



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

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**WRITTEN REPLIES BY THE GOVERNMENT OF COSTA RICA *
CONCERNING THE LIST OF ISSUES (CAT/C/CRI/Q/2) RELATING
TO THE CONSIDERATION OF THE SECOND PERIODIC REPORT
OF COSTA RICA (CAT/C/CRI/2)**

[15 April 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Article 2

- 1. Please indicate whether a national record is kept of information from domestic courts concerning cases of torture and ill-treatment that have occurred in the State party.**

The judiciary keeps a national record of information concerning all offences that are tried, for each year. However, no specific records are kept for cases of torture or ill-treatment.

- 2. Please provide information on legislation and practice with regard to:**

- (a) When and by whom a detainee's personal details are recorded, who has access to the record and how long it takes to bring the detainee before a judge?**

As indicated in the answer to question No. 1, no specific record is kept for cases of torture.

- (b) What percentage of detainees have not been charged?**

With regard to persons held in pretrial detention, at the end of 2007 a total of 1,355 persons were recorded as detained without having been convicted, of whom 1,266 (93 per cent) were men and 89 (7 per cent) were women.

Fifty-one of the women (57 per cent) were imprisoned for offences against the Psychotropic Substances Act.

- 3. Please comment on measures taken to address the problems relating to the juvenile criminal justice system identified in the State party's initial report and on their impact.¹**
- 12. Please indicate what measures have been taken by the State party to ensure that all detainees can communicate immediately with a lawyer of their choice, and that they have access to a doctor, a person of confidence and, in the case of foreigners, the representatives of their State of origin.**

All detainees have the right to a defence lawyer, free of charge, and if necessary a translator provided by the State, and the right to communicate with a person of their choice, in accordance with judgement No. 1739-92 of the Constitutional Chamber of the Supreme Court, which establishes the constitutional framework on the right to a defence in criminal cases.

To this end, the judiciary has a team of free public defence lawyers who work around the clock (day and night shifts) in order to guarantee detainees' physical integrity and access to defence at all times.

¹ CAT/C/24/Add.7, paras. 194-196.

In the event of a detainee requiring medical assistance, the judiciary has a forensic clinic and, depending on the case, the defence lawyer may also ask for State medical assistance, which is free for detainees, through the social security system.

The Costa Rican constitutional courts also operate year round, around the clock, so detainees can call 123 free of charge to lodge a habeas corpus appeal, in order to protect their physical integrity and other matters relating to their release.

18. *Please comment on whether the Istanbul Protocol is used in training medical staff to identify cases of torture.*
24. *The report of the Office of the Ombudsman for 2006-2007 refers to the rundown state of the F Wing (formerly the maximum security wing) of La Reforma Institutional Penal Centre. The report also expresses concern, like the Committee against Torture, about the current regime of 23 hours of confinement and 1 hour in the open air.² Please comment.*
26. *Please comment on the complaints received by the Office of the Ombudsman against the National Children's Trust for allegedly placing children of women deprived of their liberty in different care centres from those indicated and for failing to keep them informed of their children's circumstances in the centres concerned.³*

Article 30 of the Children and Adolescents Code provides that minors have the right to grow up and develop with their parents. This principle is followed to the letter by the National Children's Trust, save in cases where a child cannot remain in their parents' care, either because of a judicial decision or because this is not in the child's best interests.

The reasons for separating children from their parents must be specifically established by law, as provided in article 33 of the Children and Adolescents Code.

Article 34 of the Children and Adolescents Code establishes some basic rules for the placement of minors in care centres that are not necessarily "those indicated by mothers or fathers deprived of their liberty". The National Children's Trust always takes into consideration the child's extended family or people with whom the child has an affective relationship, and listens to minors' opinions.

The opinion of mothers or fathers deprived of their liberty is taken into account. The family resources available are assessed by the Social Work and Psychology Department of the National Children's Trust, and when these are considered to be adequate, and conducive to the child's development and protection, the parents' wishes are respected. If for any reason the solution provided by the parents is not appropriate owing to social risk factors, it is rejected.

² A/56/44, para. 135 (f).

³ Ibid.

Social workers' assessments are contained in social or psychological reports, which provide the basis for National Children Trust legal representative's duly reasoned and substantiated decision.

The National Children's Trust, as the country's lead institution in the area of the welfare of children and adolescents, must guarantee that their rights are respected and protected. For this reason it is unacceptable to place a child with a person - even one designated by a parent deprived of liberty - who presents a clear situation of social risk, contrary to the child's best interests.

Any definitive removal of children from their family must be ordered by the competent judicial authority, since the National Children's Trust, being an administrative authority, may not definitively remove minors from their family.

It is important to note that during the administrative process, parents are notified of all decisions taken, thereby guaranteeing the principle of defence and due process provided for under article 128 of the Children and Adolescents Code.

To order the placement of a minor, the special protection procedure must be followed, as provided under articles 129 to 135 of the Children and Adolescents Code.

28. *Please comment on the resources allocated to the Office of the Ombudsman for its work as a national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

31. *How does the State party ensure that victims and witnesses who report acts of torture or other cruel treatment are protected against reprisals or ill-treatment, especially where such complaints are filed by persons deprived of their liberty?*

The Public Prosecutor's Office, which is part of the judiciary, has an Office for Victim Support, which is responsible for providing protection to victims in general on request, regardless of the offence in question.

Support includes the arrangement of security measures (protection, relocation, etc.), depending on the case, and also psychological care for the victim.

The judiciary has submitted a draft bill on victim and witness protection to the political authorities, aimed at improving provision for protection to victims and witnesses in general.

33. *Please indicate whether the right to compensation is linked to the acceptance of applications for amparo and habeas corpus. Please state whether a victim of torture or cruel, inhuman or degrading treatment can obtain compensation in a case where the perpetrator has been subjected to disciplinary or administrative but not criminal sanctions.*

34. ***Please provide up-to-date statistical data on reparations awarded by domestic courts and granted in practice to victims of cruel, inhuman or degrading treatment and abuse of authority, including disaggregated figures by type of offence and convicted authority.***

No specific statistics are kept regarding reparations. Compensation is determined for each offence in accordance with the amount requested by the defence lawyer in civil action for damages, which is governed by the Code of Criminal Procedure; this possibility exists for all types of offence. The type of compensation depends on the circumstances of the specific case and the court's assessment.

35. ***Please comment on the Committee's concern regarding the non-existence of State-run rehabilitation programmes for victims of torture and other cruel, inhuman or degrading treatment and indicate what steps have been taken to remedy the situation.***
