Costa Rica may enforce sentences imposed under the domestic law of the requesting State Party, in accordance with article 705 of the Code of Civil Procedure.

The promulgation of the Tax Justice Act (Act No. 7535 of 1995), which amended the Code of Tax Regulations and Procedures, helped to promote extradition in respect of fiscal matters. The national authorities confirmed that fiscal offences do not pose difficulties because the fact that an offence involves fiscal matters is not one of the grounds for refusal of a request for extradition under article 3 of the amended Extradition Act.

In case of refusal of extradition, Costa Rica in practice consults with the requesting State, although there are no legislative provisions that specifically require such consultation.

Costa Rica has two bilateral agreements on the transfer of sentenced persons and is a party to the Convention on the Transfer of Sentenced Persons (concluded at Strasbourg).

Costa Rican legislation prevents the surrender of jurisdiction on the basis of prosecutorial discretion or expediency. Consequently, criminal proceedings may be transferred only if the relevant judicial bodies declare themselves incompetent to investigate the offence in question.

Mutual legal assistance (art. 46)

The legal framework for mutual legal assistance is established by bilateral and multilateral agreements signed by Costa Rica, articles 705-708 of the Code of Civil Procedure and Act No. 8204 of 2001 as amended.

Costa Rica does not require a treaty as the legal basis for providing assistance; however, the Convention may be used as such a legal basis. Under the Inter-American Convention on Mutual Assistance in Criminal Matters, the competent authorities of a State party may transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information may be useful in pursuing inquiries in criminal proceedings, without affecting those proceedings (investigation and prosecution).

The Office of the Counsel for Ethics in Public Service was designated as the central authority for mutual legal assistance under the Convention (by Executive Decree No. 33681)

Assistance may be requested and obtained for all of the purposes listed in paragraph 3 of article 46 of the Convention, except for the recovery of assets. Assistance may also be granted in relation to offences alleged to have been committed by legal

persons, in accordance with the Inter-American Convention on Mutual Assistance in Criminal Matters, despite the fact that domestic legislation does not establish the criminal liability of legal persons.

Bank secrecy is not a ground for refusal of mutual legal assistance in practice, although there are no express provisions to that effect. Furthermore, Costa Rica may not decline to render assistance if the request relates to tax offences, in accordance with article 9 of the Inter-American Convention on Mutual Assistance in Criminal Matters.

Dual criminality is not required in order for a request for legal assistance to be granted, except where such assistance involves coercive action.

The provisions of article 46, paragraphs 10 to 12, of the Convention are directly applicable. Costa Rica may authorize the transfer of prisoners for the purpose of facilitating an investigation in direct application of the Convention or of the Inter-American Convention on Mutual Assistance in Criminal Matters.

Requests transmitted by facsimile or e-mail are accepted in order to expedite processing. However, requests thus transmitted must subsequently be submitted through formal channels. All applications must subsequently be made in writing. Requests may be made orally, including in urgent cases, if the requesting State undertakes to also make the request in writing through formal channels.

Costa Rica may authorize the transfer of prisoners for the purpose of facilitating an investigation in direct application of the Convention or of the Inter-American Convention on Mutual Assistance in Criminal Matters.

Hearings by video conference are accepted in Costa Rica, at the request of foreign judicial authorities (Organic Act on the Judiciary (Act No. 8 of 29 November 1937); see also vote No. 682-2007 of 29 June 2007 of Chamber III of the Supreme Court of Justice).

Costa Rica has no regulations in place governing the safe conduct of witnesses.

The costs of requests for legal assistance are borne by the requested State. The States Parties shall consult on any extraordinary costs incurred by the request, to determine the terms and conditions under which it will be possible to provide assistance.

Costa Rica is bound by the Inter-American Convention on Mutual Assistance in Criminal Matters, the Treaty on Mutual Legal Assistance in Criminal Matters between Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama and two bilateral instruments on mutual legal assistance.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Costa Rica uses the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition, of the Organization of American States (OAS), as well as the Financial Action Task Force of South America (GAFILAT), the International Criminal Police Organization (INTERPOL), the Ibero-American Network for International Legal Cooperation (IberRed) and the GAFILAT Asset Recovery Network (RRAG), as means of exchanging information

prior to the submission of formal requests for cooperation and following up on requests.

Act No. 8204 of 2001 serves as the legal framework for international cooperation among crime detection and prosecution agencies.

The Attorney General of Costa Rica is a member of two networks of prosecutors: the Central American and Caribbean Council of Public Prosecutors and the Ibero-American Association of Public Prosecutors. Costa Rica participates in the Network of Prosecutors against Organized Crime (REFCO).

Costa Rica has concluded a number of bilateral and multilateral cooperation agreements. It has also signed agreements on the exchange of information relating to tax matters with at least two countries, as well as international cooperation agreements between public prosecution services.

Costa Rica does not have liaison officers in other countries. Joint investigation teams can be established on the basis of the Code of Criminal Procedure (art. 65), the Convention and other treaties.

With regard to special investigative techniques, the legal framework (Act No. 8204 of 2001) allows the use of undercover operations and controlled delivery for some but not all corruption offences.

The aforementioned special investigative techniques can be used at the request of foreign judicial authorities but must be implemented by local authorities.

3.2. Successes and good practices

Overall, the following successes in implementing chapter IV of the Convention are highlighted:

- The authorities cooperate through networks such as INTERPOL and the OAS Hemispheric Information Exchange Network (art. 48).

3.3. Challenges in implementation

In order to strengthen international cooperation in combating the offences covered by the Convention, it is recommended that Costa Rica:

- Continue its efforts to bring into full operation an information system for the systematic collection of data on international cooperation, facilitation of follow-up of cases and evaluation of the effectiveness of that cooperation;
- To the extent permitted by its legislation, relax the presently strict application of the principle of dual criminality. Costa Rica could also allow extradition for related offences (art. 44, paras. 2 and 3);
- Include asset recovery among the purposes for which mutual legal assistance may be requested (art. 46, para 3);
- Without prejudice to domestic law, and beyond the scope of application of the Inter-American Convention on Mutual Assistance in Criminal Matters, transmit information without prior request (art. 46, paras. 4 and 5);
- Establish provisions governing the safe conduct of witnesses (art. 46, para. 27);

- Consider establishing a legal framework for authorizing the transfer of criminal proceedings (art. 47);
- Amend its legislation to provide for the use of special investigative techniques for all corruption offences (art. 50).

3.4. Technical assistance needs identified to improve implementation of the Convention

Costa Rica has indicated its need for assistance in the following matters:

- Model legislation on matters with respect to which no domestic regulations are in place.
 - Training and capacity-building in special investigative techniques.
 - Provision of additional human, financial and technological resources to the Office of the Counsel for Ethics in Public Service.
-