

## Submission by the United Nations High Commissioner for Refugees

### For the Office of the High Commissioner for Human Rights' Compilation Report

#### Universal Periodic Review: 3rd Cycle, 33rd Session

## COSTA RICA

### I. BACKGROUND INFORMATION

Costa Rica acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), in 1978. Costa Rica ratified the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and acceded to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*), in 1977.

Costa Rica has progressively reviewed its legal and policy framework on the protection of refugees. The *2010 Migration Act* (Law No. 8764), which entered into force on 1 March 2010, modified the refugee status determination (RSD) system and created the Refugee Unit, the Commission of Restricted Visas and Refugees, and the Administrative Migration Tribunal (TAM). The *2010 Migration Act* also incorporated persecution based on “gender” as a specific ground for refugee status. Moreover, it explicitly enshrines the principle of *non-refoulement* and provides safeguards related to irregular entry, in line with the *1951 Convention*. It allows persons under UNHCR’s mandate, such as stateless persons and victims of human trafficking, to be granted asylum on humanitarian reasons and be provided with humanitarian visas.

The *2011 Refugee Regulations* complement the *2010 Migration Act* and grant asylum-seekers the rights to health, education, and work after three months of filing an asylum application. Both the *2010 Migration Act* and its *2011 Refugee Regulations* adopt an age, gender, diversity approach and prescribe detailed safeguards for the protection of women and children in the assessment of their asylum applications, including the designation of a legal guardian for unaccompanied and separated children. The *2010 Migration Act* and its *2011 Refugee Regulations* stipulate procedures and eligibility criteria for refugee status that are consistent with the international protection standards, including the possibility to appeal asylum decisions. The Refugee Unit, which reports to the Migration Authority, receives and examines asylum applications and prepares recommendations to the Commission of Restricted Visas and Refugees (CVRR) for decision. The CVRR is a decision making body comprised of three members representing the Ministries of Labour, Foreign Affairs and Public Security, and is responsible for special visa requests, asylum applications and reconsideration requests on RSD decisions. The Administrative Migration Tribunal (TAM) is an independent body that examines appeals against Migration Authority’s decisions on migration and appeals against the CVRR’s decisions on asylum. An appeal before the TAM exhausts all administrative remedies in relation to asylum procedures. Costa Rican authorities have undertaken significant efforts to improve the quality of the RSD procedures, with the support of UNHCR, particularly within the framework of the regional Quality Assurance Initiative (QAI) to upgrade the efficiency of the system. The duration of the asylum applications processing times, and the costs of documentation for recognised refugees continue to remain major challenges.

The Government of Costa Rica adopted two public policy documents relevant to the protection of refugees: the *2013-2023 National Migration Policy* and the *Public Policy for Eliminating Racial Discrimination and Combating Xenophobia*. The *2015 Law No. 9095* relative to migrants’ smuggling and human trafficking, and its *2015 Regulations* were enacted in 2015. The *Stateless*

*Status Determination (Regulations)*<sup>1</sup> was enacted in 2016, allowing for the provision of identity documentation (ID) free of charge for applicants and those whose stateless status has been determined. Costa Rica has successfully honoured commitments made to the benefit of asylum-seekers, refugees and stateless persons at the 2011 UNHCR Ministerial Intergovernmental Event; successfully implemented the 2014 Brazil Plan of Action; and since 2017, has adopted and implemented the Costa Rica's 2018 – 2020 *Comprehensive Refugee Response Framework (CRRF)* chapter known as *MINARE*<sup>2</sup>.

Costa Rica has become a country of asylum for the major refugee situations in the Americas, including those from Venezuela, the North Central American countries, Colombia, and lately from Nicaragua. It has also been a transit country for persons in a mixed-migration situation from Asia, Africa and the Caribbean region. As of June 2018, Costa Rica hosts approximately 15,000 persons under UNHCR's mandate. Of those, 4,548 are recognised refugees; approx. 11,000 are asylum-seekers; and 68 persons are stateless.<sup>3</sup> Of the total number of asylum claims, 5,854 were lodged during the first semester of 2018 alone.<sup>4</sup> This reveals an exponential increase in the number of asylum applications that have been filed on a yearly basis since 2014, when compared with the total number of 1,384 applications that were lodged in 2013.<sup>5</sup> The refugee population in Costa Rica is of mixed-socio economic origin, and is largely concentrated in urban areas. Approximately 40 per cent of the refugee population is female, and one in three refugees is a child.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### **Positive developments linked to 2nd cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendation no. 128.56: “Consider ways to widen and enhance the effectiveness of measures to promote social inclusion and diversity, guaranteeing the full and effective exercise of human rights by indigenous people, persons of African descent, migrants and refugees, and eradicating all forms of racial discrimination, racism and xenophobia.”(Brazil)**

UNHCR commends Costa Rica for the adoption of the *2013-2023 National Migration Policy* and the establishment of the National Migration Council (NMC) by virtue of the *2010 Migration Act*, which has been instrumental in advancing refugee rights and including refugee related matters in the national public policy. The NMC makes recommendations to the Executive on migration and asylum, and develops action plans for the effective implementation of this policy. UNHCR further commends the NMC that instructed the inclusion of the 2014 Brazil Declaration and Plan of Action principles and guidelines into the above-mentioned Migration Policy.<sup>6</sup> UNHCR welcomes the adoption of the *2014-25 National Policy on Eliminating Racial Discrimination and Combating Xenophobia*, undertaking campaigns to combat racial discrimination and sensitise the public. UNHCR applauds the issuance of the *2015 Presidential Decree No. 39053*<sup>7</sup> declaring 20 June as National Refugee Day and its commemoration of public interest, as well as the launch of the joint UNHCR and Migration Authority's public information awareness campaign called “Being a refugee is like being a Costa Rican”. UNHCR also appreciates the *2015 Social*

<sup>1</sup> Executive Order No. 39620- MICITT, published in the Official Gazette on 13 May 2016.

<sup>2</sup> “Marco de Protección y Soluciones de Respuesta a la Situación de Personas Refugiadas en Costa Rica – MINARE (2018-2020)” –

<https://www.rree.go.cr/?sec=servicios&cat=prensa&cont=593&id=3649>; <http://www.mgp.go.cr/wordpress/?p=2509>; <https://presidencia.go.cr/comunicados/2017/12/minare-sera-expuesto-en-reunion-de-alto-nivel-como-ejemplo-para-la-atencion-de-personas-refugiadas/>

<sup>3</sup> According to data provided by the Legal Department of the MoFA there were 58 persons with undetermined nationality and ten migrant-stateless persons at 22 June 2018.

<sup>4</sup> According to available data provided to UNHCR by the Refugee Unit at 26 June 2018.

<sup>5</sup> The number of asylum applications in 2013 was 1,384; in 2015: 2,203; in 2016: 4,470; and in 2017: 6,337.

<sup>6</sup> Minutes of the National Migration Council Session No.16-2015 of 26 October 2015, available at [http://www.migracion.go.cr/institucion/actas/actas%20cnm/Acta%20Sesion%20Ordinaria%20No.%2016-2015%20\(26%20de%20octubre%202015\).pdf](http://www.migracion.go.cr/institucion/actas/actas%20cnm/Acta%20Sesion%20Ordinaria%20No.%2016-2015%20(26%20de%20octubre%202015).pdf)

<sup>7</sup> Presidential Decree No.39053 - MP-MGP, Official Legal State Gazette of 27 July 2015.

*Presidential Council (SPC) Resolution* promoting the economic, social and cultural rights of refugees through their inclusion in national employment, social and cultural programmes.<sup>8</sup> UNHCR lastly wishes to positively note the endorsement of CRRF/MINARE by both NCM<sup>9</sup> and SPC.<sup>10</sup>

**Linked to 2nd cycle UPR recommendation no. 124.14:** “Enact regulations to the 2013 law establishing a referral mechanism for victims of trafficking to enable them to apply for asylum where appropriate.” (Ireland)

UNHCR congratulates Costa Rica on the enactment of the *2013 Smuggling of Migrants and Human Trafficking Act (Law 9095)*, and its *2015 Regulations*. The former established the *National Coalition against the Smuggling of Migrants and Human Trafficking* and authorised, with the amendment of the *2010 Migration Act*, the provision of temporary visas to victims of human trafficking and persons subject to smuggling. UNHCR appreciates Costa Rica’s active participation in the Coalition that identifies and assists trafficking survivors and persons subject to smuggling, and the capacity building provided to competent authorities.<sup>11</sup> UNHCR also welcomes the enactment of the *2015 Regulations to Law 9095*, which establishes identification and referral mechanisms for survivors of human trafficking and persons subject to smuggling enabling them to apply for asylum, and provides for the adoption of specialised funding allocation programmes and policies.<sup>12</sup>

**Linked to 2nd cycle UPR recommendations no. 128.67:** “Guarantee the birth registration of all indigenous and migrant children and the issuance of identity documents that would allow them to have access to social services.” (Honduras)

UNHCR commends Costa Rica’s efforts towards achieving the goal of eliminating the risk of statelessness in the country. On the basis of the Concluding Observations issued by Committee on the Rights of the Child (2011) and the Human Rights Committee (2016)<sup>13</sup> as well as the pledges made at the 2011 Ministerial Meeting and the 2014 Brazil Plan of Action, Costa Rica enacted the *Statelessness Status Determination (Regulations)* in 2016.<sup>14</sup> This instrument reinforces the legal framework for the protection of stateless persons. The Supreme Electoral Tribunal amended internal regulations<sup>15</sup> allowing naturalisation of recognised stateless and refugee stateless persons. UNHCR applauds Costa Rica’s positive steps in addressing birth registration among indigenous populations and children born in Costa Rica to Panamanian and Nicaraguan parents. The National Civil Registry Office took positive policy measures by applying a differentiated approach known as the *Chiríticos’ Model*, simplifying, harmonising and easing barriers for late-birth registration and documentation procedures. Former President Luis Guillermo Solís endorsed the *UNHCR Global Campaign #Ibelong*.

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Challenges linked to outstanding 2nd cycle UPR recommendations

<sup>8</sup> Presidential Decree No.40645-MP, 2017 declaring the *Living Integration (CSR) programme and its quality seal award* of public interest; Presidential Decree No. 4131-MP, 2017 also declaring the annual *IntegrArt Refugee Day Event* of public interest. Also, the National Musical Education System (*Sistema Nacional de Educación Musical aka SiNEM*) that includes refugee children has conducted the anti-xenophobia *Music Units Us* awareness campaign.

<sup>9</sup> National Council on Migration, CNM-115-11-2017.

<sup>10</sup> Presidential Social Council, Session minutes No. 52 dated 1 November 2017.

<sup>11</sup> UN Committee on the Elimination of Discrimination against Women, *Concluding Observations – Costa Rica*, CEDAW/C/CRI/CO/7, 24 July 2017, paras 20-21.

<sup>12</sup> *Id.*, paras 22 and 23.

<sup>13</sup> UN Human Rights Committee, *Concluding Observations – Costa Rica*, CCPR/C/CRI/CO/6, 21 April 2016. See also: UN Committee on the Rights of the Child, *Concluding Observations – Costa Rica*, CRC/C/CRI/CO/4, 3 August 2011.

<sup>14</sup> Executive Order 39620-RE-G, entered into force on 13 November 2016.

<sup>15</sup> Decree No. 2-2017, Supreme Electoral Tribunal amending Decree 12-2012.

## **Issue 1: Long delays in refugee status determination (RSD) procedures**

**Linked to 2nd cycle UPR recommendations no. 128.188:** “Take into account the recommendation of the Committee on the Elimination of Discrimination against Women to adequately address the situation of migrant and refugee women in the labour market.” (Nicaragua)

Long delays in RSD procedures have resulted in a growing number of asylum claimants facing barriers to effectively accessing and enjoying their economic and social rights, as further explained below under *Issue 2*. Article 54 of the *2011 Refugee Regulations* establishes that the first instance decisions on asylum claims must be handed down within a three-month period. UNHCR commends the Refugee Unit and TAM’s efforts to comply with this provision and to reduce waiting times in 2017. However, despite the fact that additional staff has been allocated with the support of UNHCR to reinforce processing capacity since 2016,<sup>16</sup> backlogs of asylum applications continue to grow given the sustained increase in asylum applications and the current governmental hiring freeze policy.<sup>17</sup> The capacity of the Refugee Unit stands at approximately 1,000 applications per year, but it needs to handle more than 6,000 applications submitted in 2017 and another 6’000 applications lodged during the first semester of 2018 alone. Current waiting times range from approximately 14 months at first instance and can increase up to 24 months on appeal.

### **Recommendations:**

UNHCR recommends that the Government of Costa Rica:

- (a) Enhance the effectiveness of RSD procedures through the continuation of Quality Assurance Initiative<sup>18</sup>;
- (b) Strengthen the national institutional and procedural asylum frameworks in line with MINARE and ensure efficient and effective RSD procedures– in line with MINARE<sup>19</sup>; and
- (c) Provide adequate resources to national asylum authorities to ensure timely processing of RSD cases both in first instance and on appeal.

## **Issue 2: High costs and administrative barriers to obtaining refugee documentation**

**Linked to 2nd cycle UPR recommendations no. 128.56:** “Consider ways to widen and enhance the effectiveness of measures to promote social inclusion and diversity, guaranteeing the full and effective exercise of human rights by indigenous people, persons of African descent, migrants and refugees, and eradicating all forms of racial discrimination, racism and xenophobia.” (Brazil)

The Refugee Unit has taken positive steps to providing provisional ID to asylum-seekers on an individual basis free of charge upon filing an asylum application. Three months after lodging their claims, the Refugee Unit provides work permits allowing asylum-seekers to enter the labour market and contribute to the National Social Welfare Fund (CCSS). Only when adult asylum-seekers are employed and contribute to CCSS, they have full access to the national health care system. Otherwise, access to health care for adult asylum-seekers is limited to emergencies, pregnancy-related treatment, cases of HIV<sup>20</sup> and sexually transmitted diseases. Such medical treatment is provided by the *ad-hoc* UNHCR/CCSS programme, funded by UNHCR and administered by its partner agency RET International. On the other hand, asylum-

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<sup>16</sup> This was undertaken as part of an agreed UNHCR/NMC contingency plan that has been materialised since June 2016.

<sup>17</sup> Treasury, Directive 023-H, 20 April 2015 ([http://www.gaceta.go.cr/pub/2015/04/20/COMP\\_20\\_04\\_2015.pdf](http://www.gaceta.go.cr/pub/2015/04/20/COMP_20_04_2015.pdf))

<sup>18</sup> The **Quality Assurance Initiative** (QAI as the project is known in Latin America), seeks to progressively harmonise asylum systems in accordance with the Brazil Plan of Action adopted in 2014 by States in South and Central America and the Caribbean. The QAI project’s objective is to improve eligibility procedures, increase the knowledge and capacity of asylum authorities on asylum issues and introduce efficient management of refugee status determination procedures (RSD).

<sup>19</sup> MINARE (2018-2020), recommendations 5, 8 and 10.

<sup>20</sup> Ministry of Health, Directive 037/S-15, published in the Official Gazette on 1 December 2015.

seeking children have unlimited access to health and education from the time of the first issuance of their provisional ID.

The *2010 Migration Act* prescribes that refugees, unlike asylum-seekers, must cover the costs for the issuance of their ID, which amounts to approximately \$68. Refugee IDs are issued for a period of two years renewable. The *Migration Act*, its *Refugee Regulations* and the *Social Security Regulations* specify that refugees must also be enrolled in the CCSS. The payment of the mandatory CCSS contribution is a requirement for refugees to be able to renew their IDs. Many refugees, particularly those with large families, cannot afford these legal and administrative costs. Findings from a joint UNHCR/Refugee Unit file-verification exercise that was carried out in 2015 revealed that 51.50 per cent of the refugee population did not have a valid refugee ID. High ID costs prevent refugee not only from acquiring documentation, but also from effectively enjoying their rights to work, health and education, as the enjoyment of these rights in Costa Rica largely depends on refugees' access to identification.

**Recommendations:**

UNHCR recommends that the Government of Costa Rica:

- (a) Amend national legislation and regulations to ensure refugees have access to identity documentation by reducing or removing administrative or other fees.

**Issue 3: Lack of legislation to combat discrimination and xenophobia against refugees**

**Linked to 2nd cycle UPR recommendation no.128.62:** “Continue with its efforts to combat racism, racial discrimination, xenophobia, as well as set up mechanisms to prosecute perpetrators of racist acts.” (Pakistan)

Costa Rica undertook considerable efforts to counter discrimination and xenophobia through the adoption of the *Public Policy for Eliminating Racial Discrimination and Combating Xenophobia* and coordination of public awareness and educational campaigns. Nonetheless, persistent structural discrimination against refugees and other persons under UNHCR's mandate continue to hinder their local integration and wellbeing, as there is not yet in place a general legal framework on non-discrimination in line with international human rights norms. The Law Proposal 20174 currently before the National Parliament aims to address this legislative and protection gap.

**Recommendations:**

UNHCR recommends that the Government of Costa Rica:

- (a) Adopt legislation against discrimination and xenophobia establishing identification, referral and redress mechanisms for victims of racist and discriminatory acts, including refugees and asylum-seekers, particularly LGBTI asylum-seekers and refugees;
- (b) Ensure regular monitoring and reporting of hate crimes, including those targeting asylum-seekers and refugees; and
- (c) Provide effective legal remedies to the victims of hate crimes in compliance with international human rights norms.<sup>21</sup>

**UNHCR  
October 2018**

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<sup>21</sup> UN Human Rights Committee, *Concluding Observations - Costa Rica*, CCPR/C/CRI/CO/6, paras 9-10.

## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

#### COSTA RICA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to COSTA RICA.

#### I. Universal Periodic Review (Second Cycle – 2018)

Recommendation <sup>22</sup>	Recommending State/s	Position <sup>23</sup>
<b>Ratification of international instruments</b>		
128.6 Consider ratifying ICRMW and harmonizing domestic legislation with international norms;	Senegal	Noted
128.9 Take further measures for the harmonization of legislation and policies with the Convention on the Rights of the Child, including with regard to children affected by migration;	Albania	Supported
<b>Equality and non-discrimination</b>		
128.63 Strengthen measures on combating discrimination against indigenous and migrant children and children with disabilities, as well as investigate all cases of ill-treatment of children by police officers and prison guards;	Azerbaijan	Supported
128.64 Intensify efforts to eliminate discrimination against indigenous children, Afro-descendant children, migrant children and children with disabilities;	Tunisia	Supported
<b>Racism and xenophobia</b>		
128.55 Design awareness-raising campaign on cultural diversity, on countering racial discrimination, xenophobia and all other forms of intolerance and promoting inclusiveness, social cohesion and respect for the values of diversity;	Turkmenistan	Supported
128.58 Intensify public education campaigns to counter structural racism, racial discrimination, xenophobia and other forms of intolerance and punish perpetrators of racist acts, taking into account the fact that Costa Rica is a State party to the Convention on the Prevention and Punishment of the Crime of Genocide and the Rome Statute;	Ghana	Supported
128.59 Further intensify its efforts to eliminate structural racism and racial discrimination in all its forms;	India	Supported

<sup>22</sup> All recommendations made to Costa Rica during its 2nd cycle UPR as well as a number of the country's views and replies can be found in: "Report of the Working Group on the Universal Periodic Review of Costa Rica" (7 July 2014), A/HRC/27/12, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/075/65/PDF/G1407565.pdf?OpenElement>

<sup>23</sup> The remaining views and replies of Costa Rica, in English, can be found in: *Addendum* (22 September 2014), A/HRC/27/12/Add.1, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/167/71/PDF/G1416771.pdf?OpenElement>

128.62 Continue with its efforts to combat racism, racial discrimination, xenophobia, as well as set up mechanisms to prosecute perpetrators of racist acts;	Pakistan	Supported
<b>Refugees and asylum-seekers</b>		
128.30 Take effective measures to generate inclusive social practices to ensure the observance of the human rights of indigenous peoples, persons of African descent, migrants and refugees;	Bolivarian Republic of Venezuela	Supported
128.56 Consider ways to widen and enhance the effectiveness of measures to promote social inclusion and diversity, guaranteeing the full and effective exercise of human rights by indigenous people, persons of African descent, migrants and refugees, and eradicating all forms of racial discrimination, racism and xenophobia;	Brazil	Supported
128.188 Take into account the recommendation of the Committee on the Elimination of Discrimination against Women to adequately address the situation of migrant and refugee women in the labour market.	Nicaragua	Supported
<b>Birth registration</b>		
128.67 Guarantee the birth registration of all indigenous and migrant children and the issuance of identity documents that would allow them to have access to social services;	Honduras	Supported
128.68 Enhance efforts to improve the rate of birth registration among indigenous peoples and other vulnerable groups;	Senegal	Supported
<b>Migrants' rights</b>		
128.183 Harmonize requirements of legislations on migration to ensure that migrants have access to justice, education, health and safety, regardless of their status;	Zambia	Noted
128.184 Ensure that migrants have access to justice, education, health care and safety without discrimination;	Brazil	Supported
128.185 Continue making progress in the protection and promotion of the rights of migrants, including the safeguard of the interests of boys, girls, adolescents and women;	Colombia	Supported
128.186 Continue its efforts to develop a comprehensive migration policy with a human rights perspective;	Trinidad and Tobago	Supported
128.187 Adopt national policies that protect and guarantee the rights of all migrant workers in Costa Rica, in particular to address the needs of women and children;	El Salvador	Supported
<b>Detention</b>		
128.73 Improve prison conditions by reducing overcrowding, improving sanitation, increasing access to medical care, and reducing the incidence of violence among prisoners;	United States of America	Supported
128.75 Take concrete measures aiming at reducing overcrowding in the prisons of the country and ensuring that conditions of detention are in conformity with the human rights of persons deprived of their liberty;	Switzerland	Supported
128.76 Continue to take effective measures to improve detention conditions and limit overcrowding in detention	Egypt	Supported

centres, including those administered by the migration authorities;		
128.77 Take further action to improve prison conditions, especially to account for the specific needs of women and children in detention;	Germany	Supported
128.79 Implement measures to improve sanitation conditions and prevent overcrowding in administrative detention centres, especially those under the authority of migration authorities;	Mexico	Supported
128.138 Consider and address the issue of reportedly high number of children and adolescents in juvenile detention centres by applying child-friendly justice standards and encouraging the use of alternative sanctions and reintegration programmes;	Serbia	Supported
<b>Prevention of torture</b>		
128.28 Provide the necessary resources to the <i>Defensoría de los Habitantes</i> , which constitutes the national prevention mechanism provided for under OPCAT, so that it can fully implement its mandate;	France	Supported
128.29 Extend the scope of the activities of the national preventive mechanism under OP-CAT in order to include places of deprivation of liberty which are not under the authority of the Ministry of Justice and the Ministry of Public Security, Interior and the Police;	Hungary	Supported
<b>Trafficking and exploitation</b>		
128.24 Enact regulations to the 2013 law establishing a referral mechanism for victims of trafficking to enable them to apply for asylum, where appropriate;	Ireland	Supported
128.25 Introduce in the Criminal Code the crime of trafficking in children, particularly those trafficked for the purposes of commercial and sexual exploitation;	Mexico	Supported
128.132 Intensify efforts to investigate and prosecute perpetrators of child sexual abuse and provide specialized assistance to victims;	Australia	Supported
128.133 Strengthen efforts in the fight against trafficking in women and girls as well as the exploitation of prostitution, and harmonize legal procedures concerning prosecution of traffickers;	Belgium	Supported
128.134 Intensify efforts to investigate and prosecute cases of human trafficking including forced labour;	Australia	Supported
128.135 Ensure that women victims of violence have prompt access to justice and that the acts of violence are adequately prevented, investigated, punished and redressed;	Bahrain	Supported
<b>LGBTI</b>		
128.70 Design awareness-raising policies and programmes regarding the prevention of discrimination of LGBT persons and provide equal rights for LGBT persons. In practical terms this means providing better access to justice for people whose rights have been infringed because of their gender identity, gender expression or sexual orientation; it also means	Netherlands	Partially supported



allowing same-sex couples to enter into cohabitation contracts in order to remove inequalities relating to inheritance, health care, social security; and finally it means removing discriminatory provisions from the Criminal Code and other laws and regulations;		
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## II. Treaty Bodies

### Committee on the Elimination of Discrimination against Women

Concluding Observations, (24 July 2017), [CEDAW/C/CRI/CO/7](#)

#### **Access to justice and remedies**

8. The Committee notes that mechanisms such as amparo allow women to claim protection of their rights and welcomes the establishment of alternative dispute resolution centres offering services free of charge. Nevertheless, the Committee notes with concern:

- (a) Economic barriers to women's access to justice and the limited coverage of legal aid clinics and the Bar Association's advocacy services;
- (b) The lack of accessible information and limited awareness among women about their rights and legal remedies to claim them;
- (c) Discriminatory stereotypes about women seeking justice and the limited knowledge of women's rights among law enforcement officers, including the police, throughout the State party;
- (d) Barriers to access to justice by indigenous women, women of African descent, refugee and asylum-seeking women and women with disabilities and the absence of information on remedies available to them to complain about intersecting forms of discrimination.

9. The Committee, in line with its general recommendation No. 33 (2015) on women's access to justice, recommends that the State party:

- (a) Institutionalize and expand a public legal aid service that is adequately funded to ensure the legal representation of women without sufficient means in criminal, civil and administrative proceedings relating to gender-based violence and discrimination;
- (b) Strengthen the capacity-building and women's outreach activities carried out by the Information and Guidance Centre of the National Institute for Women;
- (c) Ensure that judges, prosecutors and police officers handle cases of gender-based violence and discrimination against women in a gender-sensitive manner and expand mandatory capacity-building to judges, prosecutors, lawyers, law enforcement officials and mediators on women's rights, including their right to access to justice;
- (d) Design a strategy, with indicators, aimed at guaranteeing access to justice by indigenous women, women of African descent, refugee and asylum-seeking women and women with disabilities, which addresses linguistic barriers and establishes and disseminates information about effective legal remedies and procedures enabling women to claim their rights.

#### **Temporary special measures**

12. The Committee notes with concern the limited information about the use of temporary special measures to achieve substantive equality of indigenous women, women of African descent, migrant, refugee and asylum-seeking women, female heads of household and women with disabilities, who face intersecting forms of discrimination.

13. The Committee recalls its previous concluding observations (CEDAW/C/CRI/CO/5-6, para. 17) and recommends that the State party:

- (a) **Promote a better understanding of temporary special measures in order to adopt and implement them, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 (2004) on temporary special measures, so as to accelerate the achievement of substantive equality of women and men in all areas covered by the Convention where women are underrepresented or disadvantaged, including political and economic life, education, employment, health care and social security;**
- (b) **Encourage the adoption of temporary special measures at the local level to address intersecting forms of discrimination against indigenous women, women of African descent, migrant, refugee and asylum-seeking women, female heads of household and women with disabilities.**

### **Economic and social benefits and economic empowerment of women**

32. The Committee notes the measures taken by the State party aimed at promoting women's entrepreneurship and the provision of loans and other forms of financial credit to women. Nevertheless, it notes with concern the lack of information as to whether women's organizations were involved in designing and implementing national strategies to achieve the Sustainable Development Goals. The Committee is also concerned about the limited coverage of social programmes, including social protection schemes, for women living in poverty, migrant and refugee women, indigenous women, women of African descent and women with disabilities.

### **33. The Committee recommends that the State party:**

- (a) **Ensure that women's organizations participate in planning and implementing national strategies to achieve the Sustainable Development Goals;**
- (b) **Allocate additional earmarked financial resources for increasing access to microcredit, loans and other forms of financial credit for women in order to promote women's entrepreneurship and empower them economically, in particular as regards indigenous women, women of African descent, migrant and refugee women and women with disabilities, and provide capacity-building for women aimed at improving their managerial skills.**

### **Migrant, refugee and asylum-seeking women**

38. The Committee notes that male and female asylum seekers are entitled to work in the State party after having been recognized as such. Nevertheless, it is concerned at:

- (a) **Intersecting forms of discrimination against migrant women, in particular those in an irregular situation;**
- (b) **The long delays in refugee status determination procedures and the high fees and administrative barriers faced by refugee and asylum-seeking women and girls in obtaining identification documents that are essential for them to have access to health care, housing, education and social protection; The limited access to health services for asylum-seeking women who do not contribute to the Costa Rican Social Insurance Fund;**
- (c) **The inadequate conditions in migrant detention centres for transgender women throughout the refugee determination procedure.**

### **39. The Committee recommends that the State party:**

- (a) **Assess the problems faced by migrant women, including those in an irregular situation, in every phase of the migration process and eliminate discrimination against them, in line with the Committee's general recommendation No. 26 (2008) on women migrant workers;**
- (b) **Strengthen measures to reduce the delays in refugee determination procedures and decisions on appeal, including by increasing the human, technical and financial resources of the Refugee Unit, the Commission on Restricted Visas and Refugees and the Administrative Migration;**
- (c) **Reduce application fees and remove administrative barriers to obtaining identification documents faced by refugee and asylum-seeking women and girls**

- in order to ensure their effective access to employment, health care, housing and education;**
- (d) Adopt guidelines for appropriately addressing the protection of transgender women throughout the refugee determination procedure.**

### **Intersecting forms of discrimination and data collection**

40. The Committee is concerned about the insufficient legislation and public policies to tackle multiple forms of discrimination against indigenous women, women of African descent, migrant, asylum-seeking and refugee women, women with disabilities, older women, lesbian, bisexual and transgender women and intersex persons and the limited disaggregated information concerning them.

**41. The Committee recommends that the State party adopt legislative and other measures, including temporary special measures, to protect women in the above-mentioned groups from intersecting forms of discrimination and collect statistical data disaggregated by sex and age for all the above-mentioned groups in all areas covered by the Convention, in both the public and private spheres.**

### **Committee on Economic, Social and Cultural Rights**

Concluding Observations, (21 October 2016), [E/C.12/CRI/CO/5](#)

#### **Non-discrimination**

18. While the Committee welcomes the adoption of the national policy and action plan for a society free from racism, racial discrimination and xenophobia, it remains concerned about continuing discrimination against certain marginalized and disadvantaged groups (art. 2).

**19. The Committee recommends that the State party take the necessary measures to ensure the effective implementation of the national policy and action plan for a society free from racism, racial discrimination and xenophobia, including through the allocation of adequate human, technical and material resources. The Committee urges the State party to increase its efforts to prevent and combat continuing discrimination, in particular against members of indigenous peoples, persons of African descent, persons with HIV or AIDS, migrants, asylum seekers and refugees, including by carrying out awareness-raising campaigns with a view to ensuring the full exercise of the rights recognized under the Covenant, particularly access to employment, social security, health care and education.**

#### **Unemployment**

25. The Committee is concerned that, despite the State party's efforts, unemployment and underemployment are high and disproportionately affect young persons, women, persons with disabilities, members of indigenous peoples, persons of African descent, migrants, asylum seekers and refugees (art. 6).

**26. In the light of its previous recommendation (see E/C.12/CRI/CO/4, para. 39), the Committee urges the State party to intensify its efforts to bring down the high unemployment rates by, for instance, ensuring that the national employment and production strategy tackles the main causes of unemployment, includes a plan of action with specific targets and focuses on groups that are disproportionately at risk of unemployment. The Committee recommends that priority continue to be given to programmes for good quality technical and professional instruction and training that are adapted to the needs of the job market and take into consideration the needs of the most marginalized and disadvantaged persons and groups.**

#### **Asylum seekers and refugees**

42. While the Committee welcomes the progress made by the State party with regard to the procedure for recognizing refugee status, it is concerned that excessive delays continue to occur in the processing of asylum applications and issuance of relevant documentation. It is also concerned that the high cost of renewing migration-related documentation and the fact that the issuance of identity documents is contingent on the obligation to become affiliated to and contribute to the Costa Rican Social Security Fund are an obstacle for refugees to gain effective access to their economic, social and cultural rights, in particular the right to an adequate standard of living (arts. 2 and 11).

**43. The Committee recommends that the State party take the necessary measures to comply with the time limits prescribed in the procedure for recognizing refugee status and to ensure the timely issuance and renewal of documentation for persons who have been granted refugee status, including by doing away with or reducing fees for the renewal of documents and for other administrative procedures. The Committee urges the State party to take specific measures to promote the integration of persons who have been granted refugee status in order to ensure that they have equal access to employment, education, housing and health care.**

### **Human Rights Committee**

Concluding Observations, (21 April 2016), [CCPR/C/CRI/CO/6](#)

#### Non-discrimination

9. Despite the State party's efforts to combat discrimination, the Committee is concerned about the persistent structural discrimination against indigenous peoples and persons of African descent, which hinders their access to education, employment and housing. The Committee is also concerned at the continued stigmatization of migrants, CCPR/C/CRI/CO/6 GE.16-06568 3 asylum seekers and refugees, and discrimination against persons with disabilities. It is further concerned by the lack of a general legal framework on non-discrimination prohibiting discrimination on all the grounds enumerated in the Covenant (arts. 2 and 26).

10. The State party should step up its efforts to dispel stereotypes of and eliminate discrimination against indigenous peoples, persons of African descent, migrants, asylum seekers and refugees, and persons with disabilities by carrying out awareness-raising campaigns to promote tolerance and respect for diversity, among other actions. It should expedite the adoption of an act on the prevention and punishment of all forms of discrimination and should ensure that it contains a general prohibition of discrimination on all the grounds enumerated in the Covenant and includes provisions allowing for reparation through effective and appropriate legal remedies in cases of discrimination, racism or xenophobia.

#### **Registration of births**

37. The Committee takes note of the State party's efforts to ensure that all births are registered, but regrets that a significant number of members of the Ngöbe-Bugle indigenous community still do not have a birth certificate and face hurdles in order to obtain one (arts. 24 and 27).

**38. The State party should continue its efforts to ensure that all children born in its territory are registered and receive an official birth certificate and it should conduct campaigns to register all adults not yet registered.**

### **III. Special Procedures Mandate Holders**

#### **Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Costa Rica**

Addendum: Mission to Costa Rica (4 August 2016) [A/HRC/33/44/Add.1](#)

## **Conclusions and recommendations**

### **Studies and statistics**

**76. The Independent Expert recommends that Costa Rica conduct an updated study into the situation of older persons in order to pinpoint the trends and challenges that currently affect them, and in particular older women and women who live in rural and remote areas, women who belong to indigenous populations, populations of African descent, migrant, refugee and undocumented populations and lesbian, gay, bisexual, transgender and intersex persons. The study will be a vital tool for discussing and analysing the challenges posed by the ageing population and for developing specific public policies which improve the living conditions of these groups, which lack visibility. The Independent Expert also stresses the need to ensure that older persons are included and effectively participate in meetings and consultations, which concern them.**