



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**

**Consideration of reports submitted by States  
parties under article 44 of the Convention**

**Fourth periodic report of States parties due in 2007**

**Costa Rica\* \*\***

[27 April 2009]

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\* 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.

\*\* The attachments are available in the Secretariat.

## Table of Contents

	<i>Paragraphs</i>	<i>Page</i>
List of acronyms .....		4
I. Introduction .....	1–24	6
A. Phase 1: Drawing up the plan of work .....	11	7
B. Phase 2: Gathering and analysing inputs .....	12–14	7
C. Phase 3: Meetings with specialists of the institutions concerned .....	15–16	8
D. Phase 4: Preparing the first draft of the report .....	17–18	8
E. Phase 5: Validation .....	19–24	8
II. General information .....	25–62	9
III. General measures of implementation .....	63–142	14
A. Reservations .....	63	14
B. Harmonization of national law and policy with the provisions of the Convention .....	64–73	14
C. Jurisprudence .....	74	16
D. Available resources .....	75	16
E. National strategy .....	76–82	16
F. Mainstreaming the human rights of minors in public institutions .....	83–102	17
G. Civil society cooperation .....	103–110	20
H. Economic and social rights; economic and social policies .....	111–117	21
I. International cooperation in applying the Convention .....	118–123	23
J. Dissemination .....	124–141	24
K. Preparation of and follow-up to the report .....	142	26
IV. Definition of the child .....	143–191	26
A. Definition of the child .....	143–191	26
V. General principles .....	192–287	32
A. Principle of non-discrimination .....	192–210	32
B. Best interests of the child .....	211–258	37
C. The right to life, survival and development .....	259–268	44
D. Respect for the views of the child .....	269–287	45
VI. Civil rights and freedoms .....	288–349	48
A. Name and nationality .....	288–301	48
B. Right of the child to preserve his or her identity .....	302–305	50
C. Freedom of expression .....	306–309	50
D. Freedom of thought, conscience and religion .....	310–311	51
E. Freedom of association and freedom to hold peaceful meetings .....	312–315	51
F. Protection of privacy .....	316–318	52

	G.	Access to relevant information.....	319–336	52
	H.	Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment .....	337–349	54
VII.		Family environment and alternative care.....	350–502	55
	A.	Parental guidance.....	350–369	55
	B.	Parental responsibilities.....	370–387	58
	C.	Separation from parents.....	388–409	61
	D.	Family reunification .....	410–425	64
	E.	Illegal departures and wrongful restraint .....	426–438	66
	F.	Recovery of maintenance for the child .....	439–443	68
	G.	Children deprived of a family environment.....	444–457	68
	H.	Adoption .....	458–478	72
	I.	Periodic review of placement.....	479–481	75
	J.	Abuse and neglect, including physical and psychological recovery and social reintegration.....	482–502	75
VIII.		Right to health .....	503–665	79
	A.	Disability.....	503–515	79
	B.	Health and health services .....	516–566	81
	C.	Childcare services and facilities and nutrition .....	567–575	88
	D.	Nutrition.....	576–599	90
	E.	Drinking water .....	600–601	92
	F.	Breastfeeding .....	602–605	93
	G.	Adolescent health.....	606–613	93
	H.	HIV/AIDS .....	614–625	94
	I.	Social security.....	626–632	95
	J.	Living standards.....	633–665	96
IX.		Education, leisure and cultural activities .....	666–824	100
	A.	Education, instruction and vocational guidance .....	666–773	100
	B.	Educational objectives.....	774–809	119
	C.	Rest, leisure, play, recreation and cultural and artistic activities within the education system.....	810–824	123
X.		Special protection measures.....	825–1081	125
	A.	Children in situations of emergency.....	825–852	125
	B.	Children in conflict with the law .....	853–958	128
	C.	Children in situations of exploitation, including physical and psychological recovery and social reintegration .....	959–1074	140
	D.	Children belonging to a minority or an indigenous group.....	1075–1081	153

## List of acronyms

ACAI	Asociación de Consultores y Asesores Internacionales
AIDS	Acquired immunodeficiency syndrome
ANNA	National Agenda on Children and Adolescents
AyA	Costa Rican Water and Sewer Institute
BCCR	Central Bank of Costa Rica
CAI	Comprehensive Services Council/Comprehensive Services Centre (depending on context)
CCSS	Costa Rican Social Security Fund
CCT	Conditional cash transfers
CENADI	National Teacher Training Centre
CENAREC	National Resource Centre for Inclusive Education
CENNA	Child Abuse Research Committees
CINAI	Child Nutrition and Comprehensive Services Centres
CNNA	National Council on Children and Adolescents
CNREE	National Council on Rehabilitation and Special Education
COLAMI	Local Committees for the Analysis of Infant Mortality
CONACOES	National Commission to Combat Commercial Sexual Exploitation
CONADECO	National Confederation of Community Development Associations
CONAMAJ	National Commission on the Improvement of the Administration of Justice
CONAO	National Commission on Obesity
CONARE	National Council of Rectors
CONASIDA	National Commission to Combat AIDS
CONAVI	National Highways Council
COSECODENI	Costa Rican Commission for the Coordination of Social Organizations to Promote and Protect the Rights of Children and Adolescents under the Convention on the Rights of the Child
CPJ	Youth Council
CRC	Convention on the Rights of the Child
DCI	Defence for Children International
DGEC	General Directorate of Statistics and Censuses
DHI	Office of the Ombudsman
DINADECO	National Directorate of Community Development
EBAIS	Basic Comprehensive Health Care Teams
ECLAC	Economic Commission for Latin America and the Caribbean
EHPM	Multi-purpose Household Survey
FODESAF	Development and Family Subsidies Fund
FONABE	National Scholarship Fund
FTA	Free Trade Agreement
GDP	Gross domestic product
HIV	Human immunodeficiency virus
IACHR	Inter-American Court of Human Rights
IAFA	Institute on Alcoholism and Drug Dependency
ICD	Costa Rican Institute on Drugs

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IDA	Agrarian Development Institute
IDB	Inter-American Development Bank
ILANUD	United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders
ILO	International Labour Organization
IMAS	Joint Institute on Social Aid
INA	National Learning Institute
INAMU	National Women's Institute
INCOPESCA	Costa Rican Fisheries Institute
INEC	National Institute of Statistics and Censuses
INEINA	Institute on Interdisciplinary Studies on Children and Adolescents
INS	National Insurance Institute
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
MIDEPLAN	Ministry of National Planning and Economic Policy
NGO	Non-governmental organization
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights
OIJ	Judicial Investigation Agency
PAHO	Pan American Health Organization
PAIA	Comprehensive Services to Adolescents Programme
PANI	National Child Welfare Agency
PND	National Development Plan
PRIDENA	Inter-disciplinary Programme of Research and Social Action on the rights of children and adolescents
PROMECEUM	Programme on the Improvement of the Quality of Education and Life in high-priority urban communities
SEPAN	Secretariat for the National Food and Nutrition Policy
SIAP	Information System on Alternative Protection Measures
SIEDNA	System of Information and Statistics on the Rights of Children and Adolescents
SIGIPSS	Information System for the Comprehensive Management of Targeted Social Programmes
SII	Institutional Information System (PANI)
SINAMI	National System for the Analysis of Infant Mortality
SISVAN	Health and Nutrition Surveillance System
SNPI	National System for the Comprehensive Protection of the Rights of Children and Adolescents
STIs	Sexually transmitted infections
TSE	Supreme Elections Tribunal
UCR	University of Costa Rica
UNA	National University
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIPRIN	Union of Private Child Services Institutions

## I. Introduction

1. The Government of Costa Rica and its public institutions realize that a modern State cannot achieve all its objectives and meet the needs of a growing population without the support of all the sectors that are involved on a daily basis in serving and caring for the country's children and adolescents and ensuring that they receive just and equitable treatment.
2. Over the years, the public sector has taken on additional oversight and regulatory duties, as well as responsibility for knowledge transfer and promotion. The concept of the State is changing, as new types of cooperation and interaction between public institutions and social groups have been adopted. This approach is reflected in the Costa Rican Children and Adolescents Code, which begins with a reference to three organizational principles for dealing with the new challenges of economic modernization and the protection of the rights of children and adolescents. These principles are: (a) community participation in policy design and execution, (b) deconcentration of decision-making, and (c) intersectoral and inter-agency coordination.
3. This report was prepared bearing in mind the determination of all social groups to improve the quality of life of children and adolescents, to protect them and to ensure that they are able to take advantage of all the opportunities available to them.
4. With this in mind, all non-governmental organizations involved in providing care and protection for children and adolescents were invited to draw up a status report on their views and plans for each of the issues covered by the guidelines contained in the Convention on the Rights of the Child.
5. In June and July 2007, written and personal invitations were extended to the Union of Private Child Services Institutions (UNIPRIM) and the Costa Rican Coordinating Commission on Social Organizations devoted to Promoting and Protecting the Rights of Children and Adolescents under the Convention on the Rights of the Child (COSECODENI), which were asked to work with public institutions in drawing up a national report. In a context of respect and in the exercise of their rights, the two groups decided not to participate in the process designed by the Government of Costa Rica with the support of the United Nations Children's Fund (UNICEF). This means that much remains to be done in order to improve coordination between the public and private sectors.
6. Having an alternative report that will make it possible to expand the range of criteria on the progress being made by Costa Rica in fulfilling the Convention can be a useful and enriching exercise. Nevertheless, the decision by the NGOs has delayed the important step of submitting a status report to the Committee on the Rights of the Child. The new relationship between the public sector and society at large must evolve to the point where the two sectors acknowledge their interdependence and shared responsibility for providing comprehensive services to children and adolescents and their families. It is to be hoped that once the two sectors have more experience working together, the process of ensuring accountability through joint reporting will seem natural to them.
7. Once the framework for participation had been defined, a number of institutional actions were implemented in order to systematize and analyse the results obtained during the 2002-2007 period in terms of promoting and protecting the rights of children and adolescents. This effort was reflected in a document entitled "Plan de trabajo para la elaboración del IV Informe del Estado costarricense ante el Comité de Derechos del Niño" (Plan of Work for preparation of the Fourth Report of Costa Rica to the Committee on the Rights of the Child). During this phase, a summary was prepared of the work carried out

over the past five years by the relevant institutions; all of them have made every effort to comply with the Convention and the recommendations made by the Committee.

8. As part of this exercise, on 3 September 2005, the National Council on Children and Adolescents (CNNA) created a committee to follow up on the observations of the Committee on the Rights of the Child and charged it with the following tasks:

- (a) To gather the information needed for the national report;
- (b) To follow up on the recommendations made by the Committee on the Rights of the Child.

9. In June 2007, the Executive Presidency of the National Child Welfare Agency (PANI) asked UNICEF to provide support for the hiring of a consultant to help it focus on priority projects identified in the National Development Plan for 2006-2010. The consultant would also help prepare the present report to the Committee on the Rights of the Child following the general guidelines on form and content of reports to be submitted by States Parties under article 44(1)(b) of the Convention which were adopted by the Committee at its 343<sup>rd</sup> meeting (thirteenth session), held on 11 October 1996, including the 120-page limit established by the Committee in its concluding observations on the third report.

10. This work, which was carried out over an 18-month period in five phases, included the following activities.

#### **A. Phase 1: Drawing up the plan of work**

11. During this phase, the plan of work, broken down by activities, was submitted to the technical counterparts. It was validated by the technical committee set up by PANI to coordinate the report, and the committee's observations were included in the plan. The proposal was then submitted to representatives of the Ministry of National Planning and Economic Policy (MIDEPLAN), the Ministry of Labour and Social Security, the Ministry for Foreign Affairs and Worship, the Ministry of Education, the Office of the Ombudsman, representatives of the public universities, UNIPRIM and COSECODENI, for the purpose of informing them about the start of work on the report and agreeing on responsibilities to be carried out by each one.

#### **B. Phase 2: Gathering and analysing inputs**

12. An analysis was made of the documentary information available at PANI, with a view to deciding on a preliminary set of references and determining what additional information was needed. Bearing in mind the commitments established in the Convention, a basic tool was then developed for classifying and linking the progress documented in the sources of information and available data, as well as data to be requested from public entities.

13. A representative of the institution was then assigned to serve as technical liaison to provide and facilitate information, especially in response to formal requests received from the Executive Presidency of PANI through the lead agency for social programmes and the fight against poverty.

14. Finally, the process led to the establishment of direct and flexible channels for follow up with the institutions responsible for providing the information requested in order to clarify questions raised and ensure the delivery of specific indicators and other information requested.

### **C. Phase 3: Meetings with specialists of the institutions concerned**

15. This phase began with the development of tools and questionnaires for each thematic area covered, so as to identify the key aspects or lacks in the documentary references considered.

16. Once the inputs to be used had been designed, interviews were conducted with specialists in the relevant institutions. The interviews included in-depth analyses of the current situation with regard to fulfilment of obligations to protect the rights of children and adolescents.

### **D. Phase 4: Preparing the first draft of the report**

17. This involved systematizing the information obtained and preparing the first draft of the report, following the requirements for content and the formal guidelines established by the Committee on the Rights of the Child. The committee set up by PANI was informed of progress in writing the report and the incorporation of the initial observations received.

18. This exercise was then extended to a broader discussion of the report with the Executive Presidency of PANI and other actors involved from the time the plan of work was presented.

### **E. Phase 5: Validation**

19. The validation strategy was defined, based on the general guidelines established by the Executive Presidency of PANI. The purpose was to develop a process that would be as inclusive and innovative as possible in the time and with the resources available. This was done with the support of UNICEF, which helped identify the activities to be carried out.

20. The objective at this stage was to ask the technical counterparts in PANI and UNICEF, as well as parents, children and adolescents, for their views on and objections to the report. Validation tools were designed to be used with the following groups:

- (a) Children, adolescents and parents;
- (b) Structures within the National System for the Comprehensive Protection of the rights of children and adolescents (SNPI), the Child Protective Services Board and the Committees on Protection of the Rights of Children and Adolescents;
- (c) Representatives of public sector institutions at the central, regional and local levels, especially in the more remote regions;
- (d) Social organizations, including those providing special protection and those concerned with promotion and prevention.

21. The results of the discussions with the aforementioned groups and the draft periodic report were reviewed by the government institutions that supplied information. The document was then enriched with the observations of local government officials, who are in direct contact with the users of their services, and the comments of parents, children and adolescents who shared their views on their particular reality.

22. The final document consists of eight chapters which are organized with a view to meeting the Committee's requirements for reporting. Accordingly, the chapters deal with general measures of implementation; definition of the child; general principles; civil rights and freedoms; family environment and alternative care; basic health and welfare; education, leisure and cultural activities; and special protection measures.



23. The content of these chapters, which comprise the main body of the report, has been enriched and supplemented with hyperlinks that provide additional details and background information. In addition, the annexes provide tables and charts containing statistical data to support the information discussed in each chapter; a supplementary annex is also included at the end. A number of statistical annexes show approximately 1,000 indicators that were compiled for this report to back up the information on the situation with regard to the rights of children and adolescents in Costa Rica. A compact disc is supplied which includes an electronic copy of the report, as well as a diagram and a description of its structure and content.

24. This report describes the main actions taken by our State which, although small in size and limited in resources, is demonstrating its total commitment to meeting the great challenges of its history, especially at a time when the life and the future of its future are at stake.

M.Sc. Mario Víquez Jiménez  
Executive President  
National Child Welfare Agency

## II. General information

25. This chapter provides a brief summary of events on the national scene that have reshaped and influenced the work of the different agencies concerned with the situation of children and adolescents in Costa Rica.

26. The period 2002-2007 covered two electoral processes that represented a transition and marked the end of the two-party system that had prevailed in the country since the 1980s.

27. During the two administrations that governed during this period, significant steps were taken to modernize the State, with priority being given to strengthening national planning as required by Act No. 5351. During the last two decades of the twentieth century, the planning structures were considerably weakened as a result of reform policies that entailed centralizing and reducing the material, human and financial resources of the State.

28. The adoption of Act No. 8131 on Financial Administration of the Republic and Public Budgets, implementation of which began in 2002, brought the introduction of concepts such as annual execution of institutional budgets and the strict linkage of institutional operating plans with the National Development Plan. In both cases, annual reporting was required.

29. In this regard, two projects have been developed which, although they are complementary and not mutually exclusive, have been implemented separately during this five-year period, as independent initiatives of each administration. The projects in question are the regional and sectoral planning models for the public sector.

30. In May 2004, under Decree No. 31768, MIDEPLAN created the organizational management and regional development subsystem with the National Planning System. The idea was to bring to light and address inequities existing at the subnational level through regional mechanisms for inter-agency coordination, while at the same time promoting standardization of institutional organization systems (based on a platform of nine planning regions) and reallocating resources according to local and regional needs. This model was discussed in the report of the Office of the Comptroller-General.

31. Although this effort was initially linked to implementation of the “Vida Nueva” (new life) Poverty-Reduction Plan 2002-2006, it was evaluated in the report of the Office

of the Comptroller-General of the Republic DOFE-SO-22-2004, which outlined measures for improving it, such as the allocation of resources and the rapid institutionalization of coordination mechanisms. In addition, it was linked to the implementation of measures aimed at complying with the Millennium Development Goals at the local level.

32. At the beginning of the Arias Sánchez administration, the authorities concerned decided to move away from the model of an Executive Branch organized by councils<sup>1</sup> that had been followed during the 2002-2006 term to a broader concept whereby the entire public administration was organized by sectors. The relevant oversight bodies had already reviewed the shortcoming of the councils model, under which institutional coordination mechanisms had been established without providing any financial or legal tools for enforcing the decisions of the institutions concerned.

33. It was subsequently considered advisable to redirect the work of MIDEPLAN from a regional to a sectoral planning approach. This effort began with the publication of Decree No. 33151-MP, which established regulations for the organization of the Executive Branch, which define the thematic areas and the participation of the institutions concerned under lead agencies covering 12 sectors.<sup>2</sup> This measure was then supplemented with Decree No. 33206-PLAN, which did away with the organizational management and regional development subsystem and the regional planning area of the Ministry of National Planning and Economic Policy.

34. When the spheres of competence of the different sectors were defined, PANI was placed under the lead agency for the social sector and the fight against poverty. At the same time, the rank of minister without portfolio that had been held by the Executive President of

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<sup>1</sup> By executive decree, the executive branch for the 2002-2006 term had been organized into five councils, each dealing with one of the following areas: social affairs, economic affairs, environmental affairs, participation and citizen security.

<sup>2</sup> Article 3 of the aforementioned decree establishes the following sectoral organization:

- (1) The social and poverty-reduction sector shall be coordinated by the Minister of Housing and Poverty Reduction;
- (2) The production sector shall be coordinated by the minister responsible for the portfolios of agriculture and livestock, and of economic affairs, industry and trade;
- (3) The education sector shall be coordinated by the Minister of Education;
- (4) The health sector shall be coordinated by the Minister of Public Health;
- (5) The environment, energy and telecommunications shall be coordinated by the Minister of Environmental Affairs and Energy, without prejudice to the provisions of law regarding the establishment of rates;
- (6) The financial sector shall be coordinated by the Minister of Finance;
- (7) The cultural sector shall be coordinated by the Minister of Youth, Culture and Sport;
- (8) The violence and citizen security sector shall be coordinated by the Minister of Public Security and the Minister of the Interior and Justice;
- (9) The transport sector shall be coordinated by the Minister of Public Works and Transport;
- (10) The science and technology sector shall be coordinated by the Minister of Science and Technology;
- (11) The labour and social security sector shall be coordinated by the Minister of Labour and Social Security;
- (12) The government sector shall be coordinated by the Minister of the Presidency, the Minister of Planning and Economic Policy and the minister without portfolio in charge of inter-agency coordination.

PANI during the period 2002-2006, as mentioned in the third report to the Committee, was eliminated.

35. During the period 2002-2007, the following national planning tools were put in place:

(a) The National Development Plan for 2002-2006, entitled “Monseñor Víctor Manuel Sanabria”, is the first National Development Plan to cover issues related to children and adolescents. This Plan outlines the overall policies, strategic actions, objectives and goals to be met by the institutions concerned.

(b) The National Development Plan for 2006-2010, entitled “Jorge Manuel Dengo Obregón”, follows a sectoral, non-institutional approach, following the sectoral organization of the Executive Branch established in Executive Decrees Nos. 33151 MP and 33178 MP. Accordingly, public institutions are organized according to the sector in which they work, with a view to integrating, bringing together and improving coordination between institutions. The idea is to improve the allocation of public resources and facilitate coordination between institutions.

36. Within each sector, the institutions concerned identified 10 priority actions to be undertaken, bearing in mind their commitments under the Millennium Development Goals, and submitted them to MIDEPLAN for review. MIDEPLAN then drew up the National Development Plan, for which it held consultations with President Oscar Arias Sánchez. The Plan includes the following: national goals, five major policy areas (social issues, production, environment, institutions and foreign policy), major challenges, the vision for each major policy area and goals and actions for each sector.

37. The current National Development Plan deals in depth with the approach to be taken by the institutions concerned with children and adolescents, assigning high national priority to the issue by outlining strategic actions to be taken in areas in which progress had been particularly slow, including services in early childhood, services to children in street situations and comprehensive services for minors with addictions.

38. Another significant step forward in social sector planning has been the improvement of the efficiency and impact of social investment through results-based planning and a human rights approach to the execution of resources from the Social Development and Family Subsidies Fund (FODESAF) targeting the population living in poverty, which were required to meet annual performance guidelines.

39. With the support of UNICEF, FODESAF was able to move forward with implementation of evaluation exercises aimed at improving the efficiency, efficacy and equity of the programmes it finances. The ex ante phase was consolidated as a regular practice in the annual programming process. A proposed methodology has already been developed for the next phase, and field validation tests have been implemented with great success.

40. In December 2004, Costa Rica submitted its first progress report on compliance with the Millennium Development Goals. That report shows there progress has been made at the national level towards reducing poverty, hunger, illiteracy, diseases, environmental deterioration and discrimination against women.

41. The main challenge that will be faced by the State over the next eight years is to ensure sustainability and financing for actions aimed at impacting those areas of human development, especially as regards efforts to reduce social gaps and inequities in the region by 2015.

42. In 2004 and 2006, Costa Rica submitted to the Committee its reports on the following protocols to the Convention:

(a) Initial report on fulfilment of its obligations under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2005);

(b) Initial report on fulfilment of its obligations under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2005);

(c) In addition, in keeping with the priorities of the new administration and the country's commitments with respect to children and adolescents, in particular those arising from the twenty-seventh special session of the General Assembly on children, Costa Rica submitted a progress report on fulfilment of its commitments under the declaration on "A world fit for children" in December 2006.

43. To provide further background, this section includes information on the performance of a number of economic indicators that affect the capacity of Costa Rican society to meet the demands of the social sector. Data from the Multi-Purpose Household Survey of 2006 and the analysis contained in the twelfth report on the State of the Nation for 2006.<sup>3</sup>

44. The overall performance of the economy in 2005 was characterized by a sharp increase in the real GDP growth rate. Thus, in that year it rose to 5.9 per cent, almost two percentage points higher than the 2004 rate; in 2006, it rose to 7.9 per cent. In both cases, this growth was due to a significant recovery of external demand, as reflected in a new record for exports and higher external factor payments. The average real GDP growth rate for the period 2002-2006 was 5.5 per cent.

45. Data provided by the Ministry of Foreign Trade show that during the period 2002-2006, exports grew at an average inter-annual rate of 10.34 per cent. The growth rate of 17.1 per cent, totalling US\$ 8,198.2 million, in 2006 was the highest since 1999.

46. Unemployment has fluctuated between 6 and 6.5 per cent since 2002. In 2006, it fell from 6.6 per cent (in 2005) to 6.0 per cent. The number of people joining the work force remained higher in urban areas. As in 2005, the net participation rate was 58.2 per cent, and the employment rate was 54.7 per cent. The situation in rural areas was similar to that of 2005. The net participation rate was 54.2 per cent, and the employment rate was 51 per cent. Unemployment amounted to 5.8 per cent, similar to that of the previous year and that of the urban areas.

47. Inflation was consistently high, as it reached 14.2 per cent in 2005, the highest rate of recent years, under the pressure of less favourable international prices. Even though a restrictive monetary policy was applied, it was not possible to achieve the goal of 10 per cent inflation set by the Central Bank of Costa Rica.

48. In October 2006, the Board of Directors of the Central Bank of Costa Rica decided to abandon the crawling peg exchange rate system and adopt a currency band system. The new system entered into force on 17 October; the idea is to provide manoeuvring room for managing monetary policy and allow for more effective action to reduce the inflation rate. This decision was warranted by the current financial situation, given the satisfactory level of international monetary reserves, relative fiscal discipline and stability of the financial system, the time was right for this decision.

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<sup>3</sup> Excerpts from *Programa Estado de la Nación. 2006, Resumen del XII Informe Estado de la Nación en Desarrollo Humano Sostenible*. Programa Estado de la Nación, San José (Costa Rica).

49. As a result of this policy, interest rates have dropped, and annual inflation has been contained; nevertheless, the increase in the oil bill still makes it difficult to reach the goals of monetary programmes with respect to inflation and hence, the country's ability to steadily reduce poverty.

50. Investment in social programmes and infrastructure was reduced in order to maintain fiscal balance in the absence of a higher tax burden; this seriously limited opportunities for future growth. The tax burden is too low to allow for tasks to be accomplished that are strategic to development and to establish demands and expectations for public action. After the failure of the tax reform promoted by the administration in 2002-2006, discussion of comprehensive reform seems to have been postponed indefinitely in both the executive and the legislative branches.

51. All this led to an increased deterioration in the capacity of society to cover its expenditures and invest in the social programmes and infrastructure needed to support sustained economic growth without increasing the tax burden. As a result of the stringent measures taken to contain central Government spending, the fiscal deficit with respect to GDP fell by over half between 2002 and 2005. The items that most contributed to the decline of income were capital expenditures and current transfers.

52. This trend should change over the next few years, given that the investment policies of the Arias Sánchez administration give priority to investment in both of the aforementioned sectors. In the social sector, for example, non-contributory pensions have risen, and programmes for adolescents have placed special emphasis on conditional monetary transfers through the Avancemos programme, which has established a monthly subsidy to enable young people living in poverty not to drop out of high school for economic reasons; it has also established a savings plan for students to encourage them to complete the diversified cycle of formal education.

53. Paradoxically, during this period, the growth of national per capita income (with respect to GDP) declined, as did the income of employed persons, and the poverty rate stagnated. Economic performance was inadequate because of its relative disconnectedness (*desarraigo*), which is reflected in the narrowing of the gap between GDP and available national income, which is disproportionate bearing in mind the aspirations for greater well-being and human development.

54. In 2006, approximately 20.2 per cent of Costa Rican households were living in poverty. This means that, despite being the second year in which the poverty rate fell, for 13 years this indicator remained close to 20 per cent.

55. Extreme poverty rates varied only slightly with respect to 2002-2006 (from 5.7 to 5.3). As in previous years, the highest poverty and extreme poverty rates were in the Chorotega and Brunca regions. Over 50 per cent of poor households and almost 50 per cent of those living in extreme poverty were in the central region, which has a very dense population.

56. Households living in poverty usually have more members, fewer of them in the work force or employed, higher demographic and economic dependency rates, that is, persons who are older or inactive and depend on those who old enough to work and in the work force. Moreover, persons living in poor households are less educated and more likely to be unemployed, all of which are factors in the lower income level of those households.

57. The data show that in 2006, increases in household income can be explained, in particular, by an increase, in real terms, of employment income (4 per cent) rather than by an increase in the number of providers in the household.

58. According to the twelfth Report on the State of the Nation, in 1980, the incomes of 10 per cent of the wealthiest households (in terms of per capita income) were 12.4 times

higher than the incomes of the poorest 10 per cent; in 2004, the ratio rose to 28.4. This increased inequality is also reflected in the higher Gini coefficient, which during the same period rose from 0.358 to 0.475, according to data supplied by the National Institute of Statistics and Censuses (INEC). In terms of income distribution, the available data indicate that Costa Rican society is significantly more unequal than it was 20 years ago, contrary to the trend noted between 1960 and 1980.

59. During the period 2002-2005, there was a convergence of two trends that affected the well-being of the population. On the one hand, there was a decline, in real terms, of the labour income of employed persons (3.7 per cent with respect to 2004 and 9.5 per cent total over two years). On the other hand, there was a decline in the income received by households and individuals under government social programmes. The reduction in income of employed persons was a result of the deteriorating stability of the economy, which was in turn caused by an increase in inflation and an increase in the number of persons working in low-productivity jobs.

60. According to the State of the Nation Programme, the erosion of social income was caused by restrictive public policies that were designed to sustain stability during periods of insufficient tax receipts. That had serious repercussions in the case of FODESAF, which in 2005, for the first time in its history, did not receive any transfer of resources from the sales tax.

61. Another social programme that was affected during that period was the programme that funds physical infrastructure for education. For the first time, during the 2005 school year, the Ministry of Education was not able to finance construction of any works with its regular budget.<sup>4</sup>

62. According to the State of the Nation Programme, for over two decades, Costa Rica's public social spending levels were lower than the levels of the 1960s, and the improvements achieved from 1990 onward should be viewed in the context of per capital spending, which has not yet equalled the previous record. In 2005, public social spending was 48 per cent higher than in 1980 and 59 per cent higher than in 1990; average annual growth was 1.6 per cent between 1980 and 2005, and 3.1 per cent after 1990. At the same time, the priority given to social programmes in long-term macroeconomic and fiscal terms was restored, so that in 2005 it represented 18 per cent of GDP and 78 per cent of general government spending; these levels were similar to those achieved 25 years ago.

### **III. General measures of implementation**

#### **A. Reservations**

63. Costa Rica has not entered any reservations.

#### **B. Harmonization of national law and policy with the provisions of the Convention**

64. Harmonization of legislation and national policies with the provisions of the Convention is discussed in the context of the specific topics covered in the report. In addition, reference is made to the legislation in force during the period under consideration.

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<sup>4</sup> *Informe de Ejecución Presupuestaria y Programática de los Programas Sociales*, Consejo Social de Gobierno, 2006.

65. A proposed public policy on children and adolescents is currently being reviewed, updated and edited for technical details. The executive branch is expected to approve it during the third quarter of 2008.

66. A public policy on youth is currently in force. This policy covers the population aged between 12 and 35; hence, it also includes persons under 18.

67. The legal status of the Convention on the Rights of the Child, adopted at the forty-fourth session of the United Nations General Assembly, was signed by Costa Rica on 26 January 1990, ratified by the Legislative Assembly by Act No. 7184 of 18 July 1990 and published in the official gazette, *La Gaceta*, No. 149 on 9 August 1990. The Political Constitution of Costa Rica provides that public treaties, international agreements and concordats that have been ratified by the Legislative Assembly shall, as of the date of ratification or a date specified by the Legislative Assembly, rank higher than domestic legislation.

68. In the event of a conflict regarding the application of norms, the one that is in the best interests of the minor shall prevail, under articles 5 and 9 of the Children and Adolescents Code.

69. With regard to new norms issued during the period covered by this report that promote realization of the rights of the child, the main advance on behalf of children and adolescents was begun in 1990, when legal norms were focused on supplementing and adapting existing legislation in order to bring it in line with the provisions of international human rights instruments, in particular, the Convention on the Rights of the Child.

70. Following is a summary of the main agreements, laws and other norms that were incorporated into the national legal system during the period 2002-2007, beginning with some of the key laws enacted on behalf of Costa Rican children and adolescents. These provisions were mentioned in the report for 2003 but entered into force during the period covered by this report.

71. Act No. 8654, on the Rights of children and adolescents to be disciplined without physical punishment or degrading treatment, adds to the Children and Adolescents Code an article 24 *bis* which prohibits the use of corporal punishment and degrading treatment by parents, guardians and alternative caregivers of a child or adolescent, as well as the staff of educational, health or day-care centres, juvenile detention centres and any other type of centre. Article 143 was amended to expressly disallows corporal punishment and all other forms of degrading treatment. In addition, the Legislative Assembly ratified the Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Act No. 8247), Adoption of the basic cooperation agreement between the Government of the Republic of Costa Rica and the United Nations Children's Fund (Act No. 8254), the Act on young persons (Act No. 8261), Creation of the school and children's police (Act No. 8449), the Act on the Application of Juvenile Criminal Penalties (Act No. 8649) and the Act on Strengthening of Measures to Combat Sexual Exploitation of Minors (Act No. 8590).<sup>5 6</sup>

72. Some of the most important executive decrees issued during this period were: Amendment to the decree creating the National Steering Committee on the Prevention and Elimination of Child Labour and Protection of Adolescent Workers in Costa Rica (Decree No. 31461), Regulations of the National Council on Children and Adolescents (Decree No. 33028).<sup>7</sup>

<sup>5</sup> See table describing legislation on children and adolescents (annex 1-7).

<sup>6</sup> See supplementary annex on all legislation enacted during this period.

<sup>7</sup> See table listing executive decrees relating to children and adolescents (annex 1-7).

73. Several bills (1-7) relating to children and adolescents are currently being considered by the Legislative Assembly, including a bill prohibiting hazardous and unhealthy work for adolescents workers (file No. 15929).<sup>8</sup>

### C. Jurisprudence

74. The following are some of the main judgements relating to jurisprudence: Judgement No. 5871-05 of the Constitutional Chamber ordering the creation of the Specialized Centre for services to minors who use drugs; Judgement No. 9101-05 of the Constitutional Chamber providing that authorities must facilitate visits by their mothers and grandmothers in PANI shelters; Judgement No. 12019-06 of the Constitutional Chamber establishing the unconstitutionality of article 156 of the Family Code that only granted duties and obligations but not rights to fathers involved in paternity proceedings; Judgement No. 247-07 of the Constitutional Chamber disallowing an appeal for amparo brought by Misión Internacional del Discipulado, bearing in mind that PANI had established the confidentiality of documents in the administrative file in order to protect victims; Judgement No. 11158-07 of the Constitutional Chamber disallowing a claim of unconstitutionality against article 98 *bis* of the Family Code, providing that judgements regarding filiation proceedings have the force of *res judicata*, but allowing special appeals for review.<sup>9</sup> By Judgement No. 2008-218 (1-9), the Constitutional Chamber disallowed the appeal brought by the public defender against a mass communication medium which had published the image of a minor in conflict with the law; the Chamber disallowed the appeal arguing that the image was partially covered, and the issue was a matter of public interest. That opinion was unfortunate for the protection of minors involved in juvenile criminal proceedings.<sup>10</sup>

### D. Available resources

75. With regard to available resources, following is a listing by institutions of the resources allocated for children and adolescents, as well as overall social spending by the Costa Rican Government (see paragraphs 111 ff., below).

### E. National strategy

76. The national strategy is comprised of the following three basic initiatives.

77. **National System of Comprehensive Protection of Children and Adolescents.** (c-1-d) With the entry into force of the Children and Adolescents Code, the national protection system was put underway; this includes CNNA, the Child Protective Services Boards and the Committees on Protection of the Rights of the Child.

78. **National Development Plan.**<sup>11</sup> Another guidepost for action was the National Development Plan for 2002-2006. As noted above, and in the context of the National Agenda on Children and Adolescents (ANNA), the Plan included a line of action on creation and development of human capacities, which included a thematic area on children and adolescents. The Plan established policies, strategic actions, objectives, geographic

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<sup>8</sup> See table showing the bill on children and adolescents (annex 1-7).

<sup>9</sup> See table showing all jurisprudence during this period (annex 1-8).

<sup>10</sup> See complete decision (annex 1-9) and related opinion of Legislative Assembly Deputy Alexander Mora.

<sup>11</sup> See supplementary annex on National Development Plan 2006-2010 (MIDEPLAN folder).



coverage, target population, indicators and goals for institutional performance, responsible agencies and estimated budgets by source of funding.

79. The National Development Plan for 2006-2010 also provides for a more in-depth approach by institutions concerned with children and adolescents, giving the issue higher priority on the national agenda by identifying strategic programmes in spheres of action in which the country had shown little progress. These include early childhood services, work with children in street situations and comprehensive services for minors with addictions, among others.

80. **National Policy on Children and Adolescents.** This document, which was discussed and reviewed by the public and private sectors and was prepared with the participation of minors. It was considered by CNNA, which requested that it be updated and simplified in order to make it accessible to everyone, including children and adolescents.

81. **Other plans.** During the period 2002-2007, several other targeted plans (c-1-e) were developed and put underway to promote services and protection for children and adolescents.

82. **Inter-agency and intersectoral initiatives:** The initiatives described above were developed by the public sector; however, a number of inter-agency and intersectoral partnerships have been forged which enable private-sector and social organizations to work with public institutions in the design, implementation and monitoring of government proposals. These are described briefly in annex 1-19 to this chapter.

## **F. Mainstreaming the human rights of minors in public institutions**

83. In addition to bringing domestic legislation in line with international treaties and agreements, the Government has worked to ensure that the doctrine of comprehensive protection of minors is observed in public institutions.

### **1. National Child Welfare Agency**

84. The National Child Welfare Agency (PANI) is the lead agency for the protection of the rights of children and adolescents and families. It is responsible for enforcing and guaranteeing the rights of this population, as are other State institutions. It has had to make some changes in order to comply with the Committee's guidelines as well as the duties assigned to it by the country itself and by the public policies on children and adolescents.

### **2. Coordination at the national, regional and local levels**

85. In the reform process, the comprehensive protection approach has been adapted to the new role of PANI as the lead agency responsible for overseeing, executing and facilitation actions. It also helps strengthen efforts at the regional and local levels so as to allow for deconcentration of duties and services.

86. The implementation of reforms is one of the key cross-cutting aspects of the institution's day-to-day work, as the Office of the Technical Manager has stressed the need for participation—in the communities—of its officials in commissions and networks. The community approach is one of the main policies underpinning the Agency's platform of services, and thus it covers the community and local, as well as regional and national, spheres. These levels all need attention, and hence, PANI is in the process of increasing its relations with communities, just as communities are approaching PANI. This is creating synergies for discussing or sharing information at the national, regional and local levels.

87. The new institutional strategy plan proposed by PANI is described later on in this report.

88. The direction of the institution's work has been changed as a result of the reforms. Programmes have been developed to strengthen the deconcentration process by opening 13 new local offices; thus, there are now 41 offices throughout the country. In addition, nine regional directorates were established and provided with infrastructure, human, physical and financial resources and equipment.

### **3. Strengthening the National Comprehensive Protection System at the local and regional levels**

89. To ensure that the National Comprehensive Protection System works properly at the local level, the Code calls for the establishment and operation of Child Protective Services Boards. These councils carry out the duties established in article 180 of the Children and Adolescents Code.

90. During the period 2002-2007, 18 new Child Protective Services Boards were created. As of May 2008, 59 councils and 420 Committees on Protection of the Rights of Children and Adolescents had been set up by the National Directorate of Community Development (DINADECO), a public institutions charged with promoting local development in communities throughout the country.

91. In 2007, DINADECO and PANI signed an inter-agency cooperation agreement which provided for the establishment of formal mechanisms to facilitate coordination at the national, regional and local levels. These arrangements covered the protection committees and the protection councils, all within the framework of CNNA. In addition, the two institutions drew up a joint plan of work for the purpose of designing joint programmes.

92. CNNA has decided to invite a representative of the Committees on Protection of the Rights of Children and Adolescents to attend its meetings. Likewise, the Chairperson of CNNA has attended meetings of the Committees.

93. The Office of the Attorney General has expressed the view that minors (between the ages of 12 and 18) are entitled to participate in the development associations. The right of association and of community participation is recognized in the Code (C-203-2007, of 21 June 2007).<sup>12</sup>

94. Efforts are being made to set up local protection systems, beginning with certain pre-selected communities, with a view to establishing a pilot plan and, based on that experience, eventually implement it throughout the country. These plans should, of course, be carried out as part of a comprehensive plan that is consistent and well-coordinated, both internally and externally.

95. Both DINADECO and the National Confederation of Community Development Associations (CONADECO) are geared towards encouraging increased participation by persons between the ages of 15 and 18 in the protection committees.

96. A review is currently being conducted of the National System for Comprehensive Protection, in the context of the UNICEF-PANI joint plan of work, with a view to improving coordination at the national, regional and local levels.

### **4. Specialized units in public institutions**

97. Most of the public institutions have teams of specialists in matters relating to children and adolescents; these include the Ministry of Education, the Ministry of Health,

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<sup>12</sup> See guideline 58, chapter IV (freedom of association).

the Ministry of Justice, the Ministry of Culture and Youth, the Ministry of Labour and Social Security and DINADECO. The personnel assigned to these teams are also responsible for coordinating and serving as liaison with other agencies, such as the Standing Forum that monitors compliance with the Children and Adolescents Code, the National Agenda, the Council on Teenage Mothers, the Technical Committee on the Elimination of Child Labour. Thus, the officials in question have been able to specialize in issues relating to children and adolescents and have an impact in their respective institutions.

## 5. Office of the Ombudsman

98. The Children and Adolescents Division was formally established as a separate unit in the Office of the Ombudsman in April 1998. This initiative represented a revival of the former Office of the Ombudsman for Children, which had been created in 1987 under the Ministry of Justice and Pardons<sup>13</sup> and a reaffirmation of the commitment to provide children and adolescents with special protection, both social and legal, as stipulated in the existing legislation.

99. The Directorate of Children and Adolescents is a specialized unit in the Office of the Ombudsman. It is entrusted with protecting, promoting and enforcing observance of the rights of children. As in the case of other directorates charged with protection, it is a flexible unit and is not encumbered by red tape, serving all minors and protecting their interests. It is responsible for ensuring that the administration, authorities and society at large respect the rights of all children and adolescents.

100. The Office of the Ombudsman has implemented a strategy for ensuring that the Children and Adolescents Code is viewed as a practical tool that can bring about change; thus, it applies not only the general mandate of the Office of the Ombudsman, but also the specific mandate set forth in article 7 of the Code. To this end, it has designed a model for monitoring application of the Children and Adolescents Code, which provides for the following:

- (a) A Standing Forum to monitor compliance with the Code on Children and Adolescents Code;
- (b) Mapping of responsibilities;
- (c) A system of indicators for monitoring the Children and Adolescents Code.

## 6. Annual reports on compliance with the Children and Adolescents Code<sup>14</sup>

101. The Office of the Ombudsman is an independent body that monitors compliance with the Children and Adolescents Code through the aforementioned Forum. The Forum convenes monthly meetings to discuss current issues that affect children and adolescents. It also carries out yearly meetings to review the annual reports submitted by all the institutions concerned and prepares annual reports containing its recommendations to the institutions entrusted with protecting the rights of children and adolescents.

## 7. The social sector and the fight against poverty

102. Decree No. 33151 and the Regulations of the Council on the Social Sector and the Fight Against Poverty established 18 working committees, 16 of them concerned with children and adolescents (c-1-h).

<sup>13</sup> Executive Decree No. 17733-J. *La Gaceta* No. 182, 23 September 1987.

<sup>14</sup> See reports attached in supplementary annexes (file on Office of the Ombudsman cd).

## G. Civil society cooperation

103. Civil society has cooperated in the following ways:

(a) Participating in CNNA through several different organizations, such as COSECODENI, an organization that brings together the NGOs working in the area of prevention; UNIPRIM, an organization comprising most of the NGOs that provide special protection; trade unions and universities.

(b) Participation in the National Agenda:

(i) Save the Children, with specific projects, such as the project on corporal punishment;

(ii) DNI, through projects on child labour;

(iii) Private universities, through community service and student practicums.

(c) Agreements between PANI and NGOs providing special protection; these agreements entail transferring PANI resources to the organizations. A table listing the agreements entered into by PANI and NGOs between 2002 and 2008 is attached to this report. The organizations receive subsidies of approximately 25-33 per cent of the cost of services provided to children and adolescents entering protection facilities.

(d) Volunteerism: the Technical Management Office of PANI is carrying out a programme for including community volunteers in its work.

104. Each programme and agreement sets up its own mechanisms for monitoring and evaluating civil society cooperation.

105. The most important development during the period covered by this report has been the change in the relationship between PANI and the NGOs. This is reflected in the Parity Council, which provides for the sharing of responsibilities in the area of special protection. PANI signs annual agreements with the NGOs with regard to the different types of services to be provided to children and adolescents, such as temporary and permanent shelters, meals and day-care centres. Following is a summary of these arrangements.

<i>Year</i>	<i>Budget</i>	<i>Number of beneficiaries</i>
2002	886 794 610,00	1 352
2003	1 062 890 400,00	1 453
2004	1 130 493 000,00	1 500
2005	1 207 697 764,00	1 478
2006	1 215 060 860,00	1 442
2007	1 501 102 705,00	1 455
2008	1 834 385 749,00	1 479

106. In 2007, as in previous years, agreements were signed with NGOs in connection with services for different profiles of the under-18 population.<sup>15</sup>

107. In 2008, PANI reconceptualized its shelters as part of a contingency plan under which the PANI shelters were reorganized to serve as intake centres, in coordination with the shelters operated by NGOs and with exactly the same quality standards.

<sup>15</sup> See list in annex (I-21).

108. In March 2008, 3,755 children and adolescents were under PANI protection. This entailed an annual cost of 5,149,800,000 Costa Rican colones per year, which is equivalent to one third of the institution's budget.

(a) 15.8 per cent (594 minors) were located in PANI shelters, at a cost of 2,500,000,000 colones per year.

(b) 49.1 per cent (1,845 minors) were in homes known as solidarity homes (*hogares solidarios*), at a cost of 815,750,000 colones per year.

(c) 35.1 percent (1,316 minors) were in NGO homes, at a cost of 1,834,000,000 per year (the subsidy provided rose from 23 per cent to 34.01 per cent of the cost for each child or adolescent). The NGOs covered 65.9 per cent (3,558,000,000 colones).

109. The NGOs are partners and strategic allies of PANI in regard to comprehensive services to children and adolescents who are at risk, both in psychological and in social terms. PANI has not relinquished its constitutional role as the lead agency, but it has proposed radical changes to its relationship with the NGOs.

110. In a context of shared responsibility, the Parity Council (c-1-i) has become the formal body for deliberation, consensus and coordination between PANI, the NGOs and the families that provide care and protection for children and adolescents. Reforms have been proposed to update the existing legislation on special protection, improve the quality of the different models for care, identifying the types of programmes required (according to population profiles) and thus paving the way for suitable protection programme options to be created for the especially vulnerable population. Finally, an effort is being made to disseminate and systematic best practices. This is a shared task, a commitment that has been undertaken with parity in mind.

## H. Economic and social rights; economic and social policies

111. During the period of this report, the Government improved and expanded its programmes for children and adolescents. Its efforts have borne fruit, as shown by the macroeconomic indicators (by region, see annexes)<sup>16</sup> (1-24):

(a) The non-poor population rose from 79.4 to 83.3 per cent (2002-2007);

(b) The poor population declined from 20.6 to 16.7 per cent (2002-2007);

(c) The population living in extreme poverty declined from 5.7 to 3.3 per cent (2002-2007) 7.

<sup>16</sup> See annexes showing data disaggregated by regions (1-24).

**C.01 Relative distribution of households with known income**

(By area and poverty level, by year, 1987-2007)

Year	Total country				Urban				Rural			
	Total	Non-poor	Poor	Extreme poverty	Total	Non-poor	Poor	Extreme poverty	Total	Non-poor	Poor	Extreme poverty
2002	100.0	79.4	20.6	5.7	100.0	82.7	17.3	3.5	100.0	74.6	25.4	8.8
2003	100.0	81.5	18.5	5.1	100.0	84.6	15.4	3.3	100.0	76.9	23.1	7.8
2004	100.0	78.3	21.7	5.6	100.0	81.1	18.9	4.0	100.0	74.0	26.0	8.0
2005	100.0	78.8	21.2	5.6	100.0	81.3	18.7	4.5	100.0	75.1	24.9	7.1
2006	100.0	79.8	20.2	5.3	100.0	81.7	18.3	4.3	100.0	77.0	23.0	6.8
2007 (clj)	100.0	83.3	16.7	3.3	100.0	84.3	15.7	2.6	100.0	81.7	18.3	4.2

Source: INEC (www.inec.go.cr).

112. Better economic conditions lead to greater well-being for citizens, including children and adolescents.

**1. Share of the budget devoted to social spending**

113. No nationwide accounting system is in place for tracking the amount of social spending that is devoted specifically to children, in guaranteeing their rights; however, budget execution figures for some specific projects give a rough idea of the amounts requested. The existing programmes and projects, along with the data on the corresponding budgets, are referred to throughout this report.

114. The Technical Secretariat of the Budget Authority reports the following data on functional social spending<sup>17</sup> (1-25) between 2002 and 2006. In terms of GDP, during the period in question, relative values were 18.5 (2002) and 17.1 (2006)<sup>18</sup> (1-23).

+ *Social statistics (13 State of the Nation Programme)***Social statistics (2001-2006). Indicators generated by other institutions.****Indicators generated by State of the Nation Programme.****Primary data**

Public spending	Social statistics (2001-2006)					
	2001	2002	2003	2004	2005	2006
	(Millions of current colones)					
Social spending	1 007 053	1 129 294	1 289 457	1 445 641	1 637 026	1 938 025
Education	277 501	332 897	383 634	440 157	500 306	577 247
Health	289 832	342 808	398 798	412 769	456 155	560 479
Social welfare	339 523	338 883	377 133	443 610	502 241	593 213
Housing	90 082	104 519	119 379	147 910	155 964	192 264

<sup>17</sup> See table on functional social spending in annex 1-25.

<sup>18</sup> See annex 1-23.

<i>Public spending</i>	<i>Social statistics (2001-2006)</i>					
	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Recreational, cultural and religious services	10 116	10 187	10 513	11 196	13 359	14 823
			(2006 colones)			
Real per capital social spending	431 772	434 703	444 795	435 762	425 870	444 482
Education	118 978	128 143	132 334	132 677	130 154	132 390
Health	124 265	131 958	137 564	124 422	121 010	128 545
Social welfare	145 570	130 447	130 091	130 704	130 657	136 052
Housing	38 623	40 233	41 179	44 585	40 574	44 095
Recreational, cultural and religious services	4 337	3 921	3 626	3 375	3 475	3 400

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115. The Office of the Comptroller-General has instructed all public institutions concerned with children and adolescents to comply with the Convention on the Rights of the Child and the Children and Adolescents Code and has allocated as high a level of resources as possible in order to enable them to protect the rights of children and adolescents.

116. Communication No. 12747 of 30 October 2007, DFOE-324, states that the Office of the Comptroller-General agrees that the State has an obligation to take all necessary administrative, legislative and budgetary measures to guarantee the effective observance of the fundamental rights of minors and that it has an obligation to carry out actions designed to promote compliance with Act No. 7184, on the Convention on the Rights of the Child, and Act No. 7739, on the Children and Adolescents Code. This responsibility should be understood as a specific duty of every institution under the legislation currently in force.

117. The budgets of the institutions concerned with children and adolescents are shown in detail in annex 1-26.

## **I. International cooperation in applying the Convention**

118. It has been difficult to keep a record of all international cooperation received, especially in cases where that cooperation has been channelled through private or nongovernmental entities. Nevertheless, over the last five years, it has been possible to draw up a breakdown by sector of the resources provided for public institutions.

119. Non-reimbursable technical cooperation and financial resources for education, as well as for culture, youth and sports, represent only 1 per cent. Contributions to health and social development during the same five-year period accounted for 14.3 per cent of the resources received.

120. One of the reasons for this may be found in the “penalty” applied by cooperating agencies when they determine their priorities on the basis of aggregate profiles and indicators. However, it is also due to the lack of a strategy for clearly presenting the true magnitude of the challenges the country faces, given the differences in geographic locations, the inequities based on ethnicity or age and other types of issues.

121. The agenda for international cooperation that has been presented by the Ministry of National Planning and Economic Policy for different sectors of public administration provides that plans for the social sector and the fight against poverty include two areas in which external financing is sought through official development assistance (ODA), namely:

(a) Support for extremely poor and poor nuclear families in which at least one member has a disability;

(b) Full recovery and reintegration into society of persons who have been victims of commercial sexual exploitation.

122. The second one has already been approved by the Chilean International Cooperation Agency in the framework of South-South cooperation.

123. To reach the goals set forth in the National Development Plan for 2006-2010, the Office of the Deputy Minister of Social Development has entered into strategic partnerships with several international cooperation agencies (c-1-k).

## **J. Dissemination**

124. As regards dissemination of the principles contained in the Convention and the Code, the third report mentioned the on-going work of the public institutions and the fact that this activity was included in the annual plans of operation of all public institutions belonging to CNNA. They have continued to implement these plans.

125. Training professionals and technicians is equally important. The institutions that belong to CNNA have worked hard to train their professional and technical personnel on the scope of new legislation, on their responsibility to enforce children's rights and, in particular, to plan, programme and implement their actions from a rights-based perspective.

126. Some examples of this approach may be found in the Ministry of the Interior and Police, which is responsible for the project on training and sensitization of staff on the human rights of minors.

127. The programme, created in 2002, was directed at officials of the Directorate-General for Migration and Alien Affairs; its legal basis is the Convention on the Rights of the Child. Between 2002 and 2005, a total of 240 officials received training. This project was initially supported by UNICEF.

128. The School of the Judiciary has continued to offer courses, seminars, lectures and workshops in different areas of human rights. It also organizes brief lectures for the general public, law students and staff of the judiciary branch; these lectures cover areas such as domestic violence, rights of children and adolescents, juvenile criminal law, abandonment and adoption of minors.

129. In addition, annual symposia on the rights of children and adolescents are held under an agreement between the Inter-Disciplinary Programme of Research and Social Work in the Field of Child and Adolescent Rights (PRIDENA) of the University of Costa Rica and UNICEF.

130. These activities have served as mechanisms for disseminating academic programmes and have provided opportunities for encouraging the participation of children and adolescents.



131. The Costa Rican Social Security Fund (CCSS) has published informational and educational materials on subjects such as dissemination and training on the right to breastfeed, the right of a child to be recognized by his or her parents, design and distribution of a medical ID card for children as a means for enforcing the right to information and to communication between health services and families.

132. PANI produced a summary in the Bribri language of the Children and Adolescents Code and the Responsible Paternity Act. Both of these translations were printed and distributed through local PANI offices and indigenous educational centres.<sup>19</sup>

133. The Annual Report 2002-2003 of the Office of the Ombudsman includes a summary of some of the most important activities carried out to disseminate and promote the rights of children and adolescents.

134. In 2003, promotion and dissemination activities carried out by the Children and Adolescents Division followed through on the work done in 2002 in connection with the Children and Adolescents Code and the violation of fundamental rights of minors through commercial sexual exploitation, labour exploitation and in the field of education.

135. During the period 2002-2007, the Office of the Ombudsman carried out 487 activities to publicize the Convention (seminars, workshops, lectures, publications and others).<sup>20</sup>

136. During this period, 235 activities were carried out to promote and publicize information on the rights of children and adolescents.

137. Nine training workshops and talks on different aspects of the Children and Adolescents Code were held both for public officials and for school and community groups. A total of 500 people participated in these activities.

138. The Office of the Ombudsman presented papers or participated in 27 talks and lectures for civil servants on a variety of issues, such as juvenile criminal justice, adolescent sexuality, abuse and violence against children and adolescents, the obligation to denounce offences against children and adolescents.

139. The Children and Adolescents Directorate carried out 134 activities; 49 activities were in the following areas: eight in newspapers, 21 on radio and 16 on television. Four press conferences were held to promote the rights of children and adolescents and disseminate information, given the impact of the issue on public opinion.

140. Every year, the National Agenda, which is a standing committee of CNNA carries out the “Fiesta del Conocimiento” (knowledge fair) in different regions and towns (at the end of the first semester). This activity, which is carried out for several days, includes games and entertainment designed to disseminate the human rights set forth in the Convention and in the Children and Adolescents Code. In addition, at the end of the year forums or workshops are conducted to discuss a specific rights issue. In 2007, the universities sector of the National Agenda organized a workshop on violence against children and adolescents in schools, in health centres, in street situations, in families and in institutions.

141. In 2006, PANI created the Cultural Centre on the Rights of Children and Adolescents, whose aim is to disseminate information on the rights of minors; its programmes and activities are described later on in this report. The idea is to promote a culture of respect for the rights of children and adolescents in a dynamic environment that

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<sup>19</sup> See both translations (documents 1 and 2).

<sup>20</sup> Communication DNA-0075-07, reports (supplementary annexes, file on the Office of the Ombudsman).

reflects the latest trends in sensitization and training programmes. One of the activities carried out by the Centre was the subregional seminar on implementation of the concluding observations of the Committee on the Rights of the Child.

## **K. Preparation of and follow-up to the report**

142. The process of preparing this report is described above, as are the measures that have been taken to publicize it and to ensure that both the report and any future observations and recommendations of the Committee are widely disseminated.

## **IV. Definition of the child**

### **A. Definition of the child**

143. To begin with, the Convention defines a child as follows: “A child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.

144. According to the Constitutional Chamber (2-01), the term “child” can be equated with the term “minor”. The Chamber made the following observation: “With regard to the substance of the text of the Convention, some observations are needed in order to interpret its content correctly in terms of the principles and norms of the Constitution. Article 1 of the Convention defines a child as a human being below the age of 18 years. Linking this article to Article 6 raises two different problems: the first, as regards the definition of a child and his/her legal status; the second, as regards the right to life. Our legal system does not include “child” as a legal category, but rather it refers to the legal category of “minor”. Although article 51 of the Political Constitution extends State protection to “mothers, children, the elderly and the destitute infirm”, these expressions do not create legal categories as such. With regard to the first problem, the Convention uses the expression “child” for anyone below the age of 18 years, possibly because of the difficulty of finding one single term in the major languages. “Child” is a species in the genus “minor”. Both expressions refer to biological, psychological and social criteria that cannot easily be framed in a concrete norm. Nevertheless, we can legitimately equate the definition of a child in the Convention with that of a minor, for purposes of our own legal system”.<sup>21</sup>

145. The Children and Adolescents Code (c-2-a), in article 2, defines a child or adolescent in terms that are consistent with article 2 of the General Act on Young Persons (art. 2) and the Civil Code (art. 37).

#### **1. Number of children and adolescents**

146. The population of minors (2-08) in 2007 is estimated at 1,475,874. This group represents 32.9 per cent of the total population; men account for 51.43 per cent and women, 48.57 per cent.

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<sup>21</sup> Decision No. 647-90, Constitutional Chamber (see annex 2-01).

**Costa Rica: Total population by calendar year, according to age groups**

Ages	2002	2003	2004	2005	2006	2007
0-4	392 149	391 302	389 790	387 549	386 166	385 559
5-9	416 031	412 502	409 512	406 853	403 895	401 561
10-14	431 591	432 550	430 901	428 557	427 071	424 626
15-17	261 011	261 984	262 084	264 787	265 948	264 128
<b>Total</b>	<b>1 500 782</b>	<b>1 498 338</b>	<b>1 492 287</b>	<b>1 487 746</b>	<b>1 483 080</b>	<b>1 475 874</b>
Population	4 089 609	4 169 730	4 248 481	4 325 808	4 401 849	4 476 614
Percentage	36,69	35,93	35,12	34,39	33,69	32,96

Source: www.inec.go.cr (publicaciones – publicaciones especiales – estimaciones y proyecciones, p. 53).

## 2. Legal or medical counselling

147. Article 20 of the Children and Adolescents Code establishes the right to information that minors have in accordance with articles 50 and 121 of the Code.

148. With regard to the right to due process, the Children and Adolescents Code provides that minors have the right to be heard, to have an interpreter, to be accompanied during proceedings by a professional specializing in social work or psychology, or a similar professional, and to receive information from the judge (among others), as part of the advice and orientation they require.

149. Legal advice is also envisaged as a guarantee for minors in court proceedings. In this regard, for example, the Juvenile Criminal Justice Act (Act No. 7576 of 8 March 1996) guarantees that persons over the age of 12 and under the age of 18 who have been charged with allegedly unlawful acts that are defined as offences (*delitos*) or contraventions (*contravenciones*) under our Penal Code or under special laws shall have the right to legal counsel and due process, among other, that are part of the fundamental guarantees enshrined in our Political Constitution (arts. 26 and 37).

150. These norms expressly provide for the duty to provide minors with mechanisms to enable them to be a party to such proceedings and to provide them with appropriate legal counsel to undertake an adequate defence, in order to protect their interests and in compliance with the rights established in the Political Constitution and other legislation.

151. This right is also recognized in labour matters, in situations when a minor may need adequate legal counsel in order to prevent abuse or mistreatment in regard to observance of his legally established rights (art. 90, Children and Adolescents Code).

## 3. Medical treatment or surgical procedures without parental consent

152. The legislation also envisages medical treatment (c-2-c) as part of the essential rights guaranteed to minors as the right to health, the right to life and to physical and emotional integrity, which is upheld by the Constitution. The Constitutional Chamber has considered this to be a key value on the scale of human rights without which the other fundamental rights would have no purpose. For this reason, it should be especially protected in the legislation.

153. An example of this, among many others, is the Constitutional Chamber's Judgement No. 2000-02592 (2-09), issued at 2:59 p.m. on 22 March 2000, in which it states that the right to life is the greatest right that can and must be protected as it is a key value on the scale of human rights.

154. The Children and Adolescents Code (arts. 41 and 43-47) and the Family Code (art. 144) are consistent with articles 24 and 25 of the Convention, as they adopt and develop the right to medical treatment and surgical procedures in favour of minors.

155. It is therefore clear that Costa Rican legislation recognizes the right of minors to receive such medical treatment and surgical procedures as may be necessary to guarantee their right to health and life, even against the wishes of the parents and PANI, in the case of minors who are represented by that institution.

#### **4. End of compulsory education**

156. Article 78 of the Political Constitution of Costa Rica stipulates that “Preschool education and general basic education are compulsory. These levels and the diversified education level are, in the public system, free and supported by the Nation”.

157. Our Political Constitution guarantees free access to public education for all inhabitants of the Republic and, in particular, for school-age children, who must complete the compulsory cycles as stipulated in the Constitution, namely, preschool education and general basic education. This is in accordance with Executive Decree No. 31663 (and the amendments reforms to the Ministry of Education governing enrolment, transfers and minimum age).

#### **5. Accepting employment or work, not excluding hazardous work**

158. With regard to child and adolescent labour, in 1974 Costa Rica ratified International Labour Organization Convention No. 138, regarding the minimum age for admission to employment (c-2-d), which establishes the minimum age at 15 years. This Convention also stipulates that the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health ... of young persons shall not be less than 18 years.

#### **6. Marriage**

159. The legislature considered the bill contained in legislative file No. 16,242, which was enacted as Act No. 8571 (2-05) of 8 February 2007, amending the Family Code, and was published in *Diario Oficial La Gaceta* No. 43 of 1 March 2007. The Act amends articles 14 and 64 of the Family Code, Act No. 5476, and article 38 of the Civil Code, Act No. 63, making it impossible for a person under 15 years of age to marry (thus setting a minimum age by not allowing marriage of persons under 15 years old). Any marriage of a person under 15 shall automatically be annulled. The Act also stipulates that the Civil Registry shall not record the marriage of a person under 15 years old.

#### **7. Sexual consent**

160. Act No. 8590 (c-2-e) aims to strengthen the fight against sexual exploitation of minors through amendments and additions to several articles of the Penal Code, Act No. 4573, and amendments to several articles of the Code of Penal Procedures, Act No. 7594. It establishes penalties for sexual offences committed against minors and provides better protection for their dignity and their physical and emotional integrity. The annex to this report includes the text of the Act that was adopted by the Legislative Assembly.

161. Absolute protection is provided for children up to the age of 13 years. Between 13 and 15, sexual freedom is allowed provided that no one is taking advantage of the child's age; consent is not relevant to the definition of the offence. Legal protection is provided up to the age of 18 years; thus, as noted earlier, the consent of the victim is not relevant to the

definition of the offence (commercial sexual exploitation, pimping, corruption, trafficking, sexual relations for pay).

#### **8. Enlistment into the armed forces**

162. On the matter of voluntary enlistment and recruitment in the armed forces, as well as participation in hostilities, Costa Rica has already reported to the Committee (in its report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict) that on 1 December 1948, José Figueres Ferrer, the victor in the civil war of that year and acting in his capacity as President of the Governing Junta, decided to abolish the Army in Costa Rica (article 12 of the Political Constitution) (c-2-f).

#### **9. Criminal liability**

163. With regard to criminal liability (c-2-g), article 1 of the Juvenile Criminal Justice Act (No. 7576 of 8 March 1996) establishes the sphere of application of the Act according to the subjects thereof. Article 1, on Sphere of application according to subjects, states the following: “The subjects of this Act are all persons who are between the ages of 12 and 18 at the time of commission of an act defined as an offence or a contravention in the Penal Code or in special laws”.

#### **10. Deprivation of liberty**

164. Article 121 of the Juvenile Criminal Justice Act, No. 7576, establishes the types of sanctions that are applicable. Any measure involving deprivation of liberty is an exceptional measure (c-2-h) and is so defined in our legislation (articles 58, 59, 131, 139 of the Juvenile Criminal Justice Act and articles 5, 8 and 9 of the Act on the Application of Juvenile Criminal Penalties).

#### **11. Institutionalization and care**

165. With regard to the institutionalization and care of children in institutions, with the best interests of the child as the guiding principle, it should be noted that the legislation on interment and institutional care of children includes the General Act on Comprehensive Services Centres (Act No. 8017 of 29 August 2000), published in *La Gaceta* No. 181 of 21 September 2000, and regulated by Executive Decree No. 29580-S of 23 May 2001. The primary objective is to promote the creation, development and proper operation of public, private and mixed comprehensive services centres for persons up to 12 years old, in compliance with article 3 of the Convention on the Rights of the Child and the scope of the Children and Adolescents Code.

166. Minors may be admitted to alternative protection facilities that entail separating them from their families only if protection measures provided for in the Children and Adolescents Code are in place or if a court order has been issued. In either case, the decision must be duly explained and justified. Institutionalization must be considered a measure of last resort; the measure applied shall be an exceptional measure, and it must be consistent and proportional to the psychological and social circumstances of the child. The due-process requirements set forth in the Children and Adolescents Code and the procedure described in articles 128 ff. of the Code must be met.

167. PANI is proposing an amendment to the types of alternative protection that are currently in place for children and adolescents who are separated from their families. Under the proposal, a well-coordinated system would be set up as follows: (a) PANI shelters would be provide transitional or temporary, but not permanent care; (b) the model of *hogares solidarios* would be reinforced. *Hogares solidarios* are families in the communities who are prepared to take in children, with PANI providing an economic subsidy; and (c)

PANI would increase subsidies provided under agreements with the NGOs that provide care for children and adolescents who live in a situation of abandonment and are separated from their families. The matter of alternatives for protection is discussed further in chapter VIII (paras. 853 ff. below).

## **12. Capital punishment and life imprisonment**

168. With regard to capital punishment and life imprisonment, Costa Rica has a tradition of protection of the right to life (as a foundational principle of all human rights). Highlighting this tradition, in 1882, then President Tomás Guardia issued Decree No. 7, of 26 April 1882, amending the Political Constitution of 1871 to include in article 45 the basic principle that “human life is inviolable”.

169. With this amendment, the possibility of applying the death penalty was eliminated once and for all. This principle has become an essential element of our legal system and has been reaffirmed in one law after another. It is currently established in article 21 of the Constitution, which repeats the same amendment decreed in the nineteenth century.

## **13. Giving testimony in court, in civil and criminal cases**

170. With regard to the possibility of minors giving testimony in court in civil and criminal cases, article 105 of the Children and Adolescents Code establishes the duty of the courts to take into account the opinion of minors in cases in which the interests of the minor are involved. This is related to article 114 of the Children and Adolescents Code which establishes the obligation of the State to guarantee the right of minors to a hearing.

## **14. Reporting abuse and requesting reparation**

171. Article 104 of the Children and Adolescents Code guarantees to minors the right to lodge complaint regarding actions committed against them and, through the representative of the Office of the Public Prosecutor, to bring the corresponding civil action.

172. Article 49 of the Children and Adolescents Code makes it obligatory to report abuses against minors that come to the attention of educational centres and health centres or any centre providing services to them.

173. Similarly, although more recently, significant progress was made in drafting legislation to allow minors to appeal directly for court protection through administrative channels, as envisaged in article 49 of the Political Constitution.

174. Accordingly, under article 9 of the recently enacted Code of Administrative Litigation Procedures (Act No. 8508 of 28 April 2006), which entered into force on 1 January 2008, minors have the capacity to appeal to the Administrative and Civil Court for Landed Property, when they are able to do so directly, without needing a representative to accompany them. Article 9 reads as follows: “In addition to subjects who have the capacity to sue under ordinary legislation, the following shall also have the capacity to sue: (a) minors, when they are able to do so directly, without the need for a representative”.

## **15. Consent to change identity, to change ties in adoption and guardianship**

175. With regard to change of identity (c-2-m), including change of name, modification of family ties, adoption, guardianship, article 23 of the Children and Adolescents Code envisages the so-called right to identity of the minor, including: “... the right to a name, a nationality and an identity document paid for by the State and issued by the Civil Registry. The National Child Welfare Agency shall provide suitable assistance and protection when a child has been illegally deprived of any attribute of his or her identity”.

176. In accordance with this right, article 105 of the Family Code as amended by Act No. 7538 of 22 August 1995, provided for the possibility of changing the adopted child's name, as follows: "In the same decision authorizing the adoption, the Court may, at the request of the parties concerned, authorize them to change the name of the adopted child".

**16. Access to information on his or her biological parents**

177. With regard to guaranteeing access to information on the child's biological parents, article 91 of the Family Code states: "A child and his or her descendants may investigate paternity and maternity".

178. In addition, article 76 of the Family Code establishes that: "The right of children to be restored to their rightful status is not subject to the statute of limitations. When the children die, that right shall continue with the grandchildren, and it shall also be inalienable with respect to them".

179. The Adoptions Office of PANI shall guarantee the right of adopted minors to search for their roots at any age, even when they are adults. Thus, the Adoptions Office shall, using the means available to the institution, help individuals who have been through the adoption process to investigate their origin, given that this is an effort for which assistance is needed. In such cases, PANI helps those who request this assistance by researching the administrative and court files, providing authorized information, preparing the meeting [with the biological parent or parents], accompanying the applicant at the meeting if he or she so requests.

180. It should be noted that adoption files are kept in the National Archive, so the history of the process is not destroyed.

**17. Legal capacity to inherit, to conduct transactions relating to ownership of property, to form or join associations**

181. With regard to the legal capacity to inherit (c-2-n), conduct transactions relating to ownership of property, to form or join associations, the Civil Code contains specific rules which define the legal capacity of persons to receive rights and contract obligations in regard to property (arts. 31, 36, 38, 39).

182. With regard to the possibility of forming or joining associations (c-e-ñ), article 18 of the Children and Adolescents Code recognizes the right of minors to freedom of association, pursuant to article 15 of the Convention on the Rights of the Child and article 25 of the Political Constitution, as well as other norms established in international human rights instruments.

**18. Choice of religion or attendance at religious instruction classes**

183. With regard to the choice of a religion or attendance at religious instruction, article 75 of the Political Constitution provides for the free exercise in the Republic of forms of worship that are not opposed to universal morality or good customs.

184. Article 10 of the Children and Adolescents Code states that minors shall be subjects of rights and shall enjoy all rights inherent to human beings and specific rights relating to their development, except for political rights, as stipulated in the Political Constitution of the Republic.

185. Article 14 of the Code establishes precepts relevant to the right of minors to freedom, which, among others, includes the option "... to have his or her own ideas, beliefs and religious affiliation and to exercise it under the guidance of his or her parents or guardian, according to the stage of development of his or her faculties and with the limitations and guarantees established by law".

**19. Consumption of alcohol or other controlled substances**

186. Article 25 of the Liquor Act, No. 10, prohibits the entry of minors into establishments the single activity of which is the sale of liquor. Article 1 of the Act No. 7633, of 26 September 1996, which regulates the business schedules of establishments that sell alcoholic beverages, prohibits the sale of liquor to minors.

**20. Minimum age for employment and age for the end of compulsory education**

187. With regard to the relationship between the minimum age for employment and the age for the end of compulsory education, how this affects the right of the child to education and how the pertinent international instruments are taken into account, it should be noted that in accordance with the norms mentioned in connection with these two aspects, the legislation has established 15 years as the minimum age at which a minor may perform any kind of remunerated activity pertaining to a formal employment relationship.

188. General basic education is organized into three cycles of three years each.<sup>22</sup> The end of compulsory education is established at 15 years and six months, very close to the minimum age for starting to work.

189. On this point, however, it is important to bear in mind the conditions for employment of young people in this situation, in particular, the provisions of articles 87 and 88 of the Children and Adolescents Code regarding the requirement to harmonize studies and work in order to avoid affecting continuity in the education of minor workers. Moreover, employers are required to provide facilities to enable them to combine their job with regular attendance at an educational centre.

**21. Distinction between girls and boys**

190. As a result of the adoption of the legislative amendments mentioned above, our legislation does not make any distinction between males and females in regard to the minimum age for marriage or for sexual consent.

191. In juvenile criminal proceedings, this applies to minors above the age of 12 years, and no distinctions is made between boys and girls. There is gender equality. The juvenile criminal system is a system based on objective liability (for acts committed), not subjective (such as poverty, drug use, among others).<sup>23</sup>

**V. General principles****A. Principle of non-discrimination**

192. In the specific case of the Children and Adolescents Code, the provisions of article 3 apply to all minors without distinction, independently of ethnicity, culture, gender, language, religion, ideology, nationality or any other condition of their father, mother, legal representatives or persons responsible for them. In addition, it stipulates that the rights and guarantees of this group are in the public interest and necessary for public order, and cannot be renounced or negotiated.

193. Article 33 of the Political Constitution guarantees equality before the law and prohibits any kind of discrimination that is contrary to human dignity.

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<sup>22</sup> See above, "Compulsory education" under this same guideline.

<sup>23</sup> This issue will be discussed further in chapter VIII.



194. There are also special rules for avoiding discrimination (c-3-a), including the General Act against HIV and AIDS, the Immigration Act and the General Act on Young Persons.

195. The measures taken to prevent and combat all kinds of discrimination cover a variety of actions:

(a) In terms of promotion, public institutions, the Ministry of Education, the Ministry of Security, the Ministry of Health, the Ministry of Culture and Youth, the Ministry of Labour, PANI, DINADECO and the National Learning Institute have all carried out activities designed to promote the rights of children and adolescents. Thus, for example, the programme on ethics and aesthetics, the Culture Centre and the Programme of Comprehensive Services for Adolescents include a focus on rights with the aim of ensuring that no one is discriminated against because of his or her circumstances.

(b) Public policies targeting the universe of minors are being implemented; for example, the policies on nutrition, and the public policy on youth that provides for affirmative action on behalf of young persons who seek the restoration of rights that have been denied them of their social situation or because they belong to a minority, as well as the proposal on children and adolescents all include the rights-based approach.

(c) The operating plans of institutions provide for mainstreaming of the principle of non-discrimination.

(d) Many court decisions, especially those of the Constitutional Chamber, guarantee equal treatment of all minors, through appeals for *amparo* and claims brought on grounds of unconstitutionality.

(e) The existence of autonomous and independent bodies that also guarantee non-discrimination, issuing recommendations and carrying out actions.

(f) Administrative decisions expressed as protection measures designed to restore the rights of minors who are victims of some type of discrimination.

(g) A number of selective programmes carried out by the lead agency for the social sector and the fight against poverty.<sup>24</sup>

196. Indigenous adolescents who are in the process of validation have indicated that there are few opportunities for participation in local public bodies. They clearly perceive rejection or personal discrimination, and as a people they say that they feel discriminated against because of the absence of State support: there is a shortage of electric power, and they need better water systems, roads, improvements in education and access to Internet.

197. Fathers and mothers say that there is discrimination “among children, which has been learned socially”, against children and adolescents of African descent and Nicaraguans, expressed especially through jokes; appearances count, the rich are given preference (Pérez Zeledón); “they are discriminated against because they are minors” (Siquirres); there is discrimination against foreigners (Ciudad Quesada). “Discrimination in school is serious for the population of La Carpio; sometimes they are not accepted because they come from that community; there is also discrimination against migrants and coloured people (“*morenitos*”)” (San José).

## 1. Measures to reduce disparities

198. The State has developed targeted policies and programmes for reducing economic, social and geographic disparities between rural and urban areas<sup>25</sup> and thus prevent

<sup>24</sup> See annex 1-17 to chapter I.

discrimination against the less advantaged groups of minors, such as indigenous peoples, persons with disabilities, migrants, refugees and children in street situations.

199. As reported previously to the Committee, the Constitutional Chamber has issued a ruling (Judgement No. 008857-99 of the Constitutional Chamber dated 15 December 1998) regarding non-discrimination in the school voucher. This was implemented subject to certain administrative requirements relating to identification of beneficiaries and arrangements for disbursement of funds.

#### Summary of all scholarships granted by FONABE, 2008

<i>Level</i>	<i>Total scholarships</i>	<i>Monthly stipend</i>
<b>Avancemos</b>		
7 <sup>th</sup>	240 824	15 000
8 <sup>th</sup>	14 421	20 000
9 <sup>th</sup>	14 632	25 000
10 <sup>th</sup>	15 220	35 000
11 <sup>th</sup>	11 726	45 000
12 <sup>th</sup>	6 680	50 000
Initial scholarship	101 010	9 000
Primary and preschool	67 343	9 000
Spec. Educ. – primary	970	15 000
Adolescents and teen mothers	638	50 000
Student and handicapped transport	16 327	Variable
Post-general secondary educ.	685	22 000
Teaching of mathematics	100	35 000
Teaching of English and French	100	35 000
Special education – indigenous children	100	35 000

200. The migrant population<sup>26</sup> in general, when in the territory of Costa Rica, has the same rights and obligations in all programmes and projects that are carried out for the benefit of minors. Mechanisms are in place to guarantee equal treatment, such as an independent body, either the Office of the Ombudsman or an autonomous institution established by the Constitution, such as PANI, which has the competence and the legal powers to prevent violations and to recover rights that have been violated.

201. In the context of the human rights and equal opportunity approach, Act No. 7600, on equal opportunities for persons with disabilities, as well as the regulations thereto, were enacted in 1996 and 1998. These laws indicate that the National Council on Rehabilitation and Special Education (CNREE) is the lead agency in the area of disability and assign to it the responsibility for ensuring that State institutions provide the necessary opportunities and conditions to enable persons with disabilities to exercise their rights.

202. Another initiative along these lines was the establishment of an inter-ministerial commission made up of the heads of the Minister of Justice, the Minister for Foreign Affairs and the Executive President of the National Women's Institute (INAMU), in order to study and draw up, over a four-month period, an inter-agency State policy for

<sup>25</sup> See annex 1-18: guideline 03 for the lead agency on the social sector and the fight against poverty, which identifies priority areas of concern.

<sup>26</sup> See annex 3-01, data on migrant population by age groups, 2000 census.

eliminating all forms of discrimination. One of its tasks was to draw up the first Development Plan for the Indigenous Peoples of Costa Rica. This Plan was then incorporated into the National Development Plan of the Republic.

203. With regard to indigenous education, it has been decided that the public system should work to provide this education in such a way as to ensure respect for their cultural traditions. Every effort should be made to offer educational opportunities for indigenous children and children belonging to minorities that will help them understand and preserve their cultural identity, including their language and their values.

## 2. Gender discrimination

204. With regard to gender discrimination, there is a public institution that guarantees gender equality, namely, the National Institute for Women (INAMU), which takes part in the meetings of CNNA. This is a political body that implements public policies, institutional programmes and projects designed to promote gender equality, including the following:

(a) It creates opportunities for personal and social development and improvement of the quality of life for girls, adolescents and adolescent mothers who live in poverty;

(b) It promotes cultural change aimed at promoting equity and generating attitudes and practices among men so as to encourage them to embrace their role as fathers and share responsibility in bringing up their sons and daughters;

(c) It carries out the adolescent-mother programme under an agreement with PANI.

205. In its role as the Technical Secretariat of CNNA, PANI encourages public and private institutions to pursue the following goals:

(a) To foster appropriate child-rearing practices;

(b) To promote sharing of responsibility by mothers and fathers;

(c) To eliminate domestic violence, including corporal punishment.

206. With regard to monitoring tools and mechanisms for collecting data on minors, Costa Rica has made progress in the development of information systems (3-17), including the following:

(a) The PANI strategic plan on information technologies;

(b) Electronic files, also in PANI;

(c) The national evaluation system of the Ministry of National Planning and Economic Policy (SINE);

(d) COSTA RICA Info: the national version of the DEV-Info system created by UNICEF;

(e) Statistical information system on the rights of boys, girls and adolescents (SIEDNA);

(f) National system for the analysis of infant mortality and the maternal mortality evaluation system

(g) System of indicators on child labour;

(h) Institutional information systems established by PANI;

(i) Canton-level child vulnerability index;

- (j) System of indicators on the Children and Adolescents Code;
- (k) Reports to the United Nations Committee on the Rights of the Child;
- (l) Report on Indigenous Children and Adolescents in Costa Rica: their right to health and education;
- (m) Information system for the integrated management of selective social programmes (SIGIPSS) (\*);
- (n) Statistical information system of the Ministry of Health (\*);
- (ñ) Information and statistics system of the Ministry of Education (\*);
- (o) Information and statistics system of the judiciary (\*);
- (p) Information and archives system of the legislative branch (\*).<sup>27</sup>

207. Many of the indicators that are essential for the analysis of the country's efforts to protect the rights of children and adolescents are included in these information systems; however, there are two significant limitations, namely: (a) many of these indicators are not disaggregated by areas, age, ethnicity, nationality, socio-economic situation, disabilities and other situations; (b) at present, they are not actually linked with each other. The challenge is to move ahead to break the data down and to bring the information together into a single national system of comprehensive protection that all users can access and thus provide feedback on the performance of the institutions concerned.

### **3. Measures for avoiding and eliminating attitudes and prejudice**

208. One of the objectives of the PANI Cultural Centre on the Rights of Children and Adolescents<sup>28</sup> is to prevent and do away with wrong attitudes and prejudice against children and adolescents. In addition, the institutions that participate in its plans and programmes carry out activities aimed at that same goal. At the administrative level, guarantees are provided through protection measures, and the courts have provisions for lawsuits and appeals at the constitutional level.

### **4. Measures to provide protection against discrimination or punishment**

209. The following protection and enforcement mechanisms are in place to deal with situations when a child or adolescent is discriminated against or punished because of his or her status, activities, opinions or the beliefs of the parents, guardians or family member.

(a) Administrative and court-ordered protection measures. These measures, which are governed by articles 128 ff. of the Children and Adolescents Code, may even be directed at public institutions and communications media.

(b) The Office of the Ombudsman is another mechanism for protecting minors when discriminatory action has been taken by the State.

(c) The Constitutional Chamber is also an effective mechanism, as it hears constitutional cases such as applications for amparo and habeas corpus, as well as constitutional challenges.

(d) Guarantees are also provided by international human rights bodies such as the Inter-American Court of Human Rights.

<sup>27</sup> (\*) These are non-specialized information systems on children and adolescents.

<sup>28</sup> See supplementary annex on report of actions 2006-2007.

(e) NGOs such as Aldeas S.O.S., RENACER, the Salvation Army are also alternative mechanisms for special protection.

(f) Other NGOs, such as World Vision and others, promote and protect the human rights of children and adolescents.

(g) Groupings of NGOs, such as UNIPRIM and COSECODENI, are other options.

(h) The National Comprehensive Protection System ensure that the rights approach will be incorporated into national programmes and plans that target specific populations.

(i) Many public policies, such as those directed at young people, are specifically designed to protect human rights.

(j) Specialized units have been set up in different institutions, such as the Children and Adolescents Office of the Ministry of Education, the Children's Office and the guardianship committees of DINADECO and technical liaisons in the ministries of Health, Culture and Youth and others.

## 5. Non-discrimination

210. The educational system has created educational and training programmes designed to prevent and eliminate discriminatory attitudes and prejudice against children based on racism or xenophobia; these programmes also teach values to the students. Some of the current programmes are listed later on in this report. In addition, the Cultural Centre on the Rights of Children and Adolescents, established by PANI in 2006, promotes training, both for children and adolescents and for staff members, in order to guarantee the human rights of minors and eliminate all kinds of prejudice against children and adolescents in special situations.

## B. Best interests of the child

211. The principle of the best interests of the child is enshrined in the Children and Adolescents Code (art. 5) and in other special laws, including the Juvenile Criminal Justice Act (art. 7) and in the Act on the Application of Juvenile Criminal Penalties. Even when the principle is not mentioned specifically, it must be a fundamental standard to be followed in all actions undertaken.

212. The principle of the best interests of the child is embodied not only in the legislation but also in current and proposed public policies.

213. Institutional operating programmes, projects and activities are also required to honour that principle.

214. The principle is also applied in administrative and judicial acts and is a guiding tenet of all programmes carried out by public and private institutions.

215. The three branches of Government —executive, legislative and judicial— have given high priority to the best interests of the child in the exercise of their duties. The courts often mention the principle when explaining their decisions; this includes the family courts, which also deal with cases involving children and adolescents, as well as the criminal courts and the Constitutional Chamber. The executive branch bases its actions and administrative decisions on this principle, especially in regard to protection measures ordered by PANI; this includes legal representatives in local offices and executive presidents of institutions. Thus, the principle is a guiding tenet for all administrative action.

216. Private organizations also refer to the principle to justify their current or proposed programmes and projects; compliance is mandatory, given that the provisions of the Children and Adolescents Code are in public by nature (art. 10) and in the public interest (art. 3).

217. In the case of PANI, the principle is under review in conjunction with the institution's strategic plan.

### **1. Best interests of the child and the budget**

218. As regards budget allocations for programmes aimed at children and adolescents, as noted in the third report of Costa Rica to the Committee, article 4 of Act N° 8131, on the Financial Administration of the Republic and Public Budgets, of 18 September 2001, provides that public budgets are subject to the National Development Plan, as the authoritative framework for institutional operating plans, having regard in each case to the appropriate level of autonomy, in accordance with the applicable legal and constitutional provisions.

219. This law clearly implies that guidelines, strategies, goals, institutional responsibilities, programmes, services and resources included in the budget must first and foremost be consistent with the National Development Plan and, secondly, that they are binding for the entire public sector. Thus, the institutions' annual operating plans must include whatever is provided for in the National Development Plan which, as mentioned above, includes programmes for children and adolescents.

220. Overall public social spending and spending by institutions concerned with children and adolescents are described in chapter I and the annex in response to guideline 20 of the Committee on the Rights of the Child.<sup>29</sup> In general, institutional budgets (3-18) tended to increase during this period, in particular the budget for PANI. One exception was the Development and Family Subsidies Fund (FODESAF), the budget of which was reduced consistently from 2002 to 2005 because funds transferred to it by the Ministry of Finance were lower than the amounts stipulated by law.

### **2. Best interests of the child and plans**

221. The National Development Plan for 2002-2006<sup>30</sup> includes five specific objectives, namely:

- (a) To reduce the percentage of teen pregnancies;
- (b) To eradicate commercial sexual exploitation;
- (c) To eliminate child labour and protect adolescent workers;
- (d) To provide comprehensive services for children and adolescents in street situations;
- (e) To prevent child and juvenile delinquency.

### **3. Institutional response**

222. The National Development Plan for 2002-2006 identifies the following strategic actions to be taken in order to meet these challenges.

223. During the period 2003-2006, CCSS increased coverage for its comprehensive sexual and reproductive health programmes for adolescents in 75 per cent of the Basic

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<sup>29</sup> See reply to guideline 20.

<sup>30</sup> See [www.mideplan.go.cr](http://www.mideplan.go.cr) (*Centro de Documentación*).

Comprehensive Health Care Teams (EBAIS). These programmes work to raise awareness among vulnerable children and adolescents regarding risky sexual behaviour, sexually transmitted diseases, birth-control methods, prenatal care and maternity, teen pregnancies, responsible paternity, among other issues.

224. In addition, CCSS was able to increase to 90 per cent the average yearly coverage of the child vaccination programme, thus helping protect children against vaccine-preventable diseases.

225. During the period 2003-2005, PANI provided comprehensive services to 106,028 children and adolescents, including consultations on their rights, psychological care, advice on legal and labour issues. It provided shelter to adolescents who had no family, helped teen mothers obtain legal recognition of paternity, set up mediation to seek the active participation of father in childrearing. In 2006, PANI did not set goals for this strategic action.

226. PANI strengthened its fight against commercial sexual exploitation throughout the country. It provided comprehensive services to 893 children and adolescents who were victims of such exploitation and achieved 85 per cent of its goals in that regard.

227. The Ministry of Labour and Social Security implemented a programme designed to provide immediate services and comprehensive services for child and adolescent workers, reaching 100 per cent of those registered with it during the period 2002-2006. However, the programme component aimed at helping child and adolescent workers re-enter the educational system was not executed; as a result, those children were not able to complete their studies.

228. Under the programme on protection of adolescent workers, the Ministry monitored the working conditions of 100 per cent of adolescent workers registered in 2006. The purpose of this programme is to guarantee that employers will apply good practices and social responsibility and comply with existing regulations in this area.

229. To address the situation of minors who have broken the law or children under 12 who have criminal records, PANI worked in coordination with other institutions and NGOs to set up a programme of comprehensive services for this population. The programme benefited 112 persons in 2006 and a total of 326 during the period 2002-2006. It is hoped that this programme will mitigate the problems associated with these situations among a population that has a high rate of recidivism.

230. Another significant programme is the one directed at children in street situations, which benefited 1,952 minors during the period 2002-2006. This programme supplements others that are aimed at providing comprehensive services for this population and offering them opportunities for a better life.

231. In order to protect the rights of children and adolescents, PANI worked to ensure the return of minors to their families of origin. During the period 2002-2006, 1,632 children and adolescents were helped by this programme. In cases when that option was not feasible, the National Adoptions Council became an alternative for the protection of children and adolescents; in 2003-2006, it placed 380 minors in homes.

232. An evaluation of the Plan showed that the elimination and modification of some of the strategic actions envisaged had affected execution. Progress was made in areas such as sex education for adolescents and care for children and adolescents who had been victims of sexual exploitation.

233. The “V́ctor Manuel Sanabria” National Development Plan for 2002-2006 and the “Jorge Manuel Dengo Obregón”<sup>31</sup> National Development Plan for 2006-2010 were aimed at fulfilling and protecting the rights of minors. Both plans are based on the principle of the best interest of the child.

234. The National Development Plan for 2006-2010 provides for the following actions on the issue of children and adolescents:

(a) The Plan outlines 135 strategic actions which make up the “Contract with Citizens”;

(b) Children and adolescents are mentioned either explicitly or indirectly in 36 of those actions (2 per cent);

(c) More than three fourths of those actions are included under the social policy line of action.<sup>32</sup>

235. The principle of the best interests of the child is incorporated into policies and is taken into account in proposals for comprehensive public policies on children and adolescents.

236. Targeted plans and programmes include the principle, which is cited frequently. The principle guides the execution and evaluation of such programmes and plans.

#### 4. Best interests and adoption

237. Provisions regarding the best interests of the child are also included in the new regulations for national and international adoption processes<sup>33</sup> (3-11) that were approved by PANI at its meeting No. 2008-19 of 5 May 2008 and published in *La Gaceta* No. 112 of 11 June 2008. The preamble to those regulations specifies that national and international adoption processes shall be governed by the following legal framework:

(a) *Convention on the Rights of the Child*

238. With the adoption in 1990 of the Convention on the Rights of the Child, Costa Rica introduced a new paradigm based on the doctrine of comprehensive protection, recognizing that minors are subjects of rights and have the same fundamental rights as adults, as well as a number of specific rights arising from their particular status as persons who are in the process of developing; these rights must be guaranteed by the Costa Rican State. The doctrine of comprehensive protection is governed by the following principles: .... (c) Principle of the best interests of the child: this is a fundamental premise of the doctrine of comprehensive protection, a guiding principle for the interpretation and application of the legislation on children and adolescents according to which the rights of minors must prevail; the authorities are therefore limited by those rights.

239. The principle is applied in all pre-adoption processes (for example, protection measures at administrative and judicial facilities, such as in cases when a “declaration of abandonment” is issued. It also applied to decisions at all levels of the national adoption system, such as the local offices of PANI, the Regional Adoption Councils, the National Adoption Council, the Department of Adoptions, the Juvenile Court and the Family Courts in the judiciary.

<sup>31</sup> See *Plan Nacional de Desarrollo 2006-2010* in supplementary annexes.

<sup>32</sup> Source: Presentation by *MIDEPLAN Niñez y Adolescencia* in the context of UNDP (supplementary annex/MIDEPLAN).

<sup>33</sup> See the regulations in annex 3-11.



## 5. Best interests, asylum and refugee status

240. When implementing administrative immigration, asylum and refugee procedures, the Children and Adolescents Code (public order and public interest) and the Convention must be borne in mind, as these are the mandatory legal instruments containing the principle and must be applied throughout the country.

241. The Directorate-General for Migration and Alien Affairs takes the principle into account when applying and interpreting the law. In all procedures relating to the repatriation, exit and departure from the country, minors are accompanied and advised by attorneys acting as legal representatives of PANI, so as to guarantee compliance with and satisfaction of the child's rights and fundamental freedoms.

## 6. Best interests and administration of justice

242. The principle of the best interests of children and adolescents is a guiding principle in judicial proceedings involving any measure, sanction, probation order, alternative conflict resolution measures in criminal cases, as well as the determination of a child's social and legal status relating to declarations of abandonment, adoption, guardianship, judicial deposit, administrative protection measures, child support, conflicts regarding custody and upbringing, appeals for amparo or habeas corpus and protection measures in cases of domestic violence, among others.

243. Judges of juvenile criminal courts, prosecutors, public defenders, judges in family courts, adult criminal courts and the Constitutional Chamber all have the obligation to observe the principle of the best interests of the child and to guarantee its application.<sup>34</sup>

## 7. The best interests of the child, detention and institutional care

244. As alternatives for protection, minors are placed in public institutions or NGOs, only when protection measures have been ordered (by an administrative unit or a court). In both cases, the institutions must comply with the Children and Adolescents Code, which requires all public officials to apply the principle of the best interests of the child (art. 5). The State must not act arbitrarily to the detriment of the human rights of the child or adolescent. State action is limited by the best interests of the child; thus, when protection measures are issued and applied, all procedural and substantive guarantees provided for in the relevant legislation are observed. To facilitate these processes, PANI officials act in close coordination with the judicial authorities. These administrative procedures are initiated after all attempts at reconciliation or mediation have failed.

245. A child or adolescent is separated from his or her family, either temporarily or permanently, in cases that are covered by the relevant legislation (grounds for suspension and termination of parental authority), and this is done only in exceptional cases.

## 8. Best interests of the child and social security

246. In regard to social security, article 42 of the Children and Adolescents Code stipulates that minors shall be entitled to social security and medical care<sup>35</sup> (c-3-g), as follows:

<sup>34</sup> Juvenile Criminal Justice Act (art. 7) and Act on the Application of Juvenile Criminal Penalties (art. 5).

<sup>35</sup> See articles 73 and 117 of the Political Constitution (principles of the subsidiarity of the State and universal coverage).

“Minors shall be entitled to social security. When they are not covered by other systems, they shall enjoy this right at State expense. The Costa Rican Social Security Fund shall take the necessary measures to implement this provision.”

247. It is the duty of health centres to identify minors; this measure also applies to adolescents in both public and private health care and educational institutions.

248. The success achieved by Costa Rica in the field of health, pensions and social security in general is due to a large extent to the fact that its policies have provided for public institutions that show solidarity and carry out comprehensive programmes that have usually managed to adjust to changing circumstances and developments in medical technology, so as to gradually increase coverage of the population, in terms of both geographic areas and of the volume and quality of services provided. Nevertheless, a number of circumstances have worked together to undermine these achievements. Some arise from within the social security system, mainly owing to the postponement of essential spending on medical specialization, technology and infrastructure, as well as decisions that were crucial to guaranteeing the sustainability and development of the system. Other circumstances are external to the institution, and it is impossible to predict what course they will take over the next few years. The institution must show creativity and perseverance in dealing with both the internal and the external situations by taking innovative steps to strengthen and develop a universal and caring public health system and move towards achieving universal coverage of the pension system. This is essential to ensure social cohesion and integrated development among the entire population.<sup>36</sup>

## 9. Protection and care

249. The legislative and administrative measures taken to ensure protection and care of minors include the Comprehensive Services Centres Act, the regulations thereto and the technical standards of certification of those centres, processing complaints and suspending certification. This Act created the Comprehensive Services Council (CAI), an inter-agency body located in the Ministry of Health that authorizes the operation of all comprehensive services centres (day-care centres, community homes and alternative residential facilities).<sup>37</sup>

250. All establishments providing care and special protection must comply with the relevant technical standards, as well as the Act on Comprehensive Services Centres. In addition, they must comply with the General Health Act, Municipal Code, which also constitutes a general legal framework.

251. To summarize, the following guarantee that these establishments meet the necessary requirements for operation:

The general legal framework: General Health Act, Municipal Code;

The special legal framework: Comprehensive Services Centres Act and regulations thereto;

<sup>36</sup> Institutional polices of the Costa Rican Social Security Fund 2007-2012.

<sup>37</sup> “**Article 1.** – Objective. This law promotes the creation, development and proper functioning of comprehensive health care centres, including public, private and mixed centres, for persons under the age of 12, in compliance with the Convention on the Rights of the Child and the Children and Adolescents Code.” (Comprehensive Health Care Centres Act, No. 8071) (3-14). See annexes 3-14, 3-15, 3-16, Act, Regulations and Norms for Certification of Comprehensive Services Centres.

Specialized technical standards: Pre-established technical criteria (models, modalities) that are in place in the Council on Comprehensive Services Centres and PANI.<sup>38</sup>

252. The legal framework for the Council on Comprehensive Services need to be revised, as it is inconsistent with the general principles of the Convention. It is often applied literally without taking into account the principles laid down in other legislation. The staff of lead agencies and regional directorates of the Ministry of Health also need training on the application and interpretation of laws and regulations that are consistent with national and international legislation.

253. It is important to set up a well-coordinated nationwide system of protection, bringing together public and private systems for providing temporary and permanent protection, so that the same laws will apply to NGOs and public institutions (PANI, Ministry of Education, and Child Nutrition and Comprehensive Services Centres (CINAI) operated by the Ministry of Health). The Parity Council has undertaken this task, which is being promoted by PANI.

## 10. Training

254. The rights approach, the doctrine of full protection and the principles established in international and national legislation are included in all training activities, and the principle is taught.

255. The PANI Institutional Strategy Plan includes a cross-cutting line of action on sensitization and training of human resources, both in PANI and in the institutions and agencies included in the National Comprehensive Protection System. Hence the need to strengthen ideas and theoretic and ideological concepts to focus on the human rights of children and adolescents.

256. In 2006, PANI entered into a strategic arrangement with the School of Social Work of the University of Costa Rica and developed a curriculum for a master's degree programme in human rights of children and adolescents. Officials from several institutions involved in the National Comprehensive Protection System are encouraged to participate in this programme.

257. The PANI Cultural Centre on the Rights of Children and Adolescents has also been involved in training activities.

258. The University of Costa Rica has an interdisciplinary programme of studies and social action on the rights of children and adolescents (PRIDENA), and the National

<sup>38</sup> “**Article 6.** – General objectives of the Council: In order to ensure effective compliance with the purposes of the law described in article 3, the Council shall promote:

(a) that public, private and mixed institutions carry out on a regular basis a broad and ongoing programme of dissemination and sensitization directed at all individuals and sectors of national life, so that they will be aware of and proceed to create the conditions necessary for children and adolescents to develop independently and be integrated into their families and their communities;

(b) respect for the rights of children and adolescents in the comprehensive services centres referred to the Act and in the general legal framework;

(c) the design and implementation of an information, monitoring and evaluation system on which the institutions responsible for providing care shall regularly report for purposes of monitoring and measuring compliance;

(d) the inclusion of indicators in the information, monitoring and evaluation system for the purpose of assessing progress in or limitations to the implementation of programmes directed at establishing providing comprehensive services for children and adolescents” (Regulations to the Act on Comprehensive Services Centres).

University operate the Institute for Interdisciplinary Studies on Children and Adolescents (INEINA). Both of these programmes work to promote knowledge on the rights of children and adolescents, including the rights approach, the doctrine of full protection and, of course, the principle of the best interests of the child. Supplementary annexes to this report describe the activities carried out by these centres of higher education.

### **C. The right to life, survival and development**

259. Article 21 of the Political Constitution states that human life is inviolable; article 12 of the Children and Adolescents Code states the following: “Children and adolescents have the right to life from the moment of conception. The State must guarantee and protect that right with economic and social policies that ensure suitable conditions for their development in the womb, their birth and their overall development”.

260. Other rights considered by the Constitutional Chamber in its judgements. See, for example, Judgement No. 2000-02592 (2-09), of 2:59 p.m. on 22 March 2000, in which the Constitutional Chamber points out that the right to life ranks at the top of the scale where human rights are concerned.

261. The following programmes and activities are described in Chapter VIII, on the right to health:

- (a) Local commissions on the analysis of infant mortality;
- (b) Primary health care services;
- (c) Prenatal care programmes;
- (d) Postnatal care programmes;
- (e) Vaccination programmes;
- (f) Nutrition programmes;
- (g) Programmes to promote breastfeeding;
- (h) Programmes for teen mothers;
- (i) Food assistance programmes;
- (j) Comprehensive Services Council;
- (k) Parity Council;
- (l) Public and private comprehensive health care centres (CINAI), meal distribution centres, community homes, shelters, NGOs and others).

#### **1. Death, causes of death, suicide**

262. Different studies have shown that traffic accidents, other types of accidents and different types of cancer are the three main causes of death among boys and girls of school age during the first five years of school. Traffic accidents, other types of accidents and different types of cancer are also the main causes of death among young people between the ages of 13 and 17.

263. According to the Department of Statistics of the judiciary, persons under 15 years old account for 1.4 per cent, on average, of the total number of suicides reported between 2000 and 2004. In absolute terms, this means that between 20 and 25 minors commit suicide every year (DHR, 2006:228).

**Absolute number of suicides among persons under age 18**

	2002	2003	2004	2005	2006	2007
Suicides	32	25	20	17	24	18

*Source:* Department of Statistics. Planning. Judicial Branch.

264. The Fifth Report on the Rights of Children and Adolescents shows that in 2000, 16 persons in that age group committed suicide. In 2005, the total number of suicides was 20, one of which was a child between the ages of 7 and 12 (Fifth Report on the Rights of Children and Adolescents, 2006, p. 23).

265. CCSS has set up Child Abuse Research Committees (CENNA), the Domestic Violence Programme-ASE, programmes on children's health and on social work and the Programme on Comprehensive Services to Adolescents. The Epidemiological Analysis and Surveillance Programme manages the information system using the VIF-ASE surveillance protocol that is applied in health-care facilities.

266. Studies conducted in November 2007 by the Directorate for Development of Comprehensive Health Care Services reached the following conclusion: There are A teams (CENNA) in 58.9 per cent of all establishments, 57.1 per cent of national hospitals, 81.8 per cent of clinics in the Metropolitan Health Area, 76.9 per cent of the Health Areas set up under special agreements and 54.4 per cent of all establishments in the regions (hospitals and health areas).<sup>39</sup>

267. The Supreme Court of Justice has reported that in 2002, a total of 19 persons aged between 5 and 17 were victims of murder, and in 2004, the total was 21. Moreover, in those two years, more boys than girls died. Thus, 14 boys and five girls were killed in 2002, and in 2004, 16 boys and five girls were victims of murder.

268. There are no disaggregated data on the incidence of sexually transmitted diseases among minors. At the national level, the Ministry of Health reports the following.

**Incidence of sexually transmitted diseases, by cause****Costa Rica 2002-2006**

(Per 100,000 inhabitants)

Cause	2002		2003		2004		2005		2006	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate	Number	Rate
Gonorrhoea	1 487	36.36	1 190	28.54	1 562	36.77	1 483	34.28	1 684	38.26
AIDS	84	2.05	113	2.710	196	4.613	256	5.92	185	4.20
Syphilis	760	18.58	761	18.25	1 217	28.65	1 265	29.24	1 127	25.60

*Source:* Statistics Unit, Ministry of Health.

**D. Respect for the views of the child**

269. The Children and Adolescents Code stipulates that children and adolescents have the right to express their views on matters that affect them (arts. 14, 60, 105, 107(a), 114, 125 and 158), as well as the right to be heard (arts. 34, 91, 105, 114, 133 and 158) and the right of participation (art. 105). All these rules must be observed in all administrative and judicial processes.

<sup>39</sup> See supplementary annexes in CCSS folder, data on committees to study abused children.

270. Freedom of expression is guaranteed by law in all aspects of their daily life, especially in the family, the community and school. They also have this right as users of all public services and, with the limitations established by law, in all judicial and administrative processes that might affect their rights (Children and Adolescents Code, art. 14).

271. The child must always be informed, in terms that are appropriate at his stage of development, about the grounds for precautionary measures involving separation from his or her family (art. 14).

272. Article 60 of the Children and Adolescents Code regulates the rights of students, especially as regards the right of organization, participation, association and opinion. The right to an opinion, in particular, include the right to express his or her views on the education he or she is receiving.

273. Article 105 of the Code provides that minors shall participate directly in the processes and procedures established in the Code, and their views shall be heard. The judicial or administrative authorities shall always take into account the child's emotional maturity in deciding how to consider his or her views. To that end, the Supreme Court of Justice shall establish appropriate measures for conducting interviews with the support of an interdisciplinary team and in the presence of a judge.

274. Article 107 of the Code provides that in all processes or procedures in which the material provisions of the Code are discussed, minors shall have the following rights:

(a) To be heard in their language, and for their opinions and versions to be considered in whatever decision is reached;

(b) To have a translator or interpreter and to choose one when necessary;

(c) To attend hearings in the company of a social worker, a psychologist or a similar professional or a person the child trusts;

(d) To receive clear and precise information from the judge regarding the meaning of every action that is taken in the child's presence, as well as the content of and the reasons for every decision.

275. Most of the children in Pérez Zeledón feel that their views are not respected; school is the place where they are heard most. They have also indicated that they are heard by their parents, teachers or grandparents.

276. In Siquirres, children indicated that the views of children were respected most in their families, and within the home, their mother was the person who listened to them most. Children in San Carlos said that sometimes they are heard, sometimes not. They are heard the most in their families; their fathers were involved in their work and had many obligations; they had to take their free time for the children. At school, they are not often heard; children are reported on without their views being heard. They are discriminated against by adults (at stores, in line at the movies). They are differently depending on their age, height, skin colour, nationality, poverty and religion.

277. Adolescents in Pérez Zeledón said that they find it easier to express their views to their schoolmates than to their families, and harder at school. They said: "Grown-ups think they were never kids themselves". They said they had few opportunities for participation.

278. In Siquirres, children said they were more respected at home than at school; at school, they expressed themselves, but their views were not taken into account.

279. Fathers and mothers in Pérez Zeledón said that they saw "a world made for adults, on the street they are heard" and that the children's stage of growth and development were not taken into account. Their jobs and other activities interfered with the time they could

spend with their children (Siquirres). “There is authoritarianism in the home and at school; adolescents are not heard at school and in the communities, they must be given opportunities even to make mistakes” (San Carlos). “Mother and especially fathers do not offer children many opportunities for participation” (San José).

### 1. The right to be heard

280. Article 114 of the Children and Adolescents Code covers the right to be heard, as follows: “In processes and procedures in which the rights of minor are discussed, the State shall guarantee: [...] (f) The right to a hearing: In all administrative and judicial processes relating to the rights of this population, their views shall be heard”.

281. The legislation contains many provisions that clearly establish the right of children and adolescents to express their views, to be heard, to participate; nevertheless, children themselves and their parents express different views on how their rights are validated. Some say that they are heard more in their families, others say they are heard more in school, and others, on the street.

### 2. The right to participate in decisions

282. Children and adolescents participate in decision-making in the following venues:

(a) Child Protective Services Boards (National Comprehensive Protection System) (Children and Adolescents Code);

(b) Committees on Protection of the Rights of Children and Adolescents (National Comprehensive Protection System) (Associations Act, opinions of the Office of the Attorney General);

(c) Development Associations (Associations Act, opinions of the Office of the Attorney General);

(d) Council on Teen Mothers (Acts Nos. 7573 and 8312);

(e) Council on Young People (c-3-1) (Act No. 8261);

(f) Trade unions;

(g) Students governments;

(h) Cantonal Committees on Youth ((Act No. 8261);

(i) Consultative Network on Young People (Act No. 8261).

283. The different universities report on research, graduation theses, courses, symposiums, community work, campaigns and other efforts.<sup>40</sup>

284. Respect for the views of the child concerns not only the family but also the different agencies and bodies that are concerned with this population. The State considers that this is one area of the culture in which much remains to be done.

285. Children and adolescents are allowed to participate and express their views directly in administrative and judicial processes. This guarantees that their views are immediate (observing the principle of immediacy of evidence in administrative and judicial proceedings); in other words, it is not mediated by anyone else.<sup>41</sup>

<sup>40</sup> See annexes containing documentary information on the universities.

<sup>41</sup> See also guidelines 45, 55 and 58, on decision-making, freedom of expression and freedom of association.

286. As mentioned above, the views expressed by minors are taken into account (e.g., in the Consultative Network on Young People). They are also able to express their views in connection with the design of public policies on young people.

287. Weaknesses persist, both in theory and in practice, when it comes to allowing young people to express their views in the media and in the different situations that affect them. Despite some commendable efforts and the existence of the aforementioned formal bodies, cumbersome bureaucratic procedures and the fact that children and adolescents have not been accustomed to participating in such forums has meant that there are still not enough opportunities for participation. As a result, most of the existing programmes do not receive feedback from children and adolescents and therefore continue to focus on adults.

## VI. Civil rights and freedoms

### A. Name and nationality

288. Article 13 of the Political Constitution of 7 November 1949 states that: “The following are Costa Ricans by birth [...] (3) A child born in Costa Rica to foreign parents, who is registered as a Costa Rican by the will of either parent during minority or by his own will up to the age of twenty-five”.

289. When a child reaches the age of 12 years, he or she is issued an identity card (c-4-a) for identification purposes, to be used in educational centres and public institutions.

#### 1. Birth registration

290. The major hospitals in the country have assistant registrars who take care of registering most births. Hospital staff are duly informed and sensitized about the procedures that need to be followed.

291. The Civil Registry makes every effort to ensure that all children are registered; accordingly, every two or three months, representatives of this body carry out visits to the areas with the highest density of indigenous populations and remote rural areas.

292. In addition, representatives of the Civil Registry are always available to the persons in charge of health centres in areas with high birth rates. Their assistance is not limited to the process of training health staff and recording information; they also provide advice and information on the observance of the rights established in the Responsible Paternity Act, which makes it possible to investigate the paternity of a child through administrative channels.

293. The Civil Registry has set up a commission to review all legislation that concerns it. The commission is made up of a (female) justices of the Supreme Elections Tribunal, representatives and legal advisors of the Directorate of the Civil Registry. It also reviews election programmes and considers proposals for improving the relevant legal framework for submission to the bodies that must approve them.

	2002	2003	2004	2005	2006	2007
Births registered	73 427	73 110	71 001	72 999	60 642	45 701

*Source:* Supreme Electoral Tribunal.

294. In 2001, proceeding in compliance with Act No. 8101 (Responsible Paternity Act), the Supreme Electoral Tribunal set up the Responsible Paternity Unit as a separate office in the Birth Registrations Section; this Unit is responsible for applying the provisions of the



Responsible Paternity Act. It works for the benefit of children and adolescents under 18 years old without being recognized by the father.

295. At present, only very general information is requested for birth records in order to minimize potential stigmatization. Thus, the data requested are only the names of the father and mother, the child's sex, the date and place of birth, the name of the person who reports the birth and the child's nationality.

296. Adolescents older than 12 are issued a Minor's Identity Card. This is not an official identity card (*cédula*), but it does include all the necessary security features required to enable adolescents between the ages of 12 and 18 to identify themselves at any public or private institutions. The document includes the following: father's surname, mother's surname, name, photograph, date and place of birth, data on both parents, domicile, sex and a bar code which contains the above data as well as those of the fingerprint. Finally, it has security features to verify authenticity.

297. The Minor's Identity Card is useful in educational centres and can be presented for any other situation requiring identification. A proposal was recently made to bring the Minor's Identity Card system in line with the process for issuing identity cards to adults.

298. By vote No. 3698-08<sup>42</sup> (4-02) of 7 March 2008, the Constitutional Chamber found in favour of an appeal for *amparo* brought by an NGO, Aldeas SOS (4-03) against the inclusion in birth certificates of an annotation indicating that the child had been declared abandoned.

## 2. Right to know their father and mother

299. Article 30 of the Children and Adolescents Code establishes the right of minors to know their father and mother, as well as to grow and develop with their parents and to be cared for by them, to remain in the home and not to be expelled from or prevented from returning to their home without a court order.

300. PANI provides services and legal advice to anyone who guarantees the right of minors to know their father and mother. The information system reports the following data relating to paternity investigations (declaration of paternity) and (voluntary) recognitions of paternity by the fathers at PANI headquarters. This information is then recorded by the Civil Registry.

### PANI: Number of responses to requests from minors, by reason for request and gender (2004-2007)

<i>Year</i>	<i>Gender</i>	<i>Recognition of paternity</i>	<i>Paternity investigations</i>
<b>2004</b>		473	401
	Female	220	188
	Male	253	213
<b>2005</b>		403	515
	Female	203	237
	Male	200	278
<b>2006</b>		399	429
	Female	206	196
	Male	193	233

<sup>42</sup> See full text of decision in annex 4-02.

<i>Year</i>	<i>Gender</i>	<i>Recognition of paternity</i>	<i>Paternity investigations</i>
<b>2007</b>		326	496
	Female	166	248
	Male	160	248
<b>Total</b>		<b>1 601</b>	<b>1 841</b>

*Source:* Data supplied by local offices through SRII.

*Note:* The same child may be included in different categories, having requested PANI services for more than one reason.

### 3. Right to a nationality

301. With respect to measures taken to guarantee the right of the child to acquire a nationality, especially when the child would otherwise be stateless and in cases of children born out of wedlock and children who are refugees or requesting asylum, the right of persons to acquire a nationality is established in the Universal Declaration of Human Rights (art. 15), the American Convention on Human Rights (art. 20), the Political Constitution, the Convention on the Rights of the Child and the Children and Adolescents Code.

## B. Right of the child to preserve his or her identity

302. In addition to the protection measures available through the administrative authorities and the courts—the Family Court, the Juvenile Court and the Constitutional Chamber—the administrative appeals procedure (2008) is also available. This is a judicial process for challenging administrative acts. When there has been unlawful interference, minors themselves have the right to bring an action.

303. Abuse of authority is also actionable in criminal proceedings; the victims of unlawful interference may bring a complaint on the grounds that the administrative or judicial authorities have acted arbitrarily without legal basis.

304. Abuse of minors may also be committed by State institutions in any branch (legislative, judicial, executive or the Supreme Electoral Tribunal); however, as noted above, there are mechanisms for self-regulation within and between the branches of government (checks and balances).

305. The Constitutional Chamber, the Office of the Ombudsman and PANI also guarantee the right to an identity.

## C. Freedom of expression

306. Children's right of participation and freedom of expression is enshrined in article 29 of the Political Constitution, which states that "every person may communicate his thoughts verbally or in writing".

307. Article 12 of the Convention provides that children have the right to express their views freely in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child. The Children and Adolescents Code expands on this by guaranteeing the right of persons under 18 years of age to challenge actions that are harmful to them, to participate in processes and procedures that affect them and to have their views considered in any decisions that are taken.

308. The legal system provides opportunities for children and adolescents to participate effectively in social and community life (for example, in children's elections).

309. As noted above, the State provides opportunities for minors to express themselves—both publicly and privately—in the Child Protective Services Boards, Committees on Protection of the Rights of Children and Adolescents, the National Comprehensive Protection System, the Council on Teenage Mothers, the Youth Council, trade unions and development associations<sup>43</sup>, among others.

#### **D. Freedom of thought, conscience and religion**

310. According to data supplied by the Ministry of Education on the right of children to freedom of thought, conscience and religion, a number of activities have been carried out to publicize those rights. Printed materials have been distributed, and training workshops have been held for students, teachers and administrators of educational centres, as well as for technical and administrative personnel in the central and regional offices of the Ministry.

311. As regards freedom of worship, the Political Constitution of Costa Rica stipulates that the Roman Catholic religion is the religion of the State, while at the same time guaranteeing freedom of worship. Accordingly, in the study plan it has developed, the Ministry of Education provides that children who do not wish to attend religion classes may choose other supplementary curriculum activities during class time or engage in activities pertaining to their own religion in coordination with their teacher, their pastor and their parents. These same guarantees apply to any other minority that does not adhere to the Catholic faith.

#### **E. Freedom of association and freedom to hold peaceful meetings**

312. Costa Rica has a wealth of options for social and community organization and has encouraged a culture of participation and social pressure that is expressed differently at different times and in different situations.

313. Article 18 of the Children and Adolescents Code regulates the right of free association. All minors have the right to associate freely with other persons for any lawful purpose, except political activities and activities that are organized strictly for profit. In exercising that right, they may:

(a) Associate with each other and with adults. In the latter case, children under 12 may take part in deliberations only with the right to speak. Adolescents have the right to speak and to vote and may serve on directing bodies, but may never represent the association or take on obligations on its behalf.

(b) Adolescents over 15 years of age may on their own build, register and record associations with the relevant authorities and carry out acts that are strictly related to its purposes. In the associations, they shall have voice and vote and may become members of the directing bodies. In order for these associations to undertake the obligation to purchase property, they must appoint a legal representative who shall have the capacity to participate in civil cases and who shall assume any responsibility arising from those acts.

314. Some public institutions have responded to the challenges posed by the rights approach by promoting alternative ways to encourage institutional participation. Some of these are the National Network for Adolescent Participation; the National Agenda on Children and Adolescents; the National Youth Network for the Prevention of Violence and

<sup>43</sup> See guidelines 45 and 58, on participation in decision-making and freedom of association.

Crime, promoted by the Ministry of Justice; the “Voluntario de la Mano de la Comunidad” programme (volunteers working hand-in-hand with communities), promoted by the Joint Institute on Social Aid (IMAS); the cantonal youth committees; the Network of Young Communicators and others.

315. In addition to the provisions in existing legislation, the Office of the Attorney General has ruled as follows (C-203-2007 of 21 June 2007):<sup>44</sup>

“III.– Conclusions: Given the above, the Office of the Attorney General has reached the following conclusions: 1.– Adolescents may establish a Community Development Association, in which persons over the age of 12 years and under 18 shall have the right to voice and vote. 2.– That persons over the age of 12 years may be members of the directing bodies with the limitation, however, that they may neither represent nor assume obligations on behalf of a Community Development Association.”

## F. Protection of privacy

316. Article 25 of the Children and Adolescents Code establishes the right to privacy:

### Article 25. Right to privacy

Minors shall have the right not to be the target of interference in their private life, family, domicile and correspondence, without detriment to the rights and duties inherent in parental authority.

317. As a result of the entry into force of the Convention and the Code, public and private institutions are not allowed arbitrarily to interfere in the private life of minors. Under the new paradigm of comprehensive protection, State intervention is limited to the situations included in the relevant legal norms and situations in which a minor’s rights have been violated.

318. As noted above, minors may lodge complaints with the competent authorities, including PANI, which is empowered by the Constitution and has the legal authority to impose protection measures when a minor’s rights have been violated or ignored, without prejudice to the application of additional court-ordered protection measures (by the Juvenile Court and the Family Court) once the administrative channels have run their course. This right is also protected in the new Administrative Litigation Procedures Act (in the judiciary).

## G. Access to relevant information

319. The PANI website ([www.pani.go.cr](http://www.pani.go.cr)), which is open to minors and to the general public, includes news items, legislation, jurisprudence, reports of complaints and links to other public institutions and NGOs.

320. In addition, PANI has telephone lines for free consultations on the issue of teen mothers.

321. In the context of the line of action on promotion and prevention of its Institutional Strategy Plan, the local offices of PANI broadcast radio and television programmes to communities, cantons and regions. These broadcasts deal with different issues relating to the rights of minors, such as the right to physical and emotional integrity, adolescent labour and sexual and reproductive rights.

<sup>44</sup> See annex 2-07, Ruling by the Office of the Attorney General.

322. INAMU has set up an Internet portal called the “children’s section” ([www.inamu.go.cr/infantil](http://www.inamu.go.cr/infantil)). This resource was developed with the latest technological tools to facilitate interaction with children through games that help them learn about the institution and, in particular, their rights as children.

323. The theme of the interactive module designed by INAMU, which focuses on rights, diversity and inclusion, is “the power of our rights”. The local offices of INAMU also distribute printed materials designed to help children learn through games that are posted on the website.

324. CCSS also has a website that provides information and the means for submitting complaints ([www.ccss.go.cr](http://www.ccss.go.cr)). The website has a special section for children and adolescents.

325. The health system has a website ([www.binasss.sa.cr](http://www.binasss.sa.cr)) that includes a section for adolescents and a directory of officials who provide liaison with the Comprehensive Assistance for Adolescents Programme. It also includes information on the “Cuenta Connigo” (“you can count on me”) helpline, a newsletter, news on the programme and assistance for adolescents and their parents.

326. The Ministry of Health also makes available to minors information on legislation, statistical data, lodging complaints and other issues of concern to them ([www.ministeriodesalud.go.cr](http://www.ministeriodesalud.go.cr)).

327. The Ministry of Labour has a website ([www.ministrabajo.go.cr](http://www.ministrabajo.go.cr)) that is accessible to minors and provides information on their labour rights.

328. Another resource for adolescents is the website [www.personajoven.racsa.co.cr](http://www.personajoven.racsa.co.cr), *La persona joven* (Young people), which contains information on their rights.

## 1. Protecting children from harmful information and material

329. Regarding the dissemination of material that is harmful to children and adolescents, the country has a Commission on the Control and Rating of Public Entertainment, which is governed by Act No. 7440 and the regulations thereto in Decree No. 26937-J of the Ministry of Justice and Pardons. The Commission monitors television programming, movies and videos (among other things). It reviews these materials in advance, before they are disseminated.

330. The Costa Rican State is committed to adapting its legislation to the needs of a society in which increased access to the media makes it necessary to take steps to protect its children. Accordingly, two executive decrees were issued in April 2004 in order to guarantee the right of children to be protected from harmful materials.

331. The first one was Decree No. 31763, regulating establishments that offer public Internet service. The idea is to prevent access to pornography and material that is unsuitable for minors in Internet cafés or similar establishments. These regulations provide for identifying (through signage) those businesses that take the necessary measures and service that is free of access to pornography.

332. The second one is Executive Decree No. 31764, regulating the operation of video and game arcades and rate games according to level of violence. This decree makes it compulsory for distributors and points of sale to follow the ratings established by the General Act on Public Entertainment to regulate access by minors.

## 2. Regulating the media

333. In fulfilment of its duty to combat the improper use of a child’s image, PANI has continued to act on complaints received from different sectors, in particular with regard to

the exposure of children in news reports and the use of their image in advertising or other commercial activities.

334. In the case of news reports, the over-exposure of children's images has continued, and in the case of commercial activities, their image has been used to promote private programmes and fund-raising campaigns.

335. The Executive Presidency of PANI recently developed a series of editorials designed to raise awareness and inform the different media of the rights of children and adolescents, stressing the media's great responsibility to protect and protect the human rights of the child.

336. Protection measures have also been established by the administrative authorities to prevent over-exposure of a child's image and requesting that the media abstain from continuing to violate the rights of minors.

## **H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment**

337. As mentioned in the third report, the Costa Rican legal system includes specific provisions, in both the Criminal Code and the Children and Adolescents Code, for establishing the responsibility of public officials and the general population to guarantee the right to physical and emotional integrity and prevent cruel and degrading treatment.

338. On the question of violence against children, the Office of the Ombudsman has also received a large number of complaints and queries from children and adolescents regarding problems in schools and mistreatment by teachers.

339. In light of the above, as mentioned in chapter III, PANI published a pamphlet for educators entitled *Procedimientos legales que deben seguir los centros educativos en Costa Rica para cumplir con lo estipulado en el Código de Niñez y Adolescencia* (Legal procedures that must be followed by educational centres in Costa Rica to comply with the provisions of the Children and Adolescents Code). This pamphlet, which focuses on the rights approach, discusses the following subjects:

- (a) Proper observance of and respect for the rights and guarantees of children and adolescents;
- (b) Provisions for safeguarding the integrity of personnel of educational centres;
- (c) Current legislation and action to be taken in cases of children dropping out of school;
- (d) Preventing sexual harassment and sexual abuse of children and adolescents.

### **1. Abolition of corporal punishment**

340. The Children and Adolescents Code provides that directors and personnel responsible for public or private educational centres or any other place where minors stay or are cared for are required to report to the Office of the Public Prosecutor "... all cases in which there is reasonable suspicion of mistreatment or abuse against them", subject to the sanctions mentioned in the Code.

341. Article 134 of the Code stipulates that if the administrative authorities have evidence of the existence of signs of mistreatment or abuse against a minor, they may immediately present a criminal complaint. Persons or institutions acting to protect minors may not be sued, even in the absence of a conviction.

342. The new administration of PANI is working through community projects organized by PANI and by the Child Protective Services Boards to promote a change of culture regarding corporal punishment. The goal is to raise awareness at the local level about alternative ways to discipline children and to teach that corporal punishment is not the only solution.

343. Given that corporal punishment is, unfortunately, still applied in the country, an educational programme for parents is being designed, in coordination with other institutions, with a view to carrying out, on a regular basis, a series of actions aimed at strengthening families so as to enable them to deal appropriately with disciplinary problems with due regard for the rights of children and adolescents.

344. Dissemination campaigns are an important part of the effort to eliminate corporal punishment of children and adolescents in Costa Rican society.

345. In its annual report for 2004-2005, the Office of the Ombudsman (c-4-i) reported that beginning in June 2004, the Directorate for Children and Adolescents of that agency had conducted a campaign to abolish corporal punishment of children and adolescents. It had received assistance for the campaign from Save the Children, a Swedish NGO.

346. The objectives of the campaign were:

(a) To contribute to the construction of a tolerant and peaceful society that respects the human rights of children and adolescents;

(b) To raise awareness among the population of the need to abolish corporal punishment of children and adolescents;

(c) To encourage people from different sectors of society to join the campaign to the extent that they are able and willing;

(d) To promote adoption of the bill on the abolishment of corporal punishment of children and adolescents (legislative file No. 15341).

347. The bill on abolition of corporal punishment (now Act No. 8654) was proposed by the Office of the Ombudsman under the title "Act on the abolition of corporal punishment of children and adolescents". It was approved in the Standing Committee on Youth, Children and Adolescents and sent to Plenary as file No. 15341. The initiative was introduced by deputies Guido Vega Molina, Joyce Zurcher Blen and others.

348. With the adoption of Act No. 8654, Costa Rica complied with the recommendation of the Committee on the Rights of the Child, thus contributing to the reduction of physical abuse of minors.

349. Another important achievement, in which INAMU is also involved, is that in addition to the psychological counselling offered to children who are victims of domestic violence, the system of shelters has been changed so that now the centres that provide shelter for women who are victims of domestic violence also take in the children of these women. With this approach, more comprehensive services are provided to family groups.

## **VII. Family environment and alternative care**

### **A. Parental guidance**

350. When asked, the children who were consulted about the report said that their parents bear the main responsibility for protecting them: "Parents have the duty and right to take care of us, protect us from danger, take care of us when we are sick, maintain a home,

provide clothing, make sure that we have and can meet friends, educate us, make our lives easier, help us with homework, give us advice, teach us how to be on our own, support us, help us to be responsible, teach us values and teach us to practice a religion” (Pérez Zeledón). The parents of Pérez Zeledón see themselves as bearing the main responsibility, but with support from the State. And when parents are absent, children are likely to end up living in the street (Siquirres and Ciudad Quesada).

351. PANI has drawn up a comprehensive strategic institutional plan<sup>45</sup> for building the capacities of children and adolescents and providing them with greater opportunities. This plan places the family at the centre of social policy on children and adolescents and upholds the principles set forth in the Convention, including the principle of non-discrimination and non-exclusion on any basis whatsoever. The institutional principles put forward in this plan focus on the protection of the family as the natural, fundamental unit of society and the most suitable environment for a human being’s integral development. The description of the plan’s core elements states that the focus is on the restitution of rights and comprehensive services to support persons whose rights have been violated, their families, and their community support networks. The plan recognizes the family environment as playing a fundamental role in guaranteeing —and, if the case arises, restoring— the rights of minors. It characterizes prevention as involving the use of institutional and all other resources that may be made available for the comprehensive protection, defence and safeguarding of the rights of minors and their families. The overall objective is to reinforce preventive measures within the framework provided by families, communities and public and private institutions as a means of reducing the risk factors for rights violations and promoting their protection.

352. The PANI Cultural Centre has a programme under which advisory services are provided to families and to the staff of programmes for children and adolescents (the report on the work of the Cultural Centre is included in the annexes).<sup>46</sup>

353. The Ministry of Education and CCSS have institutional plans and programmes that provide advisory services to families, parents, caregivers and guardians. These initiatives include the School for Parents, as well as workshops, training events, campaigns and other programmes.

354. Institutions that serve minors, such as the Ministry of Education, Ministry of Health, CCSS, IMAS and the Ministry of Public Security, run training programmes for their staff and programmes for the community, parents and minors.

355. PANI has assisted CNNA with programmes and projects focusing on the following subjects:

- (a) Supportive child-rearing techniques for the development of young persons;
- (b) Shared parental responsibility and desirable forms of parenting;
- (c) Protection against violence.

356. Under the 2002-2006 Administration, a number of regional agreements on these issues were concluded.

357. Participants in the Seventh Ibero-American Conference of Ministers and Senior Officials on Child and Youth Issues, held in León, Spain, on 26 and 27 September 2005, agreed: “To strengthen the family through policies and programmes on services for children and adolescents with a view to providing families with the opportunities and conditions

<sup>45</sup> See the supplementary annex (folder on the PANI institutional strategic plan).

<sup>46</sup> See the information on PANI (Cultural Centre) in the annex.



required for them to fulfil their role as a fundamental unit and to align the working lives of family members with guarantees and protection for the rights of children and adolescents”.

358. At the thirty-ninth meeting of the Central American Council on Social Integration, the Council of Ministers agreed: “To incorporate family matters into a Meso-American approach to issues of concern, while taking into account the special features of each country, in order to arrive at a definition of the family and to establish networks, mechanisms or instruments to safeguard it”.

359. All State-run programmes and projects whose objectives relate to children and adolescents take the role of their families into consideration.

360. One of the main focuses of the public policy proposal concerning children and adolescents is on means of strengthening the family and its role in protecting children and adolescents.

361. Item 4 (p. 32) of the Public Policy on Youth, which covers the 12-18 age group, establishes the specific objective of promoting the family as a fundamental value of society and the right of young people to live with their families in a healthy manner, without violence, with love, support, stimulation and within a framework of respect and recognition of their rights.

362. IMAS has also conducted activities, projects and programmes to strengthen the family.

363. The 10 regional bureaus held meetings to provide information and training to families regarding their responsibilities in monitoring the services provided to their sons and daughters. Various methods were used to gather their views concerning the quality of the services they had received. IMAS sees the family as having an essential responsibility, one that it cannot delegate to any other person or agency, towards the children in that family and assigns the family a central role in ensuring that they receive the proper assistance.

364. Almost all of the regional IMAS bureaus succeeded in conducting workshops to raise the awareness of families with under-age children and provide them with training (e.g., “Educa sin Pegar” (raising children without violence), workshops on domestic violence and inner healing, prevention of child abuse and victim assistance, nutrition, recycling, and questions relating to the stimulation of language and communication skills).

365. These events are either organized directly by IMAS staff or are carried out in coordination with public and private universities, public institutions and private organizations that provide facilitators or volunteers who are also involved in service delivery, teaching and leisure activities for these children. These activities help to improve family life and the services received by children in Community Homes.

366. All of the above parental guidance programmes and projects are conducted on a non-discriminatory basis while bearing in mind the best interests of the child and respecting the child’s views.

367. Adolescents in the San José Region stated that they see people being discriminated against people because they have disabilities or because of their ethnicity, nationality or physical appearance; many foreigners face rejection.

368. The opinions expressed by these adolescents would appear to indicate that, despite institutional efforts, discriminatory cultural patterns continue to exist.

369. People’s rights may be violated in the home, the community or at school. PANI works within these settings to guarantee the right to life, survival and development. The data provided by the PANI information system are as follows.

**PANI: Cases involving minors, by sex and by cause (2004-2007)**

<i>Year</i>	<i>Sex</i>	<i>Domestic conflicts</i>	<i>Community disputes</i>	<i>Conflicts at school</i>	<i>Conflicts between minors</i>
<b>2004</b>		16 711	1 257	823	231
	Female	8 494	621	326	97
	Male	8 217	636	497	134
<b>2005</b>		16 775	1 087	712	117
	Female	8 448	507	304	49
	Male	8 327	580	408	68
<b>2006</b>		17 599	1 328	850	123
	Female	8 762	583	332	53
	Male	8 837	745	518	70
<b>2007</b>		17 391	1 621	1 105	265
	Female	8 859	824	447	119
	Male	8 532	797	658	146
<b>Total</b>		<b>68 476</b>	<b>5 293</b>	<b>3 490</b>	<b>736</b>

*Source:* Data provided by local offices of the Service Research and Innovation Institute (SRII).

*Note:* A minor may have received assistance as a result of multiple factors.

**B. Parental responsibilities**

370. Under the Responsible Paternity Act, by Accord No. 04-08-01,<sup>47</sup> CNNA established an inter-agency committee to develop policy guidelines to support responsible parenting; INAMU serves as the technical secretariat for the committee, which also works to encourage mothers and fathers to share child-raising responsibilities (c-5-b).

371. The technical management team of PANI is also working on a project with the Wen Institute (a private organization) to explore male gender roles as they relate to the services which the institution provides. The aim is to provide knowledge and information about the institution's operations to those of its staff members who are responsible for providing advisory services and guidance to fathers and mothers.

372. The Supreme Elections Tribunal has furnished the following statistics on procedures for establishing paternity.

	2002	2003	2004	2005	2006	2007
Applications for paternity tests (DNA testing)	1 007	931	1 652	1 543	1 419	600
Number of tests conducted	N/A	390	1 622	1 221	1 063	476
Number of positive results	N/A	334	1 351	584	1 256	124

<sup>47</sup> Act No. 8101 states:

“To establish the Committee on Responsible Paternity, as an ad hoc working committee of CNNA in accordance with article 176 of the Children and Adolescents Code. INAMU will be responsible for the technical coordination of the Committee, which will be composed of representatives of the following bodies: Ministry of Education, Ministry of Health, Ministry of Culture, Youth and Sports, PANI, CCSS, INAMU, the National Council of Rectors and three representatives of international organizations.”

373. The Responsible Paternity Act (Act No. 8101 of 27 April 2001)<sup>48</sup> brought about a fundamental change in the way that Costa Rican society goes about determining a child's paternity:

(a) Responsibility for initiating legal proceedings is shifted to the other party. Prior to the enactment of this law, a mother had to file a suit in order to establish a child's paternity. Under the current law, a mother has the right to indicate who the father may be and to register the child under the last names of the presumed father by means of an administrative procedure.

(b) The Civil Registry then initiates a set administrative procedure to notify the presumed father that he has been identified as such by the mother.

374. Prior to passage of the Responsible Paternity Act, a mother was not legally authorized to state the name of the biological father of her child unless she was married to him. The Civil Registry would not even take down a statement regarding the father, much less record any information about him. With the entry into force of Act No. 8101, a mother may identify the biological father, after which the Registry establishes paternity as soon as possible in order to ensure that the child will have the rights associated with that relationship.

375. This law is intended to provide children with greater protection and to help to ensure that fathers (together with mothers) take care of their children as provided for in the Convention on the Rights of the Child and the Children and Adolescents Code, which state that all children have the right to know who their father and mother are, to grow up by their side and to be cared for by them.

376. The law therefore promotes shared responsibility on the part of the mother and father.

377. INAMU plays an important role as the technical secretariat for the Commission on Responsible Parenting, which was set up by CNNA to provide technical coordination. INAMU structures the work of the organization on the basis of a thematic approach for designing identity-building activities for children and adolescents. A special budget allocation has been established for this area and for the Identity-Building and Life Plans Programme.

378. In order to support fathers and mothers in playing a proper role as parents (parental authority), PANI, the Office of the Ombudsman, the PANIAMOR Foundation and Save the Children have undertaken a wide range of joint initiatives relating to corporal punishment that have played a crucial role in the passage of the law on that subject and the promotion of child-rearing models and patterns based on the co-responsibility of mothers and fathers.

379. All the institutions of the Government of Costa Rica have assumed responsibility within their particular spheres of action for guiding fathers and mothers in the performance

<sup>48</sup> The steps to be taken are: "1.- The Civil Registry records the birth under the mother's last names. 2.- It notifies the presumed father, in person, of the attributed paternity. 3.- He is given 10 working days in order to: a.- Acknowledge that the child is his, in which case the child is registered under his last names. b.- Request a DNA or genetic marker test, which will be conducted in a CCSS laboratory that is certified by the National Laboratory Certification Agency. c.- If he does not respond within 10 days, paternity is presumed. 4.- If he requests a DNA test, the following events may occur: a.- If the test results are positive, the Civil Registry enters the child in the register under the father's last names. b.- If the presumed father does not show up for the test or refuses to undergo it, the Civil Registry will enter the child in the register under the father's last names, provided that the mother and child have shown up for the test. 5.- The father is responsible for providing child support from the moment that the child's name is entered into the register by the Civil Registry".

of their roles. For example, the Ministry of Education has annual plans and programmes that focus on the performance of parental duties.

380. Single-parent families and those living in extreme poverty are targeted in the 2006-2010 National Development Plan and are a special focus of social and anti-poverty programmes.

381. The housing solutions and subsidies provided to poor families during the reporting period which have benefited minors are as follows.

	2002	2003	2004	2005	2006	2007
Housing solutions for women heads of household	4 198	3 741	4 808	4 273	3 837	2 824
Number of subsidies granted	10 095	10 351	16 133	13 351	11 451	8 278

*Source:* Ministry of Housing and Human Settlements.

382. IMAS<sup>49</sup> provides subsidies and resource transfers to parents and public and private agencies to support paternal, maternal and family role performance. The economic assistance provided to these families (which are living in poverty) is channelled through annual programmes and projects such as the Community Homes Programme, which provides day-care services. During working hours, families can leave their children in the care of a CAI-certified female care-giver.

383. The Community Homes provide comprehensive care, which includes stimulation, meals, guidance, recreation and sports activities. Each of these facilities cares for a maximum of 10 children.

384. In 2006, IMAS served approximately 57,578 families through its various programmes and projects. In some of these programmes, participants must fulfil certain requirements (which are designed to improve their living conditions and help them escape poverty) in order to be eligible for benefits. A total of 11,940,296,653.00 colones was invested in these initiatives, which include components on satisfaction of basic needs, capacity-building for women, options for child and adolescent development, emergency assistance, training opportunities, production ventures and housing improvements. An additional 463,470,000 colones was invested in the Avancemos Programme, which assisted 8,137 young people, for a grand total of 12,403,766,653.00 colones.

385. In 2006, 1,485,000,000 colones in subsidies for some 5,000 children were programmed; day-care services were provided for 4,248 children at a cost of 1,178,043,900.00 colones. A total of 1,266,418,128 colones was disbursed to subsidize housing repairs for 1,171 families throughout the country.

386. Under the CINAI comprehensive day-care programme of the Ministry of Health, working parents can leave children under 6 years of age in the care of a public institution during working hours. The CINAI centres, which have greater coverage than the Community Homes Programme does, provide early childhood stimulation, meals, childcare and recreation.

387. These services are in addition to the other programmes and projects mentioned in this report, such as the CCSS Comprehensive Assistance for Adolescents Programme, which includes components on parental guidance and instruction.

<sup>49</sup> See annex 5-01 on IMAS expenditures during the reporting period on programmes for families, children and adolescents.

## C. Separation from parents

388. In Costa Rica, the administrative procedure that is followed before deciding to separate a child or adolescent from his or her family environment provides for the following safeguards:

(a) Protective options are to be employed only when a child or adolescent is exposed to serious threats to his or her physical or emotional well-being within the family.

(b) Whenever possible, the child or adolescent is to be placed in alternative protective family and/or community environments.

(c) Steps are to be taken to prepare the child or adolescent for entry into and departure from the different alternative protective environments, with due consideration being given to his or her age, characteristics and family circumstances.

(d) When at all possible, siblings are to be kept together. In very specific types of cases when this is not entirely feasible, efforts are to be made to at least maintain and strengthen their ties.

(e) Cases of institutionalization or separation from the family group are to be maintained under constant review in order to ensure that as little time as possible is spent in such alternative care arrangements.

(f) In order to respect the child's or adolescent's cultural context, he or she should be placed in an alternative protective environment in the area that he or she comes from, provided that this is in the child's or adolescent's best interests.

389. Article 129 of the Children and Adolescents Code governs the special administrative protection proceedings to be carried out by the local offices of PANI. These administrative judicial proceedings are based on defined principles, guarantees and due process.

390. The only protection measures provided for in such administrative proceedings that involve a child's separation for his or her parents are temporary shelter and provisional care measures, both of which are subject to a six-month time limit. The minor's social and legal situation is to be determined within that six-month period, unless an extension is issued by the corresponding judicial authority. Temporary shelter and provisional care measures were ordered in a total of 933 cases in 2004, 756 cases in 2005, 699 cases in 2006 and 431 cases in 2007.<sup>50</sup>

391. The PANI information system indicates that there have been a total of seven cases involving members of Afro-Caribbean or indigenous ethnic groups.<sup>51</sup>

392. In 2002-2006, a total of 3,731 children and adolescents were able to return to a strengthened home environment following therapeutic interventions that succeeded in resolving the situation that had initially placed them at risk.

<sup>50</sup> See annex 5-02 of this chapter for a table showing region- and sex-disaggregated data.

<sup>51</sup> See annex 5-03 of this chapter for a table showing region- and ethnicity-disaggregated data.

**Public and private institutional alternative protective environments**

<i>Year</i>	<i>PANI shelters</i>	<i>NGO day-care arrangements</i>	<i>NGO residential arrangements</i>	<i>Total</i>
2002	No systematized reporting	No systematized reporting	63	
2003	23	44	63	130
2004	35	26	64	125
2005	35	39	59	133
2006	36	39	59	134
2007	36	39	57	132

393. The system was started up in March 2002, when figures on the population being served by NGO residential arrangements were updated.

394. Minors in alternative protective environments: see below for data on minors by year, age group, disability status and sex (paras. 444 et seq., below).

**1. Judicial oversight and review of protection measures**

395. As noted earlier, in accordance with articles 140 et seq. of the Children and Adolescents Code, once administrative procedures (administrative judicial proceedings) have been exhausted, cases are heard by the courts. Such court proceedings are governed by the above-mentioned principles and guarantees.

396. The special administrative protection proceedings conducted by the local offices of PANI may order the application of the protection measures listed in articles 135 to 137 of the Code. These proceedings neither take the place of nor have the effect of suspending judicial proceedings concerning paternity or parental authority (Children and Adolescents Code, art. 142).

**2. Participation in administrative and judicial proceedings**

397. Minors are guaranteed the right to take part in administrative or judicial proceedings and to have their views heard in accordance with articles 105, 107 and 128 of the Children and Adolescents Code.

398. Minors are to play a direct part in the procedures and proceedings provided for in the Code, and their views in that respect are to be heard. The judicial or administrative authority concerned is to take the minor's stage of emotional maturity into consideration when determining how the minor is to make his or her views known. The Supreme Court establishes the appropriate means of carrying out a meeting or interview for that purpose with support from an interdisciplinary team and in the judge's presence.

399. The principles upon which the administrative proceedings are based are to be applied in a manner that upholds the best interests of the minor concerned. The Government is responsible for guaranteeing the principle of the defence of the minor's best interests and due process.

**3. Contact between the minor and family members**

400. When minors are separated from their families, they have the right to maintain contact with family members unless this would not be in their best interests. The Constitutional Chamber of the Supreme Court has ruled that, in such cases, the local offices

of PANI must issue a reasoned decision which states the grounds for restricting this fundamental right.<sup>52</sup>

401. Minors who do not live with their families have the right to be in contact with the people in their family circle with whom they have emotional ties and any decisions in this respect must take into account their personal interests. The grounds for suspending this right must be presented to a judicial authority (Children and Adolescents Code, art. 35).

402. A minor also has the right to have his or her views heard in these cases.

403. Costa Rican law provides for due process guarantees and for the right of fathers, mothers and minors to a hearing. It also provides that judicial officials (administrative and judicial proceedings) are to provide all relevant information to the minors and other legitimate parties concerned. In the rare cases in which it would not be in the minor's best interests to furnish information to the parties about the situation that is being investigated, the Government may classify the requisite portions of the file as confidential. Its authority to do so has been confirmed by the Constitutional Chamber of the Supreme Court, which has ruled that this does not infringe the right to a defence, since it is a measure that is taken in order to protect the minor concerned.<sup>53</sup>

404. When PANI receives a complaint, the local office determines the nature of the situation, hears the views of the parties concerned, compiles any evidence that they may provide and then immediately proceeds to order the appropriate protection measures. The procedure followed by the local office is summary and informal and ensures that the views of the minor concerned are heard (Children and Adolescents Code, art. 133).

405. Article 107, subparagraph (d), states that it is the duty of the judge to provide the minor concerned with a clear, accurate explanation of the meaning of each of the actions taken in the minor's presence, the reasons for each decision and each decision's significance.

#### **4. Deportation and asylum**

406. In 2006, there were a total of 41,651 rejections and 593 "deportations" (5-04). The annex to this chapter provides statistics<sup>54</sup> on rejections and deportations (of adults) from 2000 to 2006. It should be noted that Costa Rica does not deport minors. When an underage migrant is leaving the country, PANI coordinates with the Directorate-General for Migration and Alien Affairs to ensure that the appropriate arrangements are made with the counterpart authorities in the minor's country of origin, including all the necessary safeguards required to make certain that his or her departure is conducted on the basis of all

<sup>52</sup> Judgement No. 0101-05: Visitation – minors. For over two years, PANI did not permit a person to see her daughter and grandchildren, who are residing in a facility of that institution. The appeal was admitted. The Coordinator a.i. of the local PANI office was ordered to immediately take all necessary steps to submit the administrative decision to prohibit the appellant from having contact with her daughter to the Family Court of the Second Judicial Circuit Court of the Atlantic Region, Guápiles, so that the Court could review it and rule on the matter. Upheld.

<sup>53</sup> Judgement No. 247-07: Confidentiality of complaints received by PANI. The appellant argued that PANI authorities refused to disclose the content of the complaint lodged against Disciples Mission International even though the appellant's children had been summoned by PANI so that they could be interviewed as part of those proceedings. PANI had classified the files on the complaint against Disciples Mission International as confidential because it feared that the complainants might be harmed or reprisals taken against them by that organization. The grounds for such a determination are set forth in article 273 of the Public Administration Act. Decision No. 8134-00 was issued in this case. Denied.

<sup>54</sup> See annex 5-04.

the necessary guarantees and protection measures as established in the corresponding internal and inter-agency protocols.<sup>55</sup>

407. As noted earlier, there have been no asylum cases involving minors.

408. In the case of underage migrants, whether accompanied or unaccompanied, the authorities are required to immediately notify PANI, which is the agency responsible for taking care of such minors and arranging for any alternative protection measures within the framework of the corresponding administrative procedure. Many of these cases involve unaccompanied adolescents who have been taken in by PANI and placed in one or the other of its alternative protective environments. This has been judged to be the most appropriate approach to ensure the child's rights in such cases, since PANI is the institution that specializes in this area.

409. Difficulties have been encountered in the repatriation of minors to certain countries. Standardized international and regional mechanisms based on good practice in this respect need to be established.

#### **D. Family reunification**

410. Minors are guaranteed the right to enter and depart from the country for purposes of family reunification, in keeping with the safeguards established for that purpose. When the parents or parent, as the case may be, consent(s) to the departure from the country, the persons concerned are required to appear before the Migration Directorate.

411. In 2008, PANI issued new regulations concerning departures from the country.<sup>56</sup> These regulations are intended to ensure a safe departure and return and to protect all of the rights of minors, bearing in mind the need to act in their best interests. The local PANI office responsible for handling such cases is the one located the nearest to the domicile of the minor in question.<sup>57</sup>

412. These regulations apply to three types of cases:

(a) When one of the persons with parental authority over the minor concerned or who is the minor's legal guardian has expressly stated that he or she is not in agreement;

(b) In the case of a prolonged absence of one of the parents or legal guardians of the minor concerned;

(c) Emergencies.

413. No asylum applications for minors have been submitted in Costa Rica.

414. Asylum procedures are set out in the *Handbook on Procedures and Criteria for Determining Refugee Status* published by the United Nations High Commissioner for Refugees in connection with the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967.

415. Minors have the right to maintain contact with both parents. This fundamental right may be restricted only if a duly reasoned decision has been issued by the administrative authorities.<sup>58</sup> PANI is authorized to order the suspension of visitation rights until the competent judicial authority can issue a ruling on the matter (Children and Adolescents

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<sup>55</sup> The two protocols (the PANI internal protocol and the protocol for inter-agency coordination) are provided in annexes 5-05 and 5-06, respectively.

<sup>56</sup> See annex 5-07 for the relevant regulations.

<sup>57</sup> See annex 5-22 for information on departures from the country processed by PANI.

<sup>58</sup> See the case law regarding visitation cited in Directive No. 71.



Code, art. 131). In order for this basic right to be suspended, social risk factors must be present; those factors are set out in articles 158 and 159 of the Family Code, which establishes the circumstances under which parental authority may be suspended or terminated.

### 1. Departure from the country

416. The Directorate-General for Migration and Alien Affairs monitors departures by minors from the country very closely in order to ensure that they are able to leave and enter the country safely. The measures which it takes to monitor such movements include the following:

417. The Directorate-General for Migration and Alien Affairs has a special service desk for minors at the airport.

418. The Directorate has a database in which it centralizes information on minors who leave the country. This information includes their destination, persons accompanying the minors, their age, the names of their parents, birth records and other data.

419. The Directorate has an administrative unit that is in charge of processing regular authorizations (those not opposed by one of the parents, cases in which neither parent is absent, etc.).

420. The Directorate staff are specialists who have received training in subjects relating to child and adolescent issues.

421. PANI and the Migration Directorate work in close coordination in dealing with departures from the country.

422. In 2002-2007, the Directorate-General for Migration and Alien Affairs of the Ministry of the Interior, Police and Public Security processed a total of 111 complaints concerning illegal departures from the country by minors.

423. During that same period, the Directorate received a total of 885 alerts from parents or legal guardians who suspected that there was an intention to leave the country illegally.

424. In addition, in an effort to prevent illegal departures by minors, the Directorate processed a total of 22,587 temporary permits and 153,701 permanent permits for departures by minors.

	2002	2003	2004	2005	2006	2007
Number of passports	N/A	N/A	19 000	21 000	25 000	20 000
Consular documents	N/A	N/A	960	1 244	1 359	798
Complaints regarding illegal departures	60	48	NO	1	1	1
Revocations submitted by parents or guardians	30	61	111	121	135	147
Number of departure alerts	N/A	71	120	126	196	372
Temporary permits	81	5 343	6 239	5 594	3 476	1 854
Permanent permits	21 253	30 395	28 130	29 389	26 727	17 807

*Source:* Directorate-General for Migration and Alien Affairs (File No. GM-307-2007).

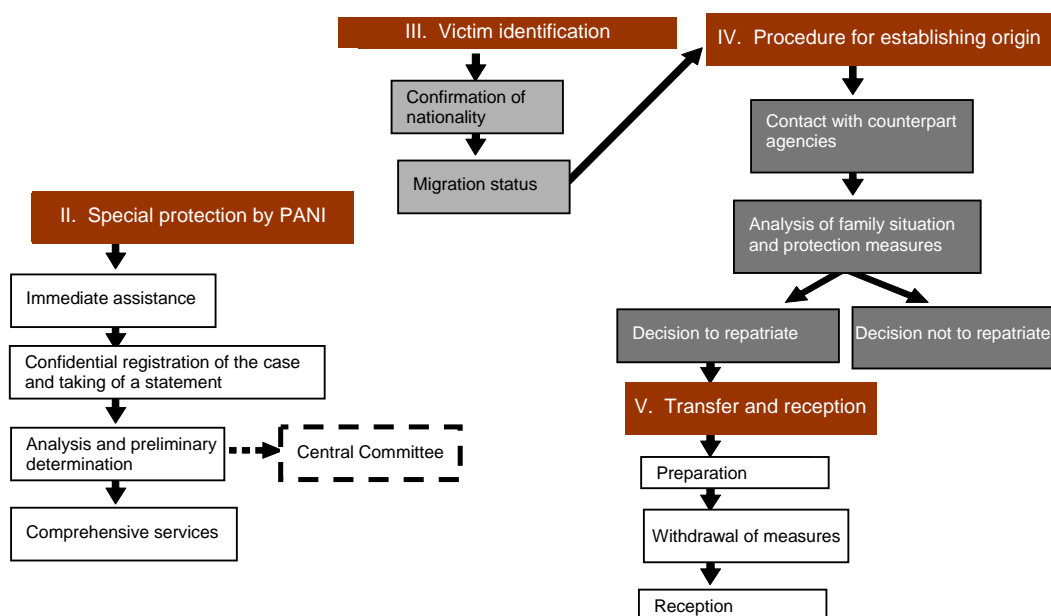
N/A: Not available.

425. The new Migration Act and its amendments, the amendment to the provisions of the Children and Adolescents Code concerning minors' departures from the country and the new regulations concerning departures from the country are all advances in this area.

## E. Illegal departures and wrongful restraint

426. The Costa Rican National Coalition against Migrant Smuggling and Human Trafficking (decree establishing the Coalition and its amendments Nos. 32824 and 34199)<sup>59</sup> was established in 2005 and is headed up by the Ministry of the Interior. The Coalition works to define, coordinate and implement a national action plan to prevent, combat, punish and eradicate trafficking, protect victims and effectively prosecute traffickers. Cases of trafficking that have occurred in Costa Rica have concerned persons of Chinese, Guatemalan, Ecuadorian, Nicaraguan and other nationalities.

427. The country also has the PANI protocol for dealing with cases of minor victims of trafficking, as well as other instruments, such as regional guidelines on the repatriation of trafficking victims and members of vulnerable population groups and an inter-agency protocol for coordinating repatriation services for child and adolescent trafficking victims. The procedure for assisting victims is mapped out below.



428. A description of the procedures provided for in the inter-agency protocol are supplemented by a practical handbook on inter-agency coordination.

429. A particularly important preventive and informational effort has been deployed by the anti-trafficking campaign headed up by the singer Ricky Martin. This campaign informs people about the risks of trafficking and encourages them to report any cases of trafficking through the PANI link to the 911 hotline.

430. This service, which has been publicized since February 2007 had, as of 31 May 2008, received a total of 43 reports, which were referred to the Office of the Prosecutor for Sex Offences for investigation. In those cases where the minor trafficking victim could be identified, the victim has received comprehensive assistance from the network of 41 local offices located throughout the country.

<sup>59</sup> For the texts of these decrees, see annexes Nos. 5-08 and 5-09.

431. In order to implement the Committee's recommendations regarding measures to combat trafficking and smuggling for purposes of sexual exploitation,<sup>60</sup> the Government of Costa Rica has drawn up the National Anti-Trafficking Plan<sup>61</sup> of the National Coalition against Migrant Smuggling and Human Trafficking.

432. In order to be able to follow up on complaints concerning the disappearance of minors and have a means of disseminating basic information for use in the search for such persons more rapidly and widely, an agreement has been signed with the International Centre for Missing and Exploited Children by the Judicial Investigation Department, the Ministry of Public Security and PANI.

433. Costa Rica is therefore part of the worldwide network maintained by the International Centre for Missing and Exploited Children of the United States, which has a website on which information concerning minors who have disappeared is posted.

434. Another initiative that has been taken in the campaign against the sexual exploitation of children is the establishment of a link with the Portal Red Latinoamericanos Desaparecidos (portal of the Missing Latin Americans Network) ([www.latinoamericanosdesaparecidos.org](http://www.latinoamericanosdesaparecidos.org)). This site posts pictures of missing persons, classified by age and sex. The number of cases of missing children that were reported through this system rose from 20 in 2004 to 305 as of November 2006. The Judicial Investigation Department has the means to apply age-progression techniques to the photographs of missing children.

435. The country has been participating in the Subregional Project for the Prevention of Trafficking being conducted by the Costa Rican office of UNICEF. This project has produced a preliminary repatriation protocol for the Central American countries and Panama, as well as an inventory of projects and activities being carried out by NGOs and cooperation agencies.

436. The participants in the Regional Conference on Migration have also approved regional guidelines for the protection and return of child and adolescent victims of trafficking. Those guidelines are to be submitted to the deputy ministers taking part in that forum for their approval in March 2007.

437. Another legal instrument for preventing illegal transfers is the Inter-American Convention on the International Return of Children (Act No. 8032), which establishes flexible, efficient mechanisms for returning minors to the country from which they have been taken without the consent of one of their parents.

438. The Directorate-General for Migration and Alien Affairs has reported that it undertook the following training programmes during the period under consideration in order to improve the services being provided to underage victims:

- (a) Human Rights Training and Awareness-Raising Project for Minors (420 participants in 2002-2005 and 2007);
- (b) "Seeds of Hope" Project (190 staff members trained in 2004-2005);
- (c) Guardian Angels Project (220 staff members trained in 2004-2005);

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<sup>60</sup> The recommendations are to: (a) increase efforts to combat these criminal activities by, inter alia, implementing the joint project of PANIAMOR and the judiciary; (b) provide adequate resources to the National Coalition against Migrant Smuggling and Human Trafficking; (c) consider becoming party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>61</sup> See the annex for the supplementary file on trafficking and smuggling contained in the National Plan.

(d) Humanitas Project (human rights training and awareness-raising project (65 staff members in 2005).

## F. Recovery of maintenance for the child

439. Title IV of the chapter on maintenance payments, in conjunction with Maintenance Payments Act No. 7654, governs child support payments. Article 164 of the Family Code defines the legal concept of maintenance, which cannot be waived or transferred, is not subject to statutory limitation, is of an entirely personal nature and is incompensable (art. 167). Until such time as protection measures are ordered, the judge can set a provisional sum (art. 168). Article 169 states that persons eligible for maintenance may include grandparents, great-grandparents, siblings and spouses. Maintenance payment arrears take precedence over any other kind of debt (art. 171).

440. One of the major problems that exists is locating maintenance debtors in order to notify them of court decisions and enforce committal orders. These debtors often hide in order to evade court orders and police action and move from place to place rather than maintaining a fixed, stable domicile.

441. As noted in the first chapter, Costa Rica has signed a bilateral agreement on maintenance payments with the United States that is now awaiting the approval of the Legislative Assembly.

442. Costa Rica has also ratified the Inter-American Convention on Support Obligations by Act No. 8053. One of this agreement's objectives is to promote international procedural cooperation in cases in which the support creditor is domiciled or habitually resides in one State party and the debtor is domiciled or habitually resides or has property or income in another State party.

443. The PANI information system provides data on the advisory services and assistance provided in this connection between 2004 and 2007 (241 national cases and 6 international ones), but an integrated information system in this area has yet to be developed. At present, separate records are kept by PANI, the legal advisory offices of the various universities, the courts that hear maintenance cases, INAMU and other agencies that provide services to persons entitled to maintenance payments.<sup>62</sup>

## G. Children deprived of a family environment

444. PANI has established the System of Alternative Protection Measures, which is composed of the following.

445. **Foster homes:** This is an effective option for integrating a child or adolescent (who needs a family, security, affection and protection) into an enabling social environment. A child may be placed in a foster home temporarily or permanently; in other words, the minor in question may or may not return to his or her family of origin.

446. **Non-governmental organizations:** Other protective arrangements are provided by organized groups within society that are legally established as an association, foundation or institution. Each organization takes in persons belonging to a given segment of the population: children under 6 years of age (Casitas, or "small homes"), girls from 6 to 12 years of age (the Sisters of the Third Franciscan Order of Divine Providence), boys from 6 to 12 years of age who are at risk of ending up in the street (Comunidades de Encuentro, or "encounter communities"), teenage mothers (Casita San José, or "the little house of

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<sup>62</sup> See annex 5-23 for data on maintenance entitlements.

San Jose”), female drug users (Renacer, which means “rebirth”) and male drug users (Hogares Crea, or “creation homes”), among others.

447. **Shelters:** Shelters are established by groups of people living in homes within the community who try to reproduce a family environment for children in these types of situations.

448. **Villages:** These “villages” are composed of a cluster of houses located in a specific area on the perimeter of a community. They try to create a family environment similar to that offered by shelters.

449. As of the first quarter of 2008, 6,647 minors were in one or the other of these protective environments (foster homes, which are now called solidarity homes; NGO day care or temporary living arrangements; or PANI shelters). See the annex to this chapter for data<sup>63</sup> (5-10) that are disaggregated by gender and by type of disability (5-24) and for average lengths of stay.<sup>64 65</sup>

450. Of the 323 minors who left solidarity homes, institutional shelters or residential programmes during the first quarter of this year, 73 returned to their families (22.6 per cent of the population served by these particular modalities).<sup>66</sup>

#### **Subsidized solidarity homes, 2005-2008**

<i>Year</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Number of homes	928	993	1 081	1 063
Number of minors	1 441	1 707	1 909	1 857
Minors with disabilities	91	99	92	96
<b>Total</b>	<b>1 532</b>	<b>1 806</b>	<b>2 001</b>	<b>1 953</b>

<sup>63</sup> See annex 5-10.

<sup>64</sup> See the annex to this chapter for the numbers of minors being served by the different protective arrangements, by gender, disability and length of stay (annex 5-11).

<sup>65</sup> See the annex to this chapter for data disaggregated by district, canton and province (section 189-08) (annex 5-12) and a related graph (annex 5-13).

<sup>66</sup> See regionally disaggregated data in the annexes (section 189-08) (5-13).

### Statistical report for 2003-2007, by type of service or facility

	By gender				By disability			By age group				Not known	Total	Monthly average
	Not known	Female	Male	Total	Has	Does not have	Total	0-6	7-12	13-17	18 years			
<b>Solidarity homes</b>														
2003	1	868	802	1 671	132	1 539	1 671	19	310	742	575	25	1 671	1 394
2004	1	886	844	1 731	131	1 600	1 731	45	405	820	445	16	1 731	1 367
2005	2	988	936	1 926	136	1 790	1 926	87	562	965	300	12	1 926	1 562
2006	3	1 018	1 008	2 029	127	1 902	2 029	174	679	984	189	3	2 029	1 701
2007	3	1 103	1 098	2 204	116	2 088	2 204	274	834	1 024	70	2	2 204	1 726
<b>PANI shelters</b>														
2004		575	461	1 036	90	946	1 036	120	279	420	217		1 036	487
2005	3	494	425	922	68	854	922	148	246	351	177		922	588
2006	4	344	302	650	64	586	650	98	176	268	108		650	567
2007	4	398	385	787	88	699	787	135	253	329	70		787	523
A number of data cleansing exercises have been conducted. The latest one, conducted in 2008, was undertaken because departures were not being reported promptly.														
<b>Day care</b>														
2003	11	1 952	2 181	4 144	47	4 097	4 144	239	2 377	1 101	342	85	4 144	3 036
2004	5	2 054	2 275	4 334	47	4 287	4 334	505	2 293	1 196	269	71	4 334	2 599
2005	2	1 178	1 951	3 131	42	3 689	3 731	821	1 952	847	106	5	3 731	2 615
2006	1	1 749	1 879	3 629	38	3 591	3 629	1 094	1 717	736	79		3 626	2 721
2007	7	1 706	1 850	3 563	38	3 525	3 563	1 433	1 503	599	28		3 563	2 456
A number of data cleansing exercises have been conducted. The latest one, conducted in 2006 and 2007, was undertaken because departures were not being reported promptly.														
<b>Residential</b>														
2003	1	989	974	1 964	152	1 812	1 964	155	409	620	776	4	1 964	1 280
2004		929	1 133	2 062	161	1 901	2 062	193	429	710	729	1	2 062	1 218
2005		949	1 059	2 008	184	1 824	2 008	327	454	759	468		2 008	1 247
2006	1	909	1 093	2 003	179	1 825	2 004	352	508	881	263		2 004	1 300
2007	5	937	1 083	2 025	153	1 873	2 026	423	555	980	68		2 026	1 252

Source: Information System on Alternative Protection Measures (SIAP).

**Agreements with non-governmental organizations (day care and residential arrangements): budgets, subsidies and beneficiaries, 2002-2007**

	2002	2003	2004	2005	2006	2007
Number of agreements	102	96	96	93	90	91
Total budgeted	2 369 443 287	1 699 988 600	1 447 938 369	1 445 882 582.22	1 628 520 356	2 013 686 514
Total disbursed	1 063 406 967	1 292 439 651	1 229 944 045	1 289 982 613	1 471 601 146	1 748 683 866
Subsidized population, per year	45 709	43 569	40 955	39 424	40 450	40 363

Source: PANI Financial Department.<sup>67</sup>

### 1. PANI shelters

451. There are currently 34 shelters and one village located in different locations throughout the country serving 420 minors each day. PANI is in charge of these facilities and has also signed agreements with 63 NGOs to provide protective services to approximately 1,500 minors. Cooperation agreements have been signed with 637 foster homes that currently care for 1,300 personas.<sup>68</sup>

452. In fulfilment of the protective duties which the Constitution assigns to PANI, the shelters provide alternative care for children and adolescents who are in emergency situations or are at imminent risk.

453. From the start of the current Administration's term in office, the status of children and adolescents living in shelters has been a priority. Costa Rica has also started the process involved in rethinking this option. The implementation of a new model has been begun with the introduction of a contingency plan that identifies immediate actions to be taken to enable the shelters to resume the full performance of their assigned functions by providing the children and adolescents under their responsibility with the best possible care.

454. PANI invests nearly 5,149,000,000 colones per year on comprehensive services for the children in the institution's care (about one third of its budget).

455. Set time periods are established in order to avoid overly lengthy stays. Children between 0 and 6 years of age can be in a PANI shelter for up to one week. Children older than 6 but younger than 12 may remain for up to six months; after that time they may be placed with an NGO facility while family members receive therapy with a view to the child's possible return to the family group.

456. These measures make the PANI shelters into the first-stop protective arrangement of a limited duration for children and adolescents who have been orphaned, who are victims of mistreatment or abuse or who are at imminent risk. This allows the best possible conditions to be provided, which is a high priority both for the institution and for society. In working towards this objective, PANI has made a commitment to report regularly to the public on its progress.

457. Disaggregated information on the protection measures taken between 2004 and 2007 is given below. Compilation of data in the system resumed in 2004.

<sup>67</sup> Ver anexo cuadro total de ONG por año (5-14).

<sup>68</sup> See annex 5-15 for information on the PANI shelters.

**PANI: Number of protection measures ordered, by gender, 2004-2007**

Year	Gender	Type of protection measure	
		Provisional care	Temporary shelter
2004		635	429
	Female	333	260
	Male	302	169
2005		573	500
	Female	286	270
	Male	287	230
2006		533	583
	Female	268	295
	Male	265	288
2007		363	492
	Female	195	262
	Male	168	230
<b>Total</b>		<b>2 104</b>	<b>2 004</b>

*Source:* Data provided by local offices of PANI through the Service Research and Innovation Institute.

## H. Adoption

458. Adoption is a specialized area which has been addressed by the Board of Directors, the Executive Office of the President, the Technical Bureau and the Adoptions Department of PANI.

459. The work done in this area led to the preparation of a proposal for a new approach and for the reorganization of the adoptions subsystem as part of the wider reform of PANI. The main components of this reform process are training, specialization and decentralization. As part of this process, new regulations on adoption were approved at special session No. 2008-19 on 5 May 2008 (published in *La Gaceta* No. 112 of 11 June 2008) by PANI. These regulations provide for:

(a) The establishment of the National Adoptions Council of PANI, to include representatives of NGOs and a representative of an adoptive father and mother, among others. The Council is the institutional body that oversees international adoptions of minors. It acts upon authority delegated to it by the Government of Costa Rica in order to fulfil the specific obligations it has assumed under The Hague Convention and any other international treaty or law on the matter.

(b) The creation of regional councils to examine national adoptions within their jurisdictions.

(c) These regulations also cover specific internal and external issues relating to adoptions that had been identified by the Office of the Ombudsman. Recommendations or improvements are also set forth. These situations are of particular importance because protracted stays in protective institutional facilities violate children's' and adolescents' rights. This question has to do with institutional performance of assigned functions.



460. It is important to mention that families who have been approved to adopt do not always succeed in carrying out the adoption because their expectations are not in line with the characteristics of the children who are up for adoption (especially in respect of their age). The evaluation of applicant families can therefore be a very wearing experience for the parties involved (families, children who are up for adoption and adoption agency staff) if the children in question do not fit in with what potentially adoptive parents are looking for and therefore have to wait for long periods of time for adoption. When an opportunity arises, their files need to be updated.

461. The start-up of a sensitization and training effort for the staff of all coordinating offices and regional bureaus as well as technical staff is aimed at changing how all these staff members' perceive adoption issues. This will involve tying adoption-related issues in with institutional reform and, ultimately, the service platform.

462. The Adoptions Department's substantive work encompasses the entire chain of processing, evaluation, identification, preparation, matching and follow-up of national and international adoptions. It provides support to the national and regional councils and conducts pre-adoption workshops for applicants. It also determines the compatibility between minors and eligible families and provides up-to-date information on minors that are candidates for adoption, including their adaptability. In addition, it monitors fulfilment of commitments regarding follow-up on international adoptions and offers feedback workshops as an internal and external training vehicle.

463. Another part of the Department's substantive work deals with implementation of the strategy for investigating the origins of persons that the institution has placed with adoptive families.

464. The number of adoptions per year has been declining: 120 children were adopted in 2002, and although that number then rose to 157 in 2003, it fell to 81 in 2004 and to just 64 in 2005 (Ministry of Planning and Economic Policy, 2006: 39-40).<sup>69</sup>

465. In 2006, the Adoption Councils succeeded in placing a total of 61 minors with adoptive families. In 2007, the figure rose to 90.

466. In summary, in the past five years, PANI, as the representative of the Government of Costa Rica, has placed 375 minors with adoptive families (national and international adoptions) using procedures that safeguard observance of the principles of protection and subsidiarity in the case of international adoptions. The action taken is in keeping with the PANI policy of promoting the integral development of each child within a family environment.

467. PANI exercises the authority of the Government of Costa Rica in the case of international adoptions. This task has been hindered by the interpretation voiced by some judges of the Family Courts who believe that The Hague Convention is applicable only to children and adolescents who are under the care and protection of PANI or an NGO, not to children and adolescents whose parents place them directly, on a consensual basis, with potential adoptive parents rather than through PANI; this procedure is conducted under the supervision of the Family Courts by the interested parties and their attorneys.

468. In the first case, the procedures established by the Convention are followed with a view to affording the greatest possible guarantees for children as provided for in international and national standards. In the second case, those procedures are not applied, and the children involved are therefore at a disadvantage in terms of the protection which is

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<sup>69</sup> National data. For data on placements for purposes of adoption through PANI, see the tables shown below.

their due and are subject to a discriminatory situation that infringes their fundamental rights.

469. The possibility of allowing a child to be adopted by persons residing in another country is considered only when the child cannot be placed with an adoptive family in Costa Rica. This guarantee is provided for in the regulations governing national and international adoptions (2008) and is founded upon the United Nations Convention on the Rights of the Child (1990) and The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, which was ratified by the Legislative Assembly of Costa Rica by means of Act No. 7517 of 14 June 1995.<sup>70</sup>

470. Another principle relating to international adoptions that is enshrined in both of these international instruments is that the adoption must, in all cases, be in the best interests of the minor.

471. All international adoptions must also be in keeping with the principles and procedures set forth in The Hague Convention, which establishes guarantees to ensure that international adoptions are conducted in a manner that upholds the rights of children and adolescents.

472. Article 89 of the above-mentioned regulations provides that any accredited organization in a foreign country which applies to the National Adoptions Council for authorization to act as a cooperating agency in international adoptions in Costa Rica must, in addition to fulfilling a number of other requirements, submit documentation demonstrating that the country in which the agency is headquartered has ratified The Hague Convention or, if not, has signed a multilateral or bilateral treaty with Costa Rica governing international adoptions in the two countries concerned.

473. The above instruments reflect the steps taken by the country to ensure the well-being and interests of minors who may be involved in international adoptions.

474. In ensuring that international adoptions do not give rise to improper economic benefits for participants in those adoptions, the State has introduced changes and amendments in the Criminal Code to align it with article 8 of The Hague Convention, which states that: "Central Authorities shall take, directly or through public authorities, all appropriate measures to prevent improper financial or other gain in connection with an adoption and to deter all practices contrary to the objects of the Convention" (c-5-1).

475. All minors have the right to express their views and to have those views taken into account in decisions affecting them; they have the right to be heard by administrative and judicial authorities.

476. Finally, PANI has also worked in coordination with legislators and advisers from all the political parties in order to garner support for passage of an amendment to article 109 (c) and article 113 of the Family Code aimed at ensuring that international adoptions are in full compliance with The Hague Convention. This bill is now under consideration by the Committee on Children and Adolescents of the Legislative Assembly.

477. In 2002-2007, the number of national adoptions<sup>71</sup> ranged from 27 to 60 per year. The number of international adoptions<sup>72</sup> varied between 5 and 30 per year. The largest number of adoptions of both types occurred in 2008. The number of direct adoptions<sup>73</sup> is estimated

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<sup>70</sup> PANI and the Office of the Ombudsman also instituted proceedings on the grounds of unconstitutionality, and consultations were held with the depositary of The Hague Convention.

<sup>71</sup> See annex 5-15.

<sup>72</sup> See annex 5-16.

<sup>73</sup> See annex 5-17.

at between 1 and 8 per year, while the number of follow-up measures in international adoption cases<sup>74</sup> between 2005 and 2007 ranged from 35 to 61 cases per year.

478. A number of decisions of the Superior Family Court have been challenged as unconstitutional (Judgements No. 1076-99, issued at 9 a.m. on 26 October 1999; No. 1213-99, issued at 4.20 p.m. on 23 November 1999; No. 1277-99, issued at 11 a.m. on 17 December 1999; No. 628-00, issued at 11 a.m. on 12 June 2000; No. 1225-2000, issued at 8.45 a.m. on 23 October 2000; No. 721-00, issued at 11.30 a.m. on 6 July 2000; No. 1280-00, issued at 8 a.m. on 2 November 2000; No. 1374-2000, issued at 9.30 a.m. on 15 November 2000; No. 158-01, issued at 9.50 a.m. on 25 January 2001; and No. 2089-04, issued at 9.15 a.m. on 26 November 2004) on the grounds that they run counter to the Convention on the Rights of the Child; the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; and The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

## **I. Periodic review of placement**

479. The placement, or entry of a minor into an alternative protective facility (foster home (now referred to as “solidarity homes”), shelter or an NGO-run facility, is carried out on the basis of protective temporary shelter and provisional care measures. Protection measures are also used to order treatment (e.g., for drug users); the administrative and judicial decisions to put such measures into effect are issued as reasoned decisions in accordance with the procedures, principles and guarantees set forth in article 128 et seq. of the Children and Adolescents Code.

480. When minors are placed in a facility of any type for their protection, treatment and care, they are entitled to assistance, monitoring and oversight in respect of all aspects of their health. The agencies that ensure that conditions of placement are suitable include:

481. The PANI Certification Department monitors and oversees the various service areas, which include health care. It supervises, for example, the supply of medications, the handling of health-care files in each facility, medical visits and other services.

(a) The Comprehensive Services Council (CAI) is a panel on which a number of public institutions and NGOs are represented. It certifies protective care facilities for minors whose rights have been violated or rescinds their certification, as appropriate.

(b) The Ministry of Health has a number of units that visit protective care and treatment facilities periodically to ensure that conditions in those facilities are suitable. During the reporting period, the Ministry of Health closed down a number of Government and NGO-run facilities that did not meet the corresponding infrastructure and/or health standards.

(c) The Office of the Ombudsman is another independent oversight body that ensures that the rights of minors are respected.

## **J. Abuse and neglect, including physical and psychological recovery and social reintegration**

482. Pursuant to articles 128 and 129 of the Children and Adolescents Code, the local offices of PANI are responsible for issuing directives regarding protection measures for minors and their families in order to restore the rights set forth in the various legal

<sup>74</sup> See annex 5-18.

instruments and to mitigate the impact of rights violations on the lives of minors to the greatest extent possible.

483. Such measures are adopted when the rights of children or adolescents have been threatened or violated, whether by action or omission, by society or the State, by neglect, omission or abuse on the part of their parents, guardians or other persons responsible for their care, or by the children or adolescents themselves, whether by action or omission. Any person, authority or human rights advocacy body can lodge a complaint (verbally, in writing or anonymously) regarding the infringement of a minor's rights. Proceedings are initiated once a complaint is received or the existence of such a situation otherwise comes to light. They may also be initiated *ex officio*.

484. When a protection measure has been ordered and, in the course of the steps being taken to address the situation of abuse, neglect, mistreatment and/or violence, other abusive or violent situations are discovered, supplementary alternative protection measures may be adopted, existing protection orders may be changed or modified, or the period that existing measures are to be in effect may be extended (other than temporary shelter and provisional care measures, which can be extended only by a judge). If, in spite of institutional and inter-agency efforts and those of the community or family, a minor's rights continue to be violated, the case must be referred to the appropriate body so that the relevant judicial proceedings may be initiated. The court in question may order the institution of protection measures, a declaration of abandonment, a summary proceeding resulting in the suspension or termination of parental authority, guardianship or wardship, or other measures.

485. A bill to prohibit corporal punishment by fathers, mothers, caretakers and guardians of minors in protective and childcare centres, educational centres, penal institutions for juveniles or elsewhere was, as noted earlier, considered by the Legislative Assembly as File No. 15341. A consensus was reached on this bill by a number of stakeholders in society and legislators under the leadership of the Executive President of PANI, Mr. Mario Víquez Jiménez. That bill has passed into law as Act No. 8654, which was signed by the President of Costa Rica on 1 August 2008 and published in *La Gaceta* on 1 September 2008. The event was marked by a ceremony in which children and adolescents participated. The new law governing the application of criminal penalties to juveniles prohibits humiliating and corporal punishments for minors.

486. The penalties imposed by educational centres do not include corporal punishment, which, in accordance with the principle of administrative legality, is not permitted.

487. Complaints of ill-treatment, corporal punishment and any type of sexual, physical, emotional abuse or neglect<sup>75</sup> (5-20) can, as indicated earlier, be directly lodged by any public institution, NGO or private individual, including minors; the assistance of a legal representative is not required (Children and Adolescents Code, arts. 49, 66, 104, 132, 134 and 142).

488. The procedures for handling complaints of abuse or ill-treatment are established in articles 128 et seq. of the Children and Adolescents Code and are based on the substantive and procedural guarantees and principles set forth in the laws and norms governing administrative legality. These are outlined in article 133 of the Children and Adolescents Code: the relevant local office of PANI (once the existence of such a situation is known or a complaint is received) is responsible for ascertaining the nature of the situation, listening to the accounts of the parties involved, receiving any evidence they may supply and immediately ordered any appropriate protection measures. This procedure is of a summary, informal nature and guarantees the minor's right to be heard.

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<sup>75</sup> See annex 5-20 for information on services provided by PANI, disaggregated by the reason for service delivery in each case.

489. The operational plans of public institutions such as PANI, CCSS, the Ministry of Education, the Ministry of Health, the Ministry of Justice and the Ministry of Public Security provide for educational and instructional projects for fathers, mothers, caretakers and guardians of minors designed to instil healthy styles of communication, relationships and forms of discipline that do not involve violence or corporal punishment. Some of these projects are mentioned in this report. PANI, in particular, has promoted projects through its Cultural Centre for adults who have children or adolescents in their charge, civil servants, and persons directly involved in caring for minors in order to help them build skills in setting limits and developing healthy forms of socialization.

490. National, regional and community media campaigns (via television, radio, newspapers, pamphlets and others) have also been carried out during this reporting period. These campaigns, which target both minors and adults, seek to reaffirm children's and adolescents' identity as subjects of rights with human dignity and to do away with all forms of physical and corporal punishment in the education of minors. One example is the "Eduquemos con Ternura" (let's raise them with tenderness) Campaign.

491. In the course of their participation in a report-validation activity, children and adolescents in the San José Region expressed the view that families use physical punishment because fathers and mothers do not know any other way of setting limits.

492. In San Carlos, adolescents said that physical abuse does take place and that it is the parents' and family's responsibility to avoid such behaviour. They also say that neglect occurs and that there is a lack of communication. Children and adolescents do not report these situations, even though they know how to do so, because they feel ashamed.

493. Parents in San Carlos said that they "are also responsible; we don't know how to raise our children and we need more help from the Government". They noted that resources are scarce and that there is a lack of institutional coordination.

494. Disaggregated information on the programmes, plans and projects that have been put in place to combat ill-treatment and abuse has been given above. These initiatives are comprehensive and interdependent, since the relevant risk factors are also correlated.

495. Mandatory notification mechanisms are in place. The Ministry of Health has designed a form that all public agencies are to fill out any time that they learn of a situation of abuse or ill-treatment. The information on these forms is fed into a system for monitoring violent situations. In addition, article 49 of the Children and Adolescents Code clearly establishes that a failure to report a situation of this type is punishable under articles 188 et seq. The Domestic Violence Act also provides that any person may apply to the Domestic Violence Courts for protection measures on behalf of a minor when the ill-treatment or violence in question is being perpetrated by a family member.

496. A specialized team from PANI that is equipped to deal with situations of violence involving children and adolescents is hooked into the 911 service around the clock. This team works out of PANI facilities and receives advisory assistance from PANI. This is a secure, confidential hotline that is used to respond to, coordinate and refer extreme emergency cases and anonymous reports. In addition, local PANI offices covering the entire country provide advisory assistance and guidance by telephone to any person who wishes to consult them, including minors. The Comprehensive Assistance for Adolescents Programme has a "Cuenta Conmigo" (you can count on me) helpline for adolescents.

497. Another very efficient mechanism for interdisciplinary and inter-agency analyses is provided by CENNA which are located in 58.9 per cent of all health-care centres, 57.1 per cent of the country's national hospitals, 81.8 per cent of all clinics in metropolitan areas, 76.9 per cent of the health units run under special arrangements and 54.4 per cent of hospital and health-care units in non-urban regions. These committees examine cases of

ill-treatment that are detected in health-care facilities and coordinate the provision of services with the various agencies involved, up to and including the filing of complaints with the courts.

498. Each institution provides professional training. This is in addition to the forums, workshops, film groups and other activities that provide an opportunity for analysis and discussion which are offered by the PANI Cultural Centre, the National Agenda and the country's universities.

499. The following action has been taken to support the physical and psychological recovery of minors who have been abandoned, exploited or abused and to help reintegrate them into society:

- (a) The New Horizons Programme was launched by the National Psychiatric Hospital in 2005 (CCSS);
- (b) This programme's facilities were expanded and improved in 2006 (CCSS);
- (c) National Plan to Combat Drugs (2008) (Costa Rican Institute on Drugs (ICD));
- (d) Comprehensive Services Department (2006) (PANI);
- (e) The Specialized Centre (Institute on Alcoholism and Drug Dependency (IAFA), Ministry of Health, PANI, ICD, CCSS);
- (f) National Plan to Combat Violence (2006) (Ministry of Justice);
- (g) The Inter-Agency Commission, which is attached to CNNA (2006) (CCSS, Ministry of Health, ICD, IAFA, PANI);
- (h) The National Plan to Combat Sexual Exploitation for Commercial Purposes (2007) (National Council to Combat Sexual Exploitation for Commercial Purposes (CONACOES)-CNNA);
- (i) The Second National Plan for the Eradication of Child Labour (2003) (Ministry of Labour);
- (j) A Ministry of Health manual on assistance for minors who have been victims of abuse or sexual exploitation for commercial purposes (2008) (Ministry of Health).

500. For the time being, these are the programmes that are available. In the medium term, the idea is to strengthen these initiatives by incorporating them into the operating plans of each of the agencies responsible for caring for and rehabilitating minors who have been victims of abuse, sexual exploitation or drug use.

501. CNNA and PANI are working to improve the Comprehensive National Protection System in order to create optimum conditions for the integral development of all children and adolescents. It is the duty of the entire sector to create protective conditions and mechanisms.

502. Advances have included the following:

- (a) Establishment of the PANI Comprehensive Assistance Programme for street children;
- (b) Two specialized centres serving street people (in La Garita and the San José district) run by PANI;
- (c) Recruitment of new staff for the Comprehensive Assistance Programme;
- (d) Extension of office hours to 21 hours per day;

- (e) Definition of a strategic institutional plan for PANI for the next 10 years;
- (f) Definition of in-house protocols for providing services to victims of ill-treatment, abuse or abandonment as a basis for reaching consensus on the relevant procedures;
- (g) Scope for inter-agency coordination: Commission serving minors who are drug users; council for the assistance of teenage mothers; National Agenda; local networks;
- (h) Tie-ins for the various public agencies with the 911 service.

## VIII. Right to health

### A. Disability

503. The Special Education and Rehabilitation Council (CREE) works to protect and safeguard the rights of this population group. It was created by virtue of Act No. 5347 of 1981 and is a lead agency for public policies on disability.

504. The 2000 census data (INEC) indicate that persons under 19 years of age with disabilities in Costa Rica<sup>76</sup> make up approximately 2 per cent of all minors (source: National Rehabilitation and Special Education Council (CNREE), file No. DE-259-07). The relevant data are shown below.

<i>Age group</i>	<i>No disability</i>	<i>Disability</i>	<i>Percentage</i>
0 to 4 years	376 584	4 137	1.09
5 to 9 years	411 204	9 712	2.36
10 to 14 years	429 019	13 376	3.11
15 to 19 years	392 063	11 212	2.85
<b>Total</b>	<b>1 608 870</b>	<b>38 437</b>	<b>2.38</b>

*Source:* INEC data as cited by CNREE.

505. The target contained in the 2002-2006 National Development Plan for the provision of subsidies to 2,850 persons with disabilities was surpassed.

506. This law establishes institutional and sectoral responsibilities for the provision of equal opportunities for all children with disabilities. Nonetheless, in its 2002-2003 annual report, the Office of the Ombudsman stated that, despite the fact that, today, thousands of children and adolescents with special educational needs receive formal schooling in the regular educational system, greater efforts need to be made to ensure that this population group receives a better education that is geared to their special needs and characteristics. The Ministry of Education must therefore work to bring about a change in social perceptions and in the application of existing statutes to cover everything from opinions, attitudes, language use and social practices to material resource endowments and the framing of public policy in this field.

507. CNREE is the lead agency for disability issues, and it coordinates with other public agencies in defining public policies in this area. The President and the Comptroller-General of the 1998-2002 Administration had laid down guidelines for earmarking budget resources

<sup>76</sup> See annex 6-01 for disaggregated INEC data by type of disability and age group in the 2000 census.

for this population group and for monitoring the State's social investments in this connection.

508. The CNREE operating plan has two main components. One focuses on direct assistance to persons with disabilities. This takes the form of subsidies for the families of children with disabilities that are designed to help improve the quality of their lives and give them greater autonomy. Assistance of this sort is provided by the country's five regional CNREE offices.

509. The other main component focuses on providing guidance through information activities, training and advisory services for the staff of public agencies and members of NGOs and on oversight, evaluation and supervision of public agencies to ensure that they are fulfilling their obligations under Act No. 7600.

510. CNREE has reported the following activities during the period under consideration:

- (a) 57 training activities for parents;
- (b) 129 instructors to provide training to professional staff serving children and adolescents with disabilities;
- (c) 201 international cooperation initiatives to improve services for minors with disabilities;
- (d) 273 complaints and decisions upholding the right of children with disabilities to receive services and assistance on a non-discriminatory basis.

511. The assessment of the National Development Plan indicates that the target figure for the provision of assistance was 2,940 families with one or more severely disabled members in 2002-2006; a total of 3,123 housing allowances were disbursed, for an execution rate of the service delivery target of 106 per cent.

512. The Ministry of Health, in fulfilment of its supervisory role and legal authority, issued (by Decree No. 32328 of May 2005) a manual setting out the certification standards to be met by facilities providing physical therapy and other treatments ("Manual de normas para la habilitación de establecimientos que brindan atención e terapia física"). These standards are designed to improve the quality of care provided by public and private facilities.

513. PANI also provides various treatment and protective services to minors with disabilities. The data<sup>77</sup> provided by the PANI information system indicate that such services were provided to 437 persons in 2004-2007 (205 females and 232 males). The PANI Cultural Centre has also reported on the training activities it has carried out in connection with disability issues.

514. The types of disabilities registered in the PANI information system<sup>78</sup> are: hearing, cognitive, motor, multiple and visual disabilities. Cognitive disabilities account for the largest proportion (209 cases during the reporting period out of a total of 437). Data disaggregated by ethnic group<sup>79</sup> indicate that there were a total of four such cases (three cases involving indigenous persons and one case of a person of Afro-Caribbean descent). A total of 69 minors with disabilities received provisional care or temporary shelter<sup>80</sup> during the reporting period, with 32 of those cases involving persons with cognitive disabilities; 28 of the 69 cases occurred in 2004.

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<sup>77</sup> For complete data, see annex 6-02.

<sup>78</sup> For complete data, see annex 6-03.

<sup>79</sup> For complete data, see annex 6-04.

<sup>80</sup> For complete data, see annex 6-05.



515. CNREE has reported on 24 training,<sup>81</sup> information and advisory assistance activities.

## **B. Health and health services**

516. Article 41 of the Children and Adolescents Code states that all minors are to receive medical services directly from the State free of charge. Public preventive and health-care services or centres are required to provide their services to this population group upon demand without any form of discrimination on the basis of race, gender, social status or nationality.

517. The country continues to work to resolve regional inequities, as demonstrated by its vaccination programme and its efforts to expand service and service-network coverage.

518. A nationwide health-care network for the delivery of primary, secondary and tertiary health-care services is maintained by CCSS.

### **1. Primary health-care coverage for minors, by region and age group**

519. Quality health-care coverage, by region and by age group, has increased year by year (rising from 60.70 in 2002 to 67.61 in 2004); for children aged 1-6 years, it has increased from 39.50 in 2002 to 46.98 in 2004 and, for adolescents, from 24.80 in 2002 to 27.86 in 2004.<sup>82</sup>

520. At present, there are 104 health-care units and 940 basic comprehensive health care teams (EBAIS), which are composed of a doctor, a nursing assistant and a primary-care technician, along with a support team. Under the existing technical standards, each team should be responsible for an average of 4,000 persons; based on this ratio, the current capacity covers approximately 85 per cent of the country's entire population. Because of the population density existing in some areas, however, it is known that some of the EBAIS serve a larger number of people. The areas with the least EBAIS coverage are those located within the San José Metropolitan Area, since services are concentrated there, and efforts to expand EBAIS coverage were begun at the regional-rural level. This does not mean that the remaining 15 per cent of the population does not have access to services, since the network also encompasses secondary and tertiary services.

521. Significant progress was made during the reporting period in expanding coverage of the population. The work being done to improve the quality of service will be discussed below. At present, the coverage of persons under 18 years of age who are registered in the social security system is 97 per cent.

522. The National Development Plan for 2006-2010 sets the start-up of 80 new EBAIS in the poorest and most remote areas as a target. In 2007, six new EBAIS were established, which corresponds to an advance towards this goal of 7.5 per cent. The Plan also provided for the strengthening of existing EBAIS and, to that end, 404 new health-care staff joined the EBAIS (including the newly established ones). The corresponding progress report indicates that the benchmark figure of 400 new staff members was therefore surpassed. The quality assessment (c-6-b) conducted in 2004 also reflects a strong performance.

523. The main challenges at this level of health care are improving service programming and administration and strengthening the social engagement of the persons involved as active participants in promoting their own health, in preventive actions and in treatment. This nationwide effort to evaluate these services is an important step in detecting

<sup>81</sup> See annex 6-06.

<sup>82</sup> See annex 6-32 on the coverage of primary health care.

weaknesses in terms of both quantity and quality with a view to improving implementation of the right to access such services.

524. Another major challenge relates to the application of comprehensive health-care standards and procedures in primary health-care services for women between 20 and 59 years of age. This is vital in order to sustain the progress already made in reducing infant mortality through the detection and early treatment of pregnancy-related conditions and to make further progress in reducing maternal mortality. Health check-ups of persons nearing the end of their child-bearing years is also important in order to support early treatment of the chronic symptoms experienced by persons in this age group.

525. The basic childcare skills of members of families with children under 6 years of age was also evaluated, since the family is the first line of defence in the identification and early treatment of symptoms that are commonly experienced but that may nevertheless jeopardize the health and even the life of a child. For example, many family members are familiar with oral hydration methods, but 50 per cent of them do not know what the symptoms of dehydration are. A similar percentage does not know how to use or interpret growth graphs. A plan is therefore needed for bringing local teams, family groups and support networks together and for supporting a shared learning process. One of the duties of primary-care technicians is to support mothers and fathers in playing a greater role in the basic health care of their children; this is a preventive health-care activity that needs to be performed at the household and community level.

526. Service users can also lodge complaints regarding medical care with the CCSS service oversight offices, as well as with independent bodies such as the Office of the Ombudsman. Service users' rights are guaranteed in the regulations governing the actions of civil servants.

527. CCSS uses administrative commitments as a means of quality control. This mechanism provides a tool for assessing health-care units on the basis of predefined targets and objectives.

528. The 80 per cent benchmark for prenatal health-care coverage has been surpassed, but efforts to provide services to pregnant women during their first trimester need to be stepped up.

529. CCSS provides the following health programmes for children and adolescents: comprehensive care for children; support for growth and development, which includes preventive treatment and care from birth to 9 years of age; and comprehensive health care for adolescents (10 to 19 years of age). In the last two years, a determined effort has been made to strengthen the Comprehensive Programme for Adolescents with a view to the development of strategies for improving access to these services.

530. The activities of these programmes are evaluated each year, both in terms of their coverage and as measured against the performance targets set out in the corresponding administrative commitments.

531. Under the 2006-2010 National Development Plan, the health sector committed to adding 44 paediatric and gynaecological/obstetric professionals to provide services to 38 remote areas. Progress reports for 2007 indicate that the fulfilment rate for this benchmark amounted to 59 per cent, thanks to the recruitment of 13 paediatricians and 13 gynaecological/obstetric professionals.

532. Children under 1 year of age constitute the best-served population group, with 75 per cent of this group being covered over the last five years in the various CCSS health districts. Total coverage for this age group has, however, declined in recent years, shrinking from 93.40 per cent in 2000 to 88.92 per cent in 2004. For children between 1 and 6 years of age, total coverage in 2000 amounted to 41.40 per cent by 2004. Coverage for

adolescents also expanded during that period, rising from 29.10 per cent in 2000 to 30.44 per cent in 2004.

533. The Brunca health-care district has had the lowest coverage in the last five years. Health care for school-age children has been provided through the schools, who national coverage averages about 80 per cent. A slight increase has been seen since 2001, with the exception of 2003, when average enrolment dipped to 66.14 per cent (*Estado de la Niñez*, 2006: 25).

534. In monitoring respect for children's rights in relation to inter-sectoral and inter-agency activities and coordination, the Ministry of Health and CCSS draw on the services of specialized commissions that monitor and coordinate (both internally and externally) health services for children and adolescents. The Ministry of Health is also supported by the work of regional commissions that deal with issues relating to children and adolescents.

535. The budget allocations of the Ministry of Health and the health sector in general have increased, especially in the case of CCSS.

## 2. Infant and maternal mortality

536. The National Infant Mortality Analysis System (SINAMI) has been in operation since 1996. This multidisciplinary inter-agency body analyses trends in infant mortality and service improvement plans. Since its creation, SINAMI has promoted the start-up of initiatives for improving the registration of infant deaths and, as of 2003, had achieved a 94 per cent registration rate. It has also raised the rate of analyses of infant deaths from 62 per cent in 1999 to 75 per cent in 2005. These inroads have made it possible to target the causes of infant mortality and to improve information-gathering strategies. Cases of infant mortality are monitored on the basis of the examination of pertinent records and files, home visits and interviews in service centres, and the use of predefined assessment tools.

537. Maternal and infant mortality is assessed at the cantonal, regional and central levels; in addition, this issue is being addressed in the Strategic Plan for Safe Motherhood and has been given priority in governmental plans. It is also one of the priority areas defined in the National Development Plan for 2006-2010, which has made significant headway at the national level in this connection. The challenge now is to continue working to maintain and further the progress being made in all of the cantons.

538. One of the targets set by the United Nations system within the framework of the Millennium Development Goals has been to reduce infant mortality (mortality among children under 5 years of age) by two-thirds between 1990 and 2015.

539. In Costa Rica, infant mortality<sup>83</sup> decreased from 10.2 per 1,000 births in 2000 to 9.2 in 2004; it then rose slightly, to 9.8 in 2005, but then fell again in 2006 to 9.7.

<sup>83</sup> For infant mortality rates by province, see annex 6-07.

**Infant mortality, Costa Rica, 2002-2006**

Rate per 1,000 births

<i>Year</i>	<i>Number</i>	<i>Rate</i>
2002	793	11.15
2003	737	10.10
2004	668	9.25
2005	700	9.78
2006	692	9.71

*Source:* INEC Statistical Unit, Ministry of Health.**Mortality rates for children under 5 years of age, Costa Rica, 2002-2006**

Rate per 1,000 children

<i>Year</i>	<i>Number</i>	<i>Rate</i>
2002	944	2.41
2003	866	2.21
2004	777	1.99
2005	811	2.09
2006	791	

*Source:* INEC Statistical Unit, Ministry of Health.

540. A number of specific conditions that can arise during the perinatal period are the major cause of infant mortality (50 per cent, on average, per year), followed by birth defects.

**Causes of infant mortality, 2002-2007**

	2002	2003	2004	2005	2006	2007
Infant mortality (total in absolute figures)	793	737	668	700	692	735.00
Cause of death (percentage)	100	100	100	100	100	100.00
Perinatal conditions	50.57	48.17	49.40	48.43	53.76	50.20
Birth defects	29.76	32.56	30.69	34.57	29.91	33.33
Respiratory illnesses	8.45	8.55	80.08	7.43	7.08	7.35
Infections and parasites	2.52	2.44	2.25	2.86	2.46	2.72
Circulatory illnesses	1.89	1.36	1.95	1.00	1.30	1.90
Nervous system disorders	1.77	1.09	1.80	1.29	1.45	1.63
Other	5.04	5.83	5.84	4.43	4.05	2.86

*Source:* INEC.

541. The percentage of neonatal deaths was 69 per cent in 2000 and 73 per cent in 2005, which points to a reduction in infant mortality and especially in post-neonatal mortality.

542. In 2007, the infant mortality rate stood at 9.7 per 1,000 births. The country's efforts to reduce infant mortality are attested to by the figures, which reflect the fact that the reduction of infant mortality has been a health policy priority for the Government. The

system that is in place for the analysis of infant mortality has also made a valuable contribution to this effort and provides an indicator for tracking the quality of care during pregnancy, birth and the post-natal period.

543. Infant mortality is twice as high among the indigenous population in cantons such as Talamanca, Coto Brus, Corredores and Buenos Aires, where the rates are 18.4 per cent, 16.9 per cent, 15.2 per cent and 13.9 per cent, respectively. Special measures are taken to assist with births for indigenous women.

544. For this population group, morbidity rates for children and adolescents are attributable to environmental conditions, immunological capacity, and community and institutional disease-response capacity. Undernutrition, unsanitary conditions and limited access to health care are also factors (UNICEF 2006: 48).

545. The country has also set a target figure for infant mortality at an upper limit of 9 deaths per 1,000 births, both nationwide and at the various subnational levels, for 2015. Deeper reductions in this rate are technically difficult to attain, since the major causes of death at present (approximately 83 per cent) are perinatal diseases and birth defects.

546. One of the steps that has been taken to address this situation has been the implementation of a national programme to supply folic acid to women of child-bearing age (15 years of age and up). This programme, which has been in operation since 2003, seeks to reduce neural tube birth defects.

547. Two points should be made in regard to the foregoing. First, in recent years, deaths of children under 1 year in age have accounted, on average, for 84 per cent of all deaths of children under 5 years of age; consequently, the infant mortality rate (children under 1 year of age) is the chief determinant of changes in under-5 mortality rates. Second, the national target for under-5s is tied in with the goal of closing the gap between the rates for different regions.

548. In 1990, Costa Rica's under-5 mortality rate was 3.7 and, in order to meet the target rate proposed by the United Nations for 2015, it therefore needs to lower the rate to 1.2.

549. The subcommittee that has been set up to prepare a progress report on the country's efforts to attain the Millennium Development Goals has concluded that it is not feasible to reduce the rate to that level, especially because the bulk of the deaths occurring among children under 5 years of age (84 per cent) are accounted for by infants (under 1 year of age), and that rate is already so low that reducing it further is an unlikely proposition.

550. Accordingly, the country's proposed benchmark for a reduction in the mortality rate for under-5s is 2 per cent for 2015.

### **Maternal mortality**

551. Costa Rica has also set other targets in relation to maternal mortality (6-33) for 2015: that 97 per cent of all births should take place in hospitals, that 75 per cent of pregnant women should be provided with services during their first trimester, and that 75 per cent of all pregnant women should receive comprehensive prenatal care.<sup>84</sup>

552. In 1991, the first year for which such statistics were available, 92.5 per cent of all births took place in hospitals. By 2003, the figure had risen to 99.4 per cent, which already exceeded the figure set for 2015. Thus, the nationwide target of 97 per cent has already been reached, and this indicator is not expected to decline in the years to come.

<sup>84</sup> See annex 6-33 for rates and absolute figures.

553. The maternal mortality rate<sup>85</sup> decreased steadily from its 2002 level of 3.8 to 3.05 in 2004; it then rose, however, in 2005 and again in 2006, when it reached 3.93.

554. Service delivery to pregnant women during the first trimester<sup>86</sup> has climbed steadily since 1992, when it stood at 28.5 per cent, to 52 per cent in 2003. If this rate continues, the target for 2015 (75 per cent) could be reached ahead of schedule.

555. A policy aimed at reducing maternal deaths has been incorporated into the Omnibus Health Act and is also a CCSS policy. Under this policy, public health services must treat any pregnant women, regardless of whether or not she has health insurance.

556. The national screening programme that uses the neonatal heel prick test for the early detection of 17 possible congenital diseases has a coverage of nearly 90 per cent.

#### *Hospital births*

#### **CCSS: Hospital births, by sector, 2002-2006**

Absolute and relative figures

Year	Public sector, CCSS		Private sector, Clinics	
	Number	Percentage	Number	Percentage
2002	69 170	97.2	1 974	2.8
2003	70 777	97.0	2 161	3.0
2004	70 095	97.0	2 152	3.0
2005	69 012	96.5	2 536	3.5
2006	68 585	96.2	2 706	3.8

Source: INEC, Ministry of Health, 2007.

557. Data are also available<sup>87</sup> on births to mothers under 19 years of age, disaggregated by birth attendants, province and year,<sup>88</sup> marital status and age group,<sup>89</sup> as well as the gross birth rate by province.<sup>90</sup>

### **3. Vaccination programme**

558. Other initiatives undertaken in the health sector in an effort to reduce child mortality include the national immunization programme and the food assistance programmes which have been assigned priority under the national health policy and the consensus-based health agenda.

559. In view of this situation and within the framework of the Millennium Development Goals, Costa Rica set a target for 2005 for sustained coverage of vaccinations for measles and haemophilus influenza at 95 per cent for children under 1 year of age at both the national and the various regional levels.

<sup>85</sup> See annex 6-08 for the corresponding graph.

<sup>86</sup> See annex 6-09.

<sup>87</sup> See annex 6-10.

<sup>88</sup> See annex 6-11.

<sup>89</sup> See annex 6-12.

<sup>90</sup> See annex 6-13.

560. The country has also set itself the goals of: vaccinating at least 90 per cent of all children under 1 year of age in Costa Rica so as to attain at least 80 per cent coverage for each district or equivalent administrative unit; reducing the number of deaths caused by measles by half by 2005; eradicating maternal and neonatal tetanus by 2005; and ensuring that the benefits of new and improved vaccines and other preventive health measures that can benefit children are placed within their reach.

561. During the reporting period, Costa Rica's expanded immunization programme has promoted the application of basic vaccination schemes at the institutional level as an integral part of child service standards. These vaccinations includes measles, polio, DPT (diphtheria, pertussis, tetanus) and hepatitis.

562. Work is also being done to expand the basic vaccination programme for the entire population through the addition of four new vaccines against chicken pox, pneumococcus, whooping cough and rotavirus.

563. The progress report on the National Development Plan noted that the country was 25 per cent of the way towards fulfilling its commitment to incorporate these four new vaccines into its basic inoculation scheme, thanks to the incorporation of a vaccine against chicken pox and the acquisition of 41,720 doses of an acellular pertussis vaccine.

564. Executive Decree No. 33564 amended article 18 of the National Vaccination Act (contained in Executive Decree No. 32722-S of 20 May 2005, published in No. 213 of La Gaceta on 4 November 2005) as follows:

“Article 18. The official list of vaccines included in the public universal basic inoculation scheme of Costa Rica is as follows:

- Tuberculosis (BCG)
- Polio (oral)
- Diphtheria
- Pertussis
- Tetanus
- Haemophilus influenzae B
- Hepatitis B
- Measles
- Rubella
- Mumps
- Chicken pox.”

565. CCSS will take the necessary steps to include these vaccines in its inventories and its official list of medications.

566. Vaccination against haemophilus influenzae has been mandatory since 2004. Prior to that time, it was administered only to high-risk groups, but it is now compulsory both in the CCSS system and in the private sector. This is important because children under 5 years of age are at a greater risk of death due to complications of haemophilus influenzae, which may include meningitis and acute upper and lower respiratory infections (GCR, 2004: 51, 53). This vaccine was first administered to health workers who come into direct contact with patients in 2006.

**Vaccination coverage, 2002-2007**

	2002	2003	2004	2005	2007	2007
<i>Vaccination -1 year</i>						
Population	71 144	72 938	72 938	71 548	71 291	73 144
BCG (number)	65 166	64 314	64 678	62 856	64 072	66 625
BCG (coverage. in percentages)	91.60	88.18	88.68	87.85	89.87	90.20
DPT1 (number)	64 976	64 825	64 438	63 951	63 730	65 464
DPT1 (coverage. in percentages)	91.33	88.88	88.35	89.38	89.39	90.26
DPT3 (number)	67 114	64 142	65 325	64 938	63 704	65 235
DPT3 (coverage. in percentages)	94.34	87.94	89.56	90.76	89.36	89.57
OPV3 (number)	67 085	64 140	64 998	64 854	63 819	6 519
OPV3 (coverage. in percentages)	94.29	87.94	89.11	90.64	89.52	89.40
VHB3 (number)	65 781	63 049	64 346	64 331	63 506	65 262
VHB3 (coverage. in percentages)	92.46	86.44	88.22	89.91	89.08	89.32
HIB (number)	66 289	63 688	64 848	63 340	63 176	63 984
HIB (coverage. in percentages)	93.18	87.29.00	88.91	88.53	89.62	87.40
<i>Vaccination -1 year and 3 months</i>						
Population	76 401	71 144	72 938	72 938	70 848	71 291
MMR (number)	71 490	63 943	63 803	64 687	64 326	64 239
MMR (coverage. in percentages)	93.57	89.88	87.48	88.69	90.79	91.29

Source: Ministry of Health.

### C. Childcare services and facilities and nutrition

567. In 2002 IMAS began to expand its coverage for children in need of an alternative form of comprehensive care. It therefore established four types of incentives for the use of flexible arrangements where children can be safely cared for while their fathers, mothers or guardians work, study or attend training courses.

568. These incentives take the form of: payment of transportation costs, community home care, private childcare, and other arrangements to foster the development of children and adolescents (CNNA, 2005). Strategic actions provided for in the National Development Plan for 2006-2010 have included the expansion of these programmes, with special emphasis on arrangements for children between 3 and 24 months of age and those in the 7-12 age group, and the strengthening of CINAI services so that comprehensive day care (including early child stimulation) can be provided in remote areas.

569. As part of the effort to prevent teenage mothers from dropping out of school, since 2008 a scholarship of 50,000 colones per month has been given to 500 teenage mothers who are enrolled in school. The idea is that they will use part of this scholarship to pay for childcare while they attend school.

570. The CINAI centres, which are administered by the Ministry of Health, were in operation throughout the period 2002-2007.

571. Recent advances in the health sector include the priority given during the reporting period to nutrition policies and programmes. Initiatives in this field have included the following:



- (a) Issuance of nutrition policies;
- (b) Expansion of the requirements for fortified foods in the basic shopping basket;
- (c) Strengthening of the CINAI programme.

572. As mentioned in earlier sections, the National Development Plan for 2006-2010 provides for expanded coverage of children between 3 months and 13 years of age. To this end, the following Government investments in infrastructure and personnel have been provided for in order to meet the following objectives.

### 3 months to 2 years

<i>Year</i>	<i>Target (childcare)</i>	<i>Baseline</i>	<i>Budget for 2008-2010</i>
2007	0	0	€1.096 billion
2008	240		
2009	360		
2010	480		

### 2 years to 7 years

<i>Year</i>	<i>Target (childcare)</i>	<i>Baseline</i>	<i>Budget for 2007-2010</i>
2007	20 232	13 000	€32.257 billion
2008	23 232		
2009	26 232		
2010	29 232		

### 7 years to 13 years

<i>Year</i>	<i>Target (childcare)</i>	<i>Baseline</i>	<i>Budget for 2007-2010</i>
2007	1 400	0	€3.9495 billion
2008	2 800		
2009	4 000		
2010	5 000		

*Source:* Original calculations based on data from the section on the health sector of the National Development Plan for 2006-2010.

573. Comprehensive childcare is one of the services provided under this programme. In 2004 an average of 14,132 children between the ages of 2 and 7 were cared for in an institutional setting and 7,479 were cared for in non-institutional settings (EDN, 2005: 83).

574. Non-institutional childcare services (provided to members of the population who, due to difficulties of access, cannot go to childcare facilities on a daily basis) are one of the new best practices that were introduced in 2002-2006 in an effort to achieve equity in social service delivery for scattered rural populations.

575. The 2006 assessment of the National Development Plan reports that non-institutional comprehensive childcare services or those provided by CINAI in childcare facilities covered a total of 119,068 beneficiaries, which was 27,350 more than in 2002. Community development associations in various parts of the country played a part in this achievement.

## D. Nutrition

576. In 2002, a total of 67,708 children were born, and 6.95 per cent of those infants were underweight at birth. In 2004, the corresponding figures were 68,620 and 6.71 per cent. These types of slight variations from year to year reflect a stable situation and attest to the difficulty of altering such a relatively small percentage of underweight births. The figures for 2005 (67,695 births and 6.92 per cent underweight infants at birth) also reflect this statistical stability<sup>91</sup> (6-34).

577. At 30.45 per cent, the rate of severe undernutrition in the country for children under 1 year of age was the same in 2004 as it was in 2006, whereas it fell to 20.96 per cent in 2005. The severe undernutrition rate for children between 10 and 14 years of age was 1.86 per cent in 2004 and was 0.46 per cent in both 2005 and 2006.

578. In 2005 the Ministry of Health coordinated efforts to ensure that the fortification of wheat flour, corn flour, salt, milk and sugar met the standards established in the relevant executive decrees. The decree on the fortification of rice was modified in order to add a number of micronutrients that will improve the nutritional status of mothers and their children.

579. The 2006 assessment of the National Development Plan indicates that the fortification of foodstuffs carried out by the Ministry of Health was monitored on an ongoing basis in order to ensure the quality of the foodstuffs making up the diet of Costa Ricans. The aim is to continue working to prevent nutritional deficiencies (e.g., reducing endemic goitres and dental cavities) through the fortification of salt with iodine and fluoride and the fortification of milk and flour with vitamin A and folic acid.

580. This has contributed to the 74 per cent reduction achieved in infant mortality due to congenital neural tube disorders.

581. The goal of providing full coverage for the cantons where this pathology is the most prevalent has been achieved. Folic acid is distributed to all women of child-bearing age who go to any of the country's health centres.

582. Educating health-system users is another necessary step in addressing child undernutrition. A training component has therefore been introduced in the courses that are offered to parents. The objective is to strengthen health-promoting and preventive educational activities by providing participatory opportunities for discussion and analysis to teams of health workers and fathers, mothers or guardians of nursing infants, preschoolers and other children as part of a comprehensive approach to childcare. The subjects covered include positive child-raising techniques, rights, other health issues and the prevention of problems that frequently arise, including child abuse.

583. Since 2002, Ministry of Education and Ministry of Health authorities have undertaken a number of initiatives to improve the supplementary nutritional services provided in school cafeterias.

584. These activities have included the evaluation of the problem of undernutrition and measures to address it, including the provision of training in the application of the nutritional guidelines to be used in schools to promote healthful practices. They have been conducted in conjunction with the Division for Nutrition for School Children and Adolescents of the Ministry of Education and the Ministry of Health.

585. A portion of this work has been conducted in connection with pilot projects involving the distribution of fortified cookies or crackers that are produced in the local

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<sup>91</sup> See annex 6-34 for the table on birth weights.

market by communal microenterprises. Menus have also been diversified in order to take advantage of the regional production of highly nutritious foods while at the same time optimizing the use of the resources allocated to education centres' administrative and school boards.

586. At the national level, the coverage of the basic package provided by the School Nutrition and Health Programme (CCSS, Child Health Section) is 84.40 per cent (CNNA, 2005: 57).

587. Information on the nutritional status of the population under 6 years of age is available only for those children in that age group who are served by these centres. This information is presented below.

588. In 2006, of the 16,272 children attending these centres, 309 suffered from mild undernutrition (19.0 per cent), 384 from moderate undernutrition (23.5 per cent) and 18 from severe undernutrition (0.17 per cent).

589. The Agrarian Development Institute (IDA) is implementing a food security programme to improve the nutritional status of rural households through the introduction of competitive agricultural systems for the production of highly nutritious foodstuffs for rural families (CSG, 2005: 19).

590. In 2003-2005, IDA provided food-security training to 1,916 families engaged in small- and medium-scale agricultural production activities; 1,580 developed family-based projects accounting for a total investment of 673,400,000 colones (CSG, 2006).

591. A regional project being executed by the World Food Programme (WFP) and the Inter-American Development Bank (IDB) in conjunction with UNICEF is also aimed at eliminating undernutrition. This project has the support of the Summit of Central American Presidents. In 2007, in cooperation with UNICEF and the Secretariat for the National Policy on Food and Nutrition (SEPAN) of the Ministry of Health, food and nutrition research and advocacy activities were conducted in indigenous and rural population centres.

592. Other nutrition-related measures are undertaken by the National Commission on Obesity (CONAO), which was created by Executive Decree No. 33730 of 5 February 2007.

593. Article 2 of this decree defines its purpose as being the creation and development of a national system for the prevention, regulation, monitoring and control of obesity in order to reduce the risk of morbidity and mortality associated with obesity-related disorders and to improve the quality of life of the population.

594. CONAO is composed of the extended membership of the SEPAN Ministerial Council, a technical committee and an executive secretariat.

595. Efforts to combat undernutrition had an annual cost for the country of US\$ 317.6 million, according to a study conducted by the World Food Programme (WFP) and the Economic Commission for Latin America and the Caribbean (ECLAC). This study indicates that the causes of undernutrition are environmental, sociocultural, economic (poverty and inequity) and political and institutional in nature.

596. The progress made under the National Development Plan for 2006-2010 towards the target of achieving a 1 per cent reduction in mild, moderate and severe undernutrition among preschool children cannot yet be measured because the relevant data are not yet available. The institutions responsible for the Plan's execution are working towards this objective, however, and have developed a plan for the eradication of undernutrition among children.

597. The national nutrition survey is scheduled for May 2008, since the last one dated from 1996. This survey will provide data on nutrition, micronutrients and the population's eating habits that can be used as policymaking inputs.

**Undernutrition among children and adolescents:  
severe undernutrition, by age group, Costa Rica, 2002-2006**

Rate per 100,000 persons

Age group	2002		2003		2004		2005		2006	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate	Number	Rate
1 year	0	-	0	-	22	30.45	15	20.96	22	30.45
1-4 years	0	-	0	-	73	22.99	50	15.82	52	16.52
5-9 years	0	-	0	-	22	5.37	15	3.69	21	5.20
10-14 years	0	-	0	-	8	1.86	2	0.47	2	0.47
15-19 years	0	-	0	-	1	0.23	0	-	0	-

*Source:* Ministry of Health, Statistical Unit.

*Note:* No information is available for 2002 or 2003.

598. There are a number of causes of undernutrition in the indigenous population:

(a) Reduction of the period of time during which infants are breastfed and the use of substitutes for mother's milk.

(b) Changes in daily diet (addition of products such as bananas, rice, sugar cane, etc).

(c) Organizational changes in the family structure: when a head of household engages in wage labour, the organizational structure of the family changes; women may cease to engage in farming activities and may depend on their partners for assistance instead. This situation may give rise to greater dependence on external factors, which may in turn place the family at greater risk.

599. In addition, the Child Nutrition and Development Programme, which was created to provide nutritional support to children under 7 years of age whose families earn less than \$62 per month, does not operate in the indigenous territories and, in some other communities, limits its activities to the distribution of milk (UNICEF 2006: 52 y 53)

## E. Drinking water

600. In order for all the above measures to be effective, the entire population needs to have access to drinking water and proper sanitation. This serves as a basis for efforts to build the capacity of families and communities to administer existing systems and to promote behavioural changes through education about health and hygiene.

601. To this end, the Costa Rican Water and Sanitation Institute (AyA) has expanded the Ecological Blue Flag Programme into communities and educational centres, where it provides certification for group actions aimed at improving the human environment in the short term. As a result, the coverage of the drinking water supply system was expanded, according to the progress report on the National Development Plan for 2008, by 100.3 per cent. As reported earlier, 98.3 per cent of the country's population is supplied with drinking water for human consumption by AyA. The coverage of the AyA supply systems providing drinking water fit for human consumption rose from 78.4 per cent in 2002 to 79.5 per cent

in 2003 and to 82.8 per cent in 2004. It shrank somewhat in 2005 and 2006, however, with coverage amounting to 82.2 per cent in 2005 and to 81.2 per cent in 2006.

#### Costa Rican Water and Sanitation Institute

<i>Annual statistics</i>	2002	2003	2004	2005	2006	2007
Coverage of system for the distribution of water for human consumption (%)	97.5	97.5	97.6	97.4	98.2	YE
Coverage of system for the distribution of water fit for human consumption (%)	78.4	79.5	82.8	82.2	81.2	YE
Number of student participants in the Blue Flag Programme	ND	ND	111 000 h	71 951 h	169 534 h	102 413 h

ND: No data.

YE: Available at year's end.

## F. Breastfeeding

602. The National Commission for the Promotion of Breastfeeding was established by Act No. 7430 of September 1994 for the purpose of supporting food security and reinstating good breastfeeding practices.

603. The Commission's major achievements include the following: at least seven hospitals in the country have made a commitment to become child-friendly institutions through the implementation of a programme to promote breastfeeding. The Commission evaluates and monitors their performance as a basis for certification.

604. Some of the measures taken by the Ministry of Health to promote breastfeeding as a source of nutrition playing a vital role in children's development are outlined in the annexes to this chapter.<sup>92</sup>

605. Data compiled by the Ministry of Health indicate that the percentages of children who are breastfed has been on the rise, with 87.8 per cent of newborns being breastfed in 2002 as compared to 91.1 per cent in 2006. Similarly, the figures for infants under 6 months of age who were breastfed were 15.3 per cent in 2002 and 18.7 per cent for 2006.<sup>93</sup>

## G. Adolescent health

606. The CCSS Comprehensive Assistance for Adolescents Programme has played a leading role in breaking down stereotypes, myths and cultural resistance to the comprehensive promotion of adolescents' health. It has encouraged adolescents to become actively involved in this effort by setting up a national youth network composed of over 50 organized groups that provide comprehensive and reproductive health education.

607. A helpline is staffed by psychologists who respond to young people's concerns about sexuality, drugs, their families and their development in general. Comprehensive health care is also available to teenage girls who are pregnant or who are already mothers, and specialized services are available for children and adolescents who are victims of abuse of any sort (Ministry of Planning and Economic Policy, 2006: 46-47).

<sup>92</sup> See annex 6-17.

<sup>93</sup> See annex 6-18.

608. The CCSS Comprehensive Programme for Adolescents has prepared handbooks entitled “Sembrando Esperanzas” (sowing seeds of hope), “Género y Salud” (gender and health) and “Toques para Estar en Todas” (keeping on your toes), which provide guidance on the avoidance of high-risk behaviours, as well as a number of educational videos on the prevention of pregnancy, suicide prevention, the prevention of drug abuse and the promotion of healthful living styles, among other subjects.

609. A second edition of “Bases Programáticas del PAIA” (programmatic foundations of the Comprehensive Programme for Adolescents) has been published. This document includes information on CCSS policies on adolescent health. All of these materials backstop preventive health activities for young people (CNNA, 2005: 60).

610. This programme is a very influential one among the adolescent population, but it does not have the same impact for indigenous youth because it lacks specific components for this population. Accordingly, in 2003 the Ministry of Health established a national policy on the health of indigenous peoples which reflect the importance of ensuring that the indigenous population and migrant indigenous groups have access to quality health care that is geared to their economic, geographic, social and cultural characteristics (UNICEF 2006: 43 y 44).

611. The organization of schools for parents is a model that is widely used at all levels of the CCSS system. Talks and workshops are offered to parents on the same subjects that are addressed in discussions with staff and with youth leaders. The aim of this strategy is to sensitize parents to the processes, characteristics and possible difficulties involved in dealing with young people and to promote dialogue, mutual trust and communication with them. The Ministry of Education has included a unit on a culture of peace in the curriculum for its Education for Family Life module, which seeks to lay the foundation for relationships based on gender equity and the early acquisition of new types of social, family and sexual interaction skills.

612. For many years the country had lacked concrete, systematized channels for sex education; this void has only recently been filled by this mechanism, which was introduced in 2005 (GCR, 2005b: 49).

613. As part of the life-skills training module of the “Construyendo Oportunidades” (building opportunities) Programme, adolescents are taught about their rights and, specifically, about the right to sexual health and reproductive health of pregnant teenagers and teenage mothers. In 2005, this programme was serving 2,400 adolescents and 120 groups throughout the country (CNNA, 2005: 43).

## **H. HIV/AIDS**

614. The Ministry of Health and the National AIDS Council have published a national HIV policy and national HIV response plan.

615. The Ministry of Health is working with CCSS, with support from the ILO International Programme on the Elimination of Child Labour (ILO/IPEC), to develop a manual for health workers to assist them in identifying, responding to and protecting victims of sexual exploitation.

616. One of the main actions taken in the country to address the issue of HIV/AIDS has been the definition of a national strategic plan for 2006-2010 (c-6-e) which takes the country closer to the establishment of a multisectoral platform for combating the spread of HIV/AIDS.

617. The 2006-2010 national strategic plan for combating HIV/AIDS is intended to strengthen the institutional framework and to encourage communities and families to take part in addressing this problem. By the same token, steps must be taken to bring about constructive change in the formal and informal education systems and in the areas of culture and health in order to improve the quality of life of persons living with HIV/AIDS.

618. Under the HIV/AIDS Education and Prevention for Adolescents Project (which is being executed under an agreement reached by CCSS, the Technical Council for Social Medical Assistance and the Global Fund to Fight AIDS, Tuberculosis and Malaria), two training manuals on sexual and reproductive health for adolescents have been prepared. One of these manuals is intended for use by health workers and the other is designed for youth leaders. CCSS guarantees the right to health care for all pregnant teenagers (CNNA, 2005: 60-61).

619. In 2003, the country invested US\$ 13.8 million in the fight against HIV/AIDS; US\$ 8.3 million of this sum was used for prevention (56 per cent) and the remaining US\$ 5.4 million was used for assistance and clinical treatment. The country has invested more than this in the fight against HIV/AIDS, however. In 2001, the sum allocated by the Government to combat HIV/AIDS represented 0.05 per cent of GDP, while in 2003 the allocation amounted to 0.08 per cent. While expenditure on HIV/AIDS represented 0.59 per cent of total national spending on health during this same period, in 2003 expenditure on this item amounted to 1.29 per cent (CONASIDA: 2006: 10).

620. The country does not have a national plan for mobilizing the available resources, however, since CCSS procurement procedures and health insurance funds are used to purchase medications.

621. Efforts to reach the goal of increasing HIV/AIDS screening of pregnant women receiving prenatal care by 36 per cent resulted in progress in relation to the 2007 baseline of 27.7.

622. The Ministry of Health, in conjunction with the National Commission to Combat AIDS (CONASIDA), issued a national policy on HIV/AIDS in 2008. The Global HIV/AIDS Programme of the World Bank has reported that, in 2006, there were 51 cases of children between 0 and 18 years of age (25 girls and 26 boys). Their regional distribution is as follows: San José: 16; Limón: 9; Puntarenas and Alajuela: 8 cases each; Guanacaste and Heredia: 4 cases each; and Cartago: 2.

623. Figures on national expenditure on HIV/AIDS are provided in the annex to this chapter.<sup>94</sup>

624. Genital mutilation is classified as an injury in Costa Rica and its commission is therefore an offence punishable by imprisonment. Forced marriage is impossible in Costa Rica. In order for a marriage to be valid, express consent must be given unequivocally and clearly; if this does not occur, the act of marriage is null and void.

625. No information on international cooperation in the field of health is available other than that given in this report.

## **I. Social security**

626. The Children and Adolescents Code establishes the right to social security coverage. Articles 38 and 42 regulate this right (see additional information in paragraphs. 211 et seq. above).

<sup>94</sup> For data on national expenditure on AIDS, see annex 6-20.

627. Under article 42 of the Children and Adolescents Code, social security benefits shall be paid for by the State if no other system affords such coverage, as provided for in articles 41 and 54.

628. A collegiate body known as the Comprehensive Services Council (CAI) has been created in Costa Rica by Act No. 8017. CAI authorizes the operations of comprehensive services centres providing day care, residential care and childcare in both the public and private sectors (community homes, shelters, day-care facilities). The Council comes under the authority of the Ministry of Health. This law and its implementing regulations need to be reviewed and updated, but the Council is nevertheless striving to improve its performance of the tasks that have been entrusted to it.<sup>95</sup>

629. The work of the CINAI centres has already been discussed (see, in particular, paragraphs 386 et seq. above). Together with the comprehensive services centres for young people and, to some extent, the community homes, they offer arrangements for upholding the right of minors to be protected and cared for while their parents are working. These centres and homes are found throughout the country. As mentioned earlier, the National Development Plan for 2006-2010 provides for the strengthening and improvement of CINAI infrastructure and for increased subsidies for community homes via their beneficiary families.

630. Another achievement that has also been mentioned above has been the establishment of the Parity Council to coordinate the work being done in the public and private sectors to assist children and adolescents.

631. One of the constraints in this area has to do with the relevant legal provisions, regulations and certification standards for these centres, which contain gaps and contradictions and which overregulate them. The challenge will be to create a system for the protection of minors in shelters and childcare facilities (shelters, NGOs, community homes, day-care centres).

632. Training for lead agencies in the health sector and for regional directorates is of vital importance. Budgetary and staffing constraints interfere with efforts to monitor and oversee these centres properly.

## **J. Living standards**

633. INEC data indicate that, as of July 2002, there were a total of 173,200 households (771,174 persons) living in poverty, with 125,461 of those being classified as poor and 47,739 as extremely poor.

634. Poverty and extreme poverty levels varied during the reporting period. As of 2007, the proportion of non-poor households had risen to 83.3 per cent (79.8 per cent in 2006, for an increase of 4.5 per cent), while the poor population accounted for 16.7 per cent of the total (20.2 per cent in 2006, for a reduction of 3.5 per cent) and the extremely poor represented 3.3 per cent (a 2 per cent drop relative to 2006).

635. In order to meet the needs of adolescents who are living or spending time in the street, PANI has created the Comprehensive Services Department (c-6-g), which runs a programme that provides a gathering place for young people. Its objective is to offer various options to minors in the metropolitan area who are in vulnerable positions or are at imminent risk that will meet their needs for institutional (inter-agency and inter-organizational) protection and assistance in dealing with the issues confronting them

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<sup>95</sup> For the number of certifications issued during the period, see annex 6-35.



through preventive, educational and rehabilitative services that will help them to reintegrate into society.

## 1. Economic exploitation of children and the eradication of child labour

636. The Ministry of Labour moved forward with the implementation of the first-line assistance programme for child and adolescent workers as part of the effort to provide these young people with comprehensive services. In 2002-2006 the programme reached 100 per cent of the persons registered with it (as noted in the assessment of the National Development Plan). This initiative includes a component on child and adolescent workers' re-entry into the education system, but this component was not implemented, thereby limiting these persons' ability to complete their studies.

637. The local offices of PANI monitor these types of cases and assist by issuing protection measures to put a stop to the child labour activity in question and applying to IMAS for economic support on the child labourers' behalf. The Ministry of Education and the National Learning Institute offer educational and training programmes for both minors and adults.

638. The Ministry of Labour's Adolescent Workers Protection Programme carried out inspections of the working conditions of 100 per cent of the adolescent workers registered with the Ministry in 2006 in order to ensure that good employment practices were in effect, that employers were conducting themselves in socially responsible ways and that they were complying with national standards. It also carried out a series of programmes, projects and other activities during the reporting period.

## 2. Teenage mothers

639. Early pregnancies are another of the factors that can interfere with young persons' proper development. Vital statistics compiled by INEC for 2003, 2004 and the first half of 2005 indicate that, in about one fifth of all births, the mother is under 19 years of age (the rate was 20.1 per cent in 2003, 19.9 per cent in 2004 and 19.7 per cent in the first six months of 2005).

640. One of the most serious causes of concern is the increase in the number of girls under 15 years of age who are giving birth. The number of such cases rose from 360 in 1990 to 611 in 2003, and in 2004 there were 446 births among this age group (Ministry of Planning and Economic Policy, 2006: 37).

641. It should be noted here that, in its 2004-2005 annual report, the Office of the Ombudsman indicates that adolescents have and receive very little information about sexuality, reproductive health and family planning and are at high risk of unwanted pregnancies, sexually transmitted infections (STIs) and HIV/AIDS.

642. One illustration of this situation is provided by the results of a survey of 937 students between 12 and 19 years of age on sexual and reproductive health conducted during the reporting period by the "Cuidarte es Quererte" (taking care of yourself is loving yourself)<sup>96</sup> Programme. The survey was vetted by the Costa Rican Association of Infantile and Juvenile Gynaecology and Obstetrics (ACOGOMIJ).

643. In order to assist adolescent mothers, in 2007 PANI launched the National Programme for the Reintegration and Education of Adolescent Mothers as part of the National Development Plan.<sup>97</sup> In 2002-2007, the Council on Adolescent Mothers was

<sup>96</sup> A social action programme executed by the Schering Company in Central America. This programme educates young people about sexual and reproductive health.

<sup>97</sup> See the supplementary annexes in the file on the PANI National Plan for Adolescent Mothers.

reactivated and its role in coordinating inter-agency efforts in this area was strengthened with support from PANI.

644. Amendments to Adolescent Mother Protection Act No. 7735 entrust INAMU with the technical supervision of the “Construyendo Oportunidades” and “Amor Joven” (young love) programmes, with which the Committee is already familiar. The latter programme was discontinued when a new Administration took office in 2002 and reorganized its institutional priorities.

645. IMAS was entrusted with the administration of these initiatives, which put an end to the role that NGOs had played in this programme. Interdisciplinary teams were recruited to work directly with teenage mothers.

646. The Construyendo Oportunidades Programme is regarded as a pioneer in the field of family planning and has laid the foundations for a national policy on sex education and on comprehensive assistance for teenage mothers within a broader social policy framework. This programme was established in 1998 and targets at-risk teenage mothers and pregnant teenagers. The legal basis for the programme is provided by Act No. 7739 (the Children and Adolescents Code) and Adolescent Mother Protection Act No. 7735 of 19 December 1997 (published on 19 January 1998).

647. The programme’s budget amounted to 350.4 million colones in 2004, 316.9 colones in 2005 and 684 million colones in 2006. It has not succeeded in attaining a 100 per cent budget execution rate, however. Actual budget execution was 316.5 million colones in 2004, and for 2005 it was only 310.1 million. In 2006, the gap widened, as the executed budget totalled just 458.3 million colones.

648. In indigenous population groups, 40 per cent of all pregnancies are accounted for by adolescents. This is partly because, in this culture, sexual relations begin at an early age (between 12 and 14 years) and because forming families at a very young age is considered to be normal (UNICEF, 2006: 32 y 53).

649. In addition, a large number of births take place outside of hospitals. In the Cabécar territory of Chirripó, 71 per cent of births are reported to take place in the home. In this and many other indigenous territories, there are no midwives, and women who are giving birth are therefore assisted by a family member (UNICEF 2006: 54).

650. In considering neonatal and maternal morbidity and mortality rates, it should be noted that almost all births by women under 18 years of age take place in hospitals where they are assisted by obstetric nurses (with the exception of childbirths among indigenous populations, as noted above) (PRIDENA, 2006: 24).

### 3. Treatment for minors with addictions

651. IAFA assisted a total of 584 children and 974 drug users in 2005 alone. In 2007, it assisted 1,117 male adolescents and 376 female adolescents (16 below the age of 12).

652. IAFA also certified eight addiction treatment centres in 2007.

653. Under an agreement signed by the Ministry of Public Security and the DARE Foundation in 1991, a programme designed to teach school-age children and adolescents (from 6 to 18 years of age) how to “say no” to drug use, drug abuse and violence provided instruction to a total of 618,815 children between 2002 and 2006. By June 2007, instruction had been provided to 55,325 children.<sup>98</sup>

<sup>98</sup> For disaggregated figures, see annex 6-29 of this chapter.

654. The out-patient model for treatment of at-risk adolescent drug users was also designed (CNNA, 2005: 111), and treatment has been provided by CCSS (CCSS).

655. The Constitutional Chamber of the Supreme Court issued Judgement No. 2005-05871<sup>99</sup> (6-30) on 17 May 2005, which reads, in part, as follows:

“It is hereby ordered that the Costa Rican Social Security Fund, PANI, the Institute on Alcoholism and Drug Dependency and the Costa Rican Institute on Drugs shall take all necessary measures to ensure that, within 18 months of the issuance of this decision, the country has a specialized centre for the treatment of minor drug addicts that is capable of providing comprehensive care for such minors on a scale commensurate with the actual demand for such services throughout the country.”

656. This decision has the following implications:

(a) The Court considers that minors have the right to treatment and rehabilitation in a residential centre;

(b) It orders that a specialized centre for the treatment of child and adolescent drug users be established;

(c) It requires all Government agencies to set up coordination mechanisms for the establishment of such a centre and for the delivery of services to the population;

(d) It defines the roles, areas of competence and legal authorities of each agency involved in this effort;

(e) It reaffirms that it is the State’s responsibility to identify, treat, educate and rehabilitate minors: “... it is the duty of the State to adopt a proactive stance in supplying the services and goods needed to ensure the health of its inhabitants. This is a typical welfare right, and in order to uphold that right, the State must equip itself with the infrastructure needed to promote human health through prevention and proper treatment of the resulting illnesses”;

(f) It classifies drug use as a public health problem.

657. Pursuant to the decision of the Constitutional Chamber, an inter-agency commission was established that includes representatives of the Ministry of Health, the Ministry of Labour and Social Security, the Ministry of Justice, ICD, IAFA and PANI (the agencies responsible for setting up the centre). This centre provides residential treatment for children and adolescents from 11 to 17 years of age who have a psychoactive drug dependency. The treatment is directed towards improving the quality of life of these children and their families, reducing drug consumption and promoting new lifestyles that will permit their reintegration into society.

658. The chief objective has been to design a plan for the construction of a residential treatment centre for children and adolescents from 11 to 17 years of age who have a psychoactive drug dependency. The treatment is directed towards improving the quality of life of these children and their families, reducing drug consumption and promoting new lifestyles that will permit their reintegration into society.

659. The cost of building this centre was estimated by the National Buildings Directorate of the Ministry of Public Works at 507,333,066.60 colones as of December 2005.

660. The centre is located within the IAFA facilities. It has 2,500 square meters of floor space and two wings so that boys and young men can be housed separately from girls and young women. Rehabilitation services are provided to persons suffering from addictions to

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<sup>99</sup> See annex 6-30 for the complete text of the decision.

crack-cocaine, industrial solvents such as cement, alcohol, tobacco, and cocaine, which are the drugs that young people are using the most heavily. This specialized centre was inaugurated on 19 September 2008.

661. The staffing table will be bolstered by CCSS with the addition of 22 posts. In addition, the Ministry of Finance submitted a budget of 2 billion colones to the Legislative Assembly to fund a further 94 positions and a budget to finance the centre's operations for 2009.

662. These efforts are supported by organizations such as ICD, which executes a number of different programmes, including the "Trazando el Camino" (trailblazing) Programme, to help adolescents with special educational needs to learn life skills and strategies as one of its cross-cutting curriculum support activities. As part of its curriculum-based efforts, it also offers students support in developing socio-affective skills and teaches them basic ways of "saying no" to alcohol, tobacco and other drugs. The core aim of the "Guerreros en contra del Humo del Cigarrillo" (waging war on cigarette smoke) Programme is to create smoke-free environments in schools. The "Aprendo a Valerme por Mí Mismo" (I'm learning to take care of myself) Programme is a comprehensive drug-use prevention initiative that forms part of school curricula for students in the second cycle of the basic education system. Based on the system-wide life-skills strategy, this programme seeks to strengthen mechanisms that help protect children from drugs and reduce drug-use risk factors. The "Canchas Libres de Alcohol, Tabaco y Drogas" (alcohol-, tobacco- and drug-free fields) Project promotes healthy lifestyles and raises awareness about the issue of drug use in the country's soccer teams. The "Aprendo a Valerme por Mí Mismo" Programme works to teach life skills to children and adolescents in preschool, grades 4, 5 and 6, CINAI centres and catechism classes and to prevent the use of psychoactive substances. In 2005 alone it provided training in drug-use prevention to 10,1299 children and 5,746 adolescents. In 2007, it trained a total of 178,399 children in kindergarten and grades 4, 5 and 6 and 12,937 children and adolescents.

663. ICD is in charge of coordinating, designing and implementing policies, plans and strategies for preventing drug use, for treating and rehabilitating drug addicts and helping them to rejoin society, and for combating drug trafficking, the laundering of drug money and related activities and crimes.

664. The National Plan to Combat Drugs for 2008-2012,<sup>100</sup> which sets out strategic lines of action for prevention, treatment and other areas of endeavour, was launched this year.

665. PANI reports that it handles between 300 and 707 cases of drug use by minors each year.<sup>101</sup>

## **IX. Education, leisure and cultural activities**

### **A. Education, instruction and vocational guidance**

666. The José Manuel Dengo Obregón National Development Plan for 2006-2010 has been designed to realize the aspiration of the State of Costa Rica to offer the people an educational model that will assist them in meeting the challenges that society is facing (especially in terms of human development) and ensuring the right to an education that meets standards of excellence and that will ensure students' success and integration into society. By achieving this goal, it will also help to reduce inequalities in educational

<sup>100</sup> See the supplementary annex on the National Plan to Combat Drugs, 2008-2012.

<sup>101</sup> See annex 6-31.

opportunities. The Sustainable Development and Healthful Life Programme was developed in order to help students acquire the knowledge, awareness, values and skills needed to uphold and ensure a harmonious form of coexistence in which everyone will treat others and nature in a responsible manner. The programme is designed to promote cultural change on the basis of a comprehensive, holistic approach to the commitments assumed in connection with the Education for All initiative, the Millennium Development Goals, the effort to eradicate child labour, the Convention on the Rights of the Child, and the Decade of Education for Sustainable Development.

667. Solid financial backing is required in order to achieve these goals. As noted in chapter III, article 78, of the Constitution, 6 per cent of GDP is to be allocated to education. The possibility of raising this to 8 per cent to cover existing needs for investment in educational equipment and infrastructure is currently under discussion in view of the fact that transfers to post-secondary educational institutions amount to 20.2 per cent of the total budget and that the wage bill accounts for over 79.5 per cent of the remaining funds earmarked by the Ministry of Education. These arrangements are supplemented by external cooperation initiatives that permit the execution of high-priority projects to address specific issues.

668. A compendium of legislation and administrative decrees concerning education is attached.<sup>102</sup>

669. The following table provides data on the central government budget, the budget of the Ministry of Education and GDP for selected years between 2002 and 2006.

**Percentages of the central government budget and GDP allocated to the Ministry of Education**

(In millions of colones at current prices)

<i>Year</i>	<i>Central Government</i>	<i>Ministry of Education</i>	<i>GDP</i>	<i>Ministry of Education/Central Government</i>	<i>Ministry of Education/GDP</i>
2002	1 068 113.5	287 142.0	6 060 878.2	26.9	4.7
2003	1 173 060.7	343 619.9	6 982 287.5	29.3	4.9
2004	1 329 851.9	398 136.2	8 126 741.6	29.9	4.9
2005	1 521 590.0	455 940.5	9 565 678.4	30.0	4.8
2006	1 798 419.7	536 086.8	11 180 278.7	29.8	4.8
2007*	2 168 086.7	678 608.8	12 915 494.7	31.3	5.3

*Source:* Budget performance reports, Ministry of Finance, Central Bank of Costa Rica; GDP calculations based on the 1991 methodology.

\* Figures based on the approved budgets.

670. The amendment to article 78 of the Constitution which requires that 6 per cent of GDP be allocated for education provides for that increase to be phased in gradually. For 2003-2004, the allocation was raised to 4.9 per cent, even after taking into account the revised GDP estimates for 2005 and 2006. The budget passed by the Legislative Assembly for 2007 allocates 5.3 per cent of GDP to education; the application of the percentage established by the principle of graduality puts this budget allocation at the 6 per cent level, and the constitutional provision has therefore been implemented.

<sup>102</sup> See the annex for other legislation on education (supplementary Ministry of Education annex).

671. The percentage of total central government expenditure that is allocated to the Ministry of Education is on the rise, despite the difficult global economic situation caused, in particular, by the rising prices of petroleum products. The increase in allocations for education are a reflection of the interest demonstrated by Costa Rica in strengthening the education sector.<sup>103</sup>

## 1. Expenditure on education

672. El Ministry of Education is the largest public-sector institution in Costa Rica:

(a) In 2007, the Ministry's budget represented 25 per cent of the total budget of the central government.

(b) Excluding the public debt, it represents 45 per cent of the budget of the executive branch.

(c) The staffing table of the Ministry of Education in 2007 included 64,394 posts (65 per cent of the executive branch's staffing table). These posts were distributed in as follows:

(i) Headquarters: 1,417 staff members (2.2 per cent of total Ministry of Education staff);

(ii) Regional offices: 850 staff members (1.3 per cent of the total);

(iii) Educational centres: 62,127 staff members (96,5 per cent of the total).

(d) The Ministry has 22 regional offices, and their number will be increased to 24 in 2008.

(e) There are some 5,000 educational centres offering instruction in all the various levels and modalities.

(f) A proposal to increase the budget allocation from 6 per cent to 8 per cent of GDP is currently on the table.

673. The adolescents in Siquirres have said that, even though school attendance is free of charge and obligatory, poverty limits their access to education. They feel that there is discrimination on the basis of ethnicity, colour and nationality; "you feel ugly". Sports and recreational programmes are lacking.

674. The community no longer has a cultural centre and there are not enough opportunities for artistic expression.

675. In terms of sports, adolescents feel that they are relegated to being spectators.

676. There is access to health care, but adolescents feel that the system for making appointments should be changed.

677. Children and adolescents in the vicinity of San José believe that access to education is hindered by poverty-related circumstances and that teenage mothers have difficulty in enrolling in school. Physical barriers impede access for minors with disabilities.

## 2. Expenditure, by level of education

678. The following table shows the amounts invested by the Ministry of Education in student programmes.

<sup>103</sup> For information on the number of public and private educational institutions, disaggregated by area, see annex 7-01.

**Investment in student programmes (2002-2006)**

In millions of colones at current prices

<i>Programme</i>	2002	2003	2004	2005	2006
Total	207 197	251 202	291 661	309 792	357 622
Preschool, first and second cycles	121 140	149 163	169 370	176 584	200 416
Third and diversified cycles	68 367	80 299	94 573	100 321	117 583
Third and diversified academic cycles	46 497	55 181	65 388	70 217	82 767
Third and diversified technical cycles	21 870	25 117	29 185	30 104	34 817
Special education	10 087	12 445	16 302	19 543	23 606
Adult education	7 602	9 295	11 415	13 344	16 017

*Source:* Budget performance reports of the Ministry of Finance.

679. Investment was highest in the preschool, first and second cycles during this reporting period.

**Cost per student and direct investment per student by the Ministry of Education, (2000-2006)**

In millions of colones at current prices

<i>Programme</i>	2002	2003	2004	2005	2006
Total	246 928	295 352	341 499	357 279	390 322
Preschool, first and second cycles	205 370	252 820	290 350	301 601	340 934
Third and diversified cycles	292 225	326 938	367 699	374 803	426 130
Third and diversified academic cycles	256 657	290 592	326 912	335 476	386 595
Third and diversified technical cycles	414 285	450 819	510 360	515 849	563 000
Special education	660 096	834 420	1 205 174	1 402 552	1 614 293

*Source:* Ministry of Education.

680. Investment per student is higher in secondary than in elementary education. Within the secondary education system, technical training is the most costly modality when measured on a per-student basis (over 500,000 colones annually since 2004).

681. There are two main reasons why the cost of special education appears to be very high. First, there are no accurate statistics on students served by the special education subprogramme; information is available on students attending special education centres, but not on students in the regular school system who receive special assistance. Second, the per-student cost is much higher because these students received more personalized attention and different types of support depending on the type of disability that they have. In 2006, expenditures totalled 1,614,293 (in billions of colones at current prices).

**3. Indigenous education programmes<sup>104</sup>**

682. The education system has been working to contextualize the national curriculum in order to align it with the characteristics and educational rights of the indigenous population. Progress has also been made in incorporating languages, cultures and environmental education into the curriculum. Significant effort has gone into producing bilingual

<sup>104</sup> See the supplementary annex on education for persons belonging to indigenous groups in Costa Rica (supplementary annex – Ministry of Education file).

textbooks and into raising the professional qualifications of teachers under an arrangement with the National University.

683. The number of indigenous educational centres has increased. In 2007, there were 72 preschool programmes, 231 elementary schools, 4 secondary schools, 6 distance-learning schools at the secondary level, as compared to 72 preschool programmes, 180 elementary schools, 2 secondary schools, 9 distance-learning schools at the secondary level and 4 CINDEA integrated youth and adult education centres in 2003.

684. There are two types of indigenous schools: one-teacher schools and what are known as “Administration 1” schools. Some 75 per cent of the schools fall into the first category. Under this system, a single instructor teaches the six grades of elementary school and there are no more than 30 students. The other 25 per cent are Administration 1 schools, which serve between 52 and 180 students on a full-day or half-day schedule.

685. Academic-tract secondary schools serve 630 students in the most densely populated indigenous regions: Sulayön and Sepecue in Talamanca; Boruca and Térraba in Buenos Aires. These include both the third cycle of instruction and the fourth, or diversified, cycle. There are also six distance-learning schools at the secondary level serving 297 young people belonging to the Cabécares, Bribris, Malekus and Gnöbes indigenous groups. These educational services are thus provided to a total of 927 indigenous students.

686. One of the goals of the Ministry of Education is to promote academic-tract secondary schools offering the diversified education cycle within the framework of plans and programmes on indigenous cultures. The curriculum includes courses in indigenous languages, crafts, music, culture and indigenous environmental education. The highest level offered to students in indigenous areas is the academic secondary-school diploma, which is the degree required for entrance into a university. The country’s universities offer scholarships that cover the full cost of enrolment and tuition and the cost of room and board, as well as stipends, depending on the economic circumstances of each student.

687. Indigenous educational centres are classified as bilingual schools, since part of the students’ instruction is provided in their native language. In accordance with international treaties and Costa Rican law, the Ministry of Education includes instruction in local indigenous languages in the curriculum. These courses are given three times per week and are intended to preserve and strengthen these indigenous languages. The teachers are selected on the basis of recommendations from the communities and their performance on a test administered by the Department of Indigenous Education. The fact that the educational level of these language instructors is no higher than the third cycle of the basic general education system constitutes a limitation for indigenous education and poses a challenge for the system. Six indigenous languages are spoken in Costa Rica: Cabécar, Malecu, Bribri, Boruca, Térraba and Guaymí.

688. Indigenous adolescents taking part in the report validation session held in San Isidro de El General on 14 May 2008 felt that poverty has a strong impact on their communities, that child labour exists because they have to help to cover household expenses, and that poverty leads to drug use, sexual exploitation and other situations that violate their rights. There is a lack of values, in addition to a lack of responsibility on the part of parents. There are no street children in the indigenous communities.

#### **4. Special education<sup>105</sup>**

689. The Ministry of Education provides instruction to persons with disabilities in specialized institutions (special education schools) and in the regular school system at both

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<sup>105</sup> See Ministry of Education bulletin No. 03-07 in annex 7-02 and Ministry of Education bulletin No. 05-07 in annex 7-03.



the elementary and secondary levels in accordance with the Equal Opportunity Act (Act No. 7600).

690. During 2007, 14,965 students with some sort of disability were provided with personal attention, support in the classroom, mobile services, and speech and physical therapy. Curricular adjustments<sup>106</sup> of various types were made to accommodate students, including 11,679 accessibility adjustments, 113,666 minor adjustments and 11,095 major adjustments. In 2003, 10,470 accessibility adjustments were made, and adjustments classified as “minor” and as “major” totalled 89,425 and 6,433, respectively.

**Students in traditional educational institutions who have special educational needs, 1999-2001 and 2004-2006**

<i>Type of need</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>
Learning problems	27 414	28 681	31 149	54 687	60 688	74 861
Attention deficit	2 947	11 079	16 460	23 696	27 009	29 398
Emotional and behavioural problems	4 824	12 494	12 914	18 630	19 945	22 200
Language difficulties	6 375	6 378	6 795	11 509	12 704	12 923
Visual disabilities	5 985	4 004	4 309	7 095	7 246	7 774
Mental retardation	3 306	1 292	1 518	3 427	5 021	5 249
Multiple disabilities	2 087	2 224	1 368	1 407	1 881	1 529
Deafness	1 287	626	641	753	765	783
Neurodegenerative diseases	0	0	0	275	301	327
Deafblindness	0	0	0	37	47	258

*Source:* Department of Statistics of the Ministry of Education.

691. The National Resource Centre for Inclusive Education (CENAREC) is the decentralized agency of the Ministry of Education that is directly in charge of training and advising special education teachers. It is also responsible for meeting the needs of students with special educational requirements whose families are directly involved in their care and education. Parents are basic users of special education services and are therefore provided with guidance at this centre. Four regional resource centres are being opened to support special education teaching staff more effectively. Meetings have also been held with regional authorities on the implementation of the technical and administrative measures needed to ensure that educational services are provided to students with special educational needs in hospitals.

**Curricular adjustments for children with special needs in the education system<sup>107</sup>**

692. Curricular adjustments to meet the educational needs of students are classified by the Ministry of Education as accessibility adjustments, minor adjustments or major adjustments.

693. These types of adjustments require an exhaustive analysis in each case, since they are not simple adaptations in methodologies or systems of evaluation but instead involve substantive modifications of the official curriculum.

<sup>106</sup> See annex 7-41.

<sup>107</sup> See Ministry of Education bulletin No. 04-07 in annex 7-04 to this chapter.

694. The 11,679 accessibility adjustments that were made in 2006 were distributed as follows: 1,201 at the preschool level, 7,894 in the first and second cycles, and 2,584 at the secondary level.

695. The 113,666 minor adjustments that were made throughout the country were distributed as follows: 2,931 at the preschool level, 74,386 in the first and second cycles and 36,349 at the secondary level. The distribution of the 11,095 major adjustments was as follows: 9,177 in the first and second cycles and 1,918 at the secondary level.

## 5. Literacy rate

696. Costa Rica has a literacy rate of 95.2 per cent; the rate is similar for men and women. By inference, the illiteracy rate<sup>108</sup> (7-27) is 4.8 per cent for the country as a whole.<sup>109</sup>

697. A comparison of these figures with the results of the 1984 census shows that the country has raised its literacy rate by 2.1 per cent from the previous rate of 93.1 per cent.<sup>110</sup>

## 6. Infrastructure<sup>111</sup>

698. Implementation of the curriculum calls for a school day that runs from 7 a.m. to 2 p.m. in schools that have what is known as an “extended schedule”. This is not generally the case, however, since most schools have to offer two shifts. Given this situation, infrastructure is a strategic and decisive factor in determining the quality of the education that schools offer. In working to meet this growing challenge, progress has been made in building new classrooms (at an investment of over 21 billion colones in 2007). However, given the deteriorating conditions reported by educational centres, problems of overcrowding and the need to provide courses in computer science, English, religion and home economics, the efforts that have been made are not enough to meet existing needs.

699. For 2007, 1.224 billion colones were budgeted for the procurement of 80,000 desks. Problems were encountered in obtaining the necessary supplies of materials, however, and only 35,135 desks were acquired as a result.

700. Indigenous adolescents in San Isidro de El General said that they do not receive the same education as people in urban areas do. Quality is lower because of inadequate infrastructure (an insufficient number of classrooms, the unsuitable condition of classrooms (earthen floors), and the distance-learning secondary schools cannot operate because of a lack of electricity) and accessibility problems (students have to get up at 4 a.m. in order to get to school); instruction in Bribery and Cabécar needs to be strengthened, and recreational opportunities chiefly consist of football for the boys and playing in nearby rivers for the girls.

<sup>108</sup> See annex 7-27 for information on the literacy rate.

<sup>109</sup> Data provided by the National Institute of Statistics and Censuses (INEC) from the ninth national population census and the fifth housing survey of August 2001.

<sup>110</sup> See annex 7-05 to this chapter for the complete table, which provides information on both minors and adults. Also see annex 7-06 for information on school attendance by area and annex 7-07 on educational services by province.

<sup>111</sup> See Ministry of Education bulletin No. 12-2007 in annex 7-08 to this chapter.

701. Information is provided in the annexes on the average numbers of students in the first and second cycles in each classroom, disaggregated by type of administrative level<sup>112</sup> (which are quite satisfactory at all levels<sup>113</sup>) and the total number of classrooms in the regular education system in public schools, private schools and subsidized private schools in 1999-2006.<sup>114</sup>

702. The number of classrooms<sup>115</sup> in the regular education system increased between 2000 and 2007. The number of preschool classrooms rose from 2,587 to 5,304, while the number of classrooms in the first and second cycles climbed from a total of 13,982 in 2000 to 18,933 in 2007. In the third and diversified cycles, the number of classrooms increased from 6,946 to 10,297. The number of classrooms in special education s and in the country's Comprehensive Service Centres for Adults with Disabilities (CAIPAD) rose from 266 to 340.

703. Nonetheless, another 779 classrooms are needed in public preschools, 2,650 more are needed in first- and second-cycle public schools and another 2,088 classrooms are needed in public schools offering secondary and diversified-cycle instruction. A total of 1,133 classrooms are needed in special education centres.<sup>116</sup>

## 7. Monitoring of student progress in the education system: cohorts

704. The information gathered by monitoring cohorts of students from the time they enter preschool until the complete their secondary education has served as a basis for the development of strategies to help ensure that students remain in school.<sup>117</sup> For the most recent cohorts, the Statistics Department of the Ministry of Education's Institutional Planning Directorate calculates that only 42.1 per cent of the students entering secondary school complete that level of education. Although the secondary education system has expanded considerably in Costa Rica in recent years, the opportunities for young people in disadvantaged sectors of society to attend and complete secondary school are limited, and a large-scale effort on a par with the effort that the country made in the past to provide universal elementary education is called for.

705. As part of its oversight activities, each year the Ministry of Education conducts a survey in order to identify students who work while attending school. This information is used to give such students priority access to scholarships and to request the introduction of specific actions at the regional level to combat the worst forms of child labour. The number of students who both study and work decreased by 40 per cent between 2002 and 2007; this group represented some 2 per cent of all enrolled students in 2007 (approximately 20,000 persons); 0.34 per cent of working students dropped out of school.

### Scholastic achievement in the regular education system

706. Within the regular education system, in 2005 achievement levels<sup>118</sup> (passing) were highest in the night schools, which had a passing rate of 90.8 per cent, and lowest in third-cycle day schools (78.7 per cent).

<sup>112</sup> See annex 7-09.

<sup>113</sup> See annex 7-28.

<sup>114</sup> See annex 7-10.

<sup>115</sup> See annex 7-29.

<sup>116</sup> For information on classroom requirements, see annex 7-11.

<sup>117</sup> See annex 7-30.

<sup>118</sup> See annex 7-31.

### Preschool instruction

707. The preschool system serves children under 6 years and 6 months of age. It seeks to provide comprehensive instruction in which the family is actively involved as a partner. The overarching strategic objective is to improve and universalize preschool education.

708. The preschool enrolment rate rose considerably between 2002 and 2006, with an increase of 16.4 per cent in the nursery-school cycle. The net enrolment rate as of 2007 in the second interactive cycle amounted to 43 per cent. Coverage of the transition cycle (the cycle immediately before entry into first grade in elementary school) increased steadily, reaching 93 per cent in 2006.

709. The enrolment rate in the second interactive cycle had been very low until the year 2000, since this level of instruction was offered only in private schools. Public schools began to offer this level in 2001, after which coverage increased (GCR, 2004: 25).

710. An improvement in the quality of preschool education has been achieved with the introduction of instruction in English, and 8,637 students have therefore received instruction in a second language (2007). The programme on computer use served 28,762 children, or 34.9 per cent of the total (2007).

711. In rural zones, where the population is scattered over a wide area, it is difficult to gather a sufficient number of children together in order to provide them with instruction. This situation seriously hampers efforts to expand coverage at this educational level in these areas and has obliged the authorities to seek out non-traditional alternatives, such as mobile services and the establishment of mixed-grade groups.

712. An effort has been made to redesign the preschool education system<sup>119</sup> for indigenous and other ethnic groups. The programmes for these population groups have been revisited with a view to strengthening instruction in the children's mother tongue and in Spanish as a second language in 2008. Mother-tongue coverage in preschools during the current school year has been constant at 21 per cent.

713. This level of instruction has also been strengthened by the implementation of the "Ventanas al Mundo Infantil" (windows onto a child's world) Programme, which focuses on the family unit and on the community. As of 2007, 23,850 families had participated in this programme.

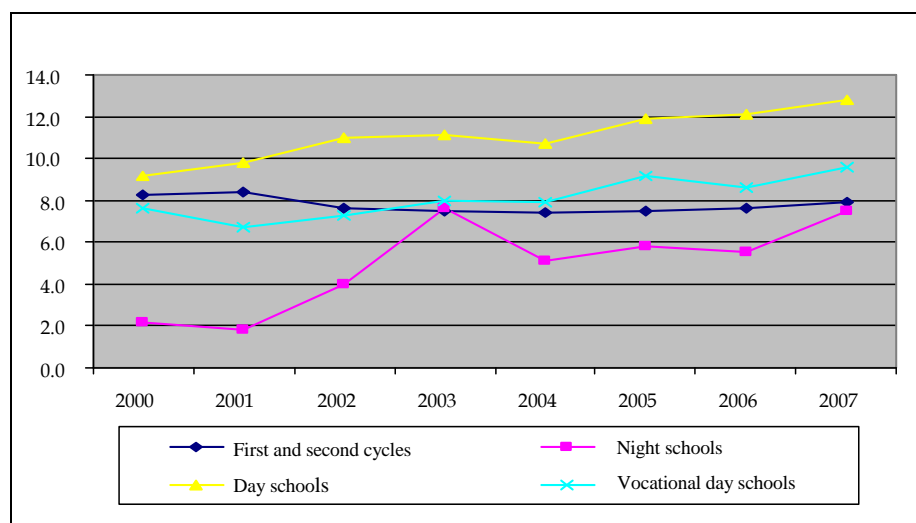
### Repetition rates (absolute numbers and percentages)

714. The percentage of students in the regular education system who had to repeat a grade as varied over the period from 2000 to 2007. The rate in the first and second cycles has been fairly constant at around 8 per cent, but the rate for night-school students decreased each year between 2003 and 2006, and then rose in 2007. The rate in day schools has risen between 2002 and 2007, as shown in the following graph.<sup>120</sup>

<sup>119</sup> See annex 7-32.

<sup>120</sup> See annex 7-12 to this chapter for information on the repetition of grades in the first, second and third cycles, disaggregated by public and private schools.

### Repetition rate in the regular education system, 2000-2007



### Enrolment in elementary and secondary schools

715. Enrolment, measured by level of education, rose in 2002-2007 overall, with an increase being registered up to 2006 (1,071,096), followed by a decline in 2007 to 1,048,581.<sup>121</sup>

716. Enrolment in elementary school (first and second cycles in the traditional system) declined steadily from 558,105 in 2002 to 531,559 in 2007, in contrast to enrolment in secondary school (third and diversified cycles in the traditional system), which climbed steadily from 327,042 to 387,493 (2002 and 2007, respectively).<sup>122</sup>

### Percentage of minors attending school

717. Overall school enrolment rates<sup>123</sup> are as follows.

Year	2000	2001	2002	2003	2004	2005	2006
Enrolment	885 224	911 065	929 229	948 961	957 036	973 859	984 172
Population	1 093 209	1 102 951	1 108 633	1 107 036	1 102 497	1 100 197	1 096 914
Overall rate	81.0	82.6	83.8	85.7	86.8	88.5	89.7

*Source:* Statistics Department of the Ministry of Education. Population projections and estimates provided by the Central American Population Centre (CCP) and INEC.

718. The gross enrolment rate<sup>124</sup> for the education system as a whole for 2002-2007 was as follows:

(a) In the interactive cycle, it rose until 2006, when it reached 44.4 per cent; in 2007 it fell back to 43.2 per cent;

<sup>121</sup> See annexes 7-13, 7-14 and 7-40.

<sup>122</sup> See annex 7-13 to this chapter for information on initial enrolment by sex, level of education and type of school (public, private, subsidized). See also Ministry of Education bulletin No. 09-07 for the main indicators (annex 7-14).

<sup>123</sup> See Ministry of Education bulletin No. 1 for some disaggregated rates (annex 7-23).

<sup>124</sup> See annex 7-33.

(b) In the transition cycle, the rate peaked in 2005 at 93.1 per cent, slipping to 78.2 per cent in 2007;

(c) The rate for elementary school has decreased steadily, falling from 111.5 per cent to 107.2 per cent;

(d) The rate for secondary school has climbed from 75.4 per cent to 88.8 per cent.

719. Net enrolment rates<sup>125</sup> in public, private and subsidized private schools have followed similar trends. Disaggregated data are provided in annexes 7-15, 7-16 and 7-34.<sup>126</sup>

### **Elementary education**

720. Costa Rica can be considered to have achieved universal elementary school coverage, with a net enrolment rate of 99.8 per cent. The gross enrolment rate slipped from 111.5 per cent to 107.2 per cent during the reporting period owing to a decrease in the number of overage students, mainly in the first cycle. This phenomenon is accounted for chiefly by the convergence of two trends: late entry into the school system and repetition.

721. According to information compiled in connection with the Millennium Development Goals, the school completion rate was 91.2 per cent as of 2002. This percentage has risen over the years, as provided for by the National Development Plan. This was one of the strategic lines of action established for 2006-2010, and it is reflected in the coefficient for the education system, which has been climbing gradually during recent years and reached 0.82 for the 2004 cohort (the maximum value is 1). The minimum value for the years/student indicator between 2001 and 2004 was 6.47 years.

722. In order to raise the quality of education imparted in one-teacher schools, a second teacher is sent to those schools where more than 30 students are enrolled. Under this programme, an additional teacher has been assigned to 669 one-teacher schools to assume part of the multi-grade workload.

723. The Omar Dengo Foundation offers computer training in the country's schools. It has set up computer laboratories in over 500 schools, providing coverage for 57.9 per cent of the school population. In order to strengthen instruction in the English language, funding has been sought for the implementation of an interactive language-learning platform for use by students at all levels and in all types of schools. A number of thematic modules have been developed for preschool and first- and second-cycle programmes.

### **Secondary education**

724. Increasing the secondary-education enrolment rate has been a challenge for the Costa Rican education system. Efforts in this connection have succeeded in expanding the coverage of the third and diversified cycles in the last four years.

725. In 2007, the gross secondary-school coverage rate for the formal, traditional education system was 77.7 per cent. If other education options, in addition to the formal academic and technical secondary-school tracts are included, then the coverage rate rises to 88.8 per cent (see the tables provided in the annexes). This has been made possible by the implementation of strategic programmes aimed at opening up new schools, providing scholarships and free transportation in rural areas and, more recently, establishing general basic education institutions that provide instruction up to the ninth grade in a single location

<sup>125</sup> See annex 7-34.

<sup>126</sup> See annex 7-15 for age-specific enrolment rates and annex 7-16 for enrolment rates for the traditional system.

so that the students do not have to make the drastic change associated with moving from sixth to seventh grade.

726. Various ways of increasing the coverage and quality of secondary education have been explored, as well as different approaches for assisting young people, especially those living in remote rural areas, to reach the schools on a regular basis. Of the total number of enrolled secondary-school students, 87.4 per cent attend academic- or technical-tract day schools or night schools; 3.25 per cent are in the New Educational Opportunities for Youth Programme, 4.6 per cent are in the Plan 125 administered by vocational community-based educational institutes and the CINDEA integrated youth and adult education centres. The Distance Education School (CONED) served 0.7 per cent, and another 2.21 per cent were in the Open Education Programme's third-cycle proficiency and general educational development degree courses; 1.7 per cent of the students enrolled in secondary education attend third- and fourth-cycle special education courses (pre-vocational and vocational workshops).

727. The Educational Innovation Schools have innovation and learning rooms that are equipped with technologies for use in conducting teaching experiments and projects which are relevant to the learning process within the local environment. Workshops are held to teach students how to use various technologies (multimedia room); there are also classroom facilities for hands-on scientific experiments (laboratory) and for the application of the "carousel classroom" methodology.

#### **Technical education**

728. Technical education programmes are designed to build adolescents' production and entrepreneurial capacities through inter-agency cooperation activities that will help them raise their educational level and develop optimum work skills, including a command of other languages and of information and communication technologies.

729. In order to continue expanding technical education services, night classes have been introduced in technical schools so that people who work can attend classes. Three new technical schools have been established in communities where there was a demand for such services. The aim is to implement a skills-based curricular approach whose viability in academic- and technical-tract educational programmes can then be assessed. The Higher Education Council has entered into an agreement under which the curricular development model for the technical education system will be based on work skills standards. Work is going forward on the design of labour skills courses that will allow students to acquire the competencies required in the business sector. To this end, GLOBE and international marketing modules have been incorporated into the curriculum.

730. In order to ensure that the instruction provided in these modules remains up to date, the Higher Education Council approved the modification of the curricula for 42 exploratory workshops and 21 technical fields and established that the skills-based model would be used for 12 fields of specialization in 2006. Three new areas of specialization have been introduced: coastal tourism, ship mechanics (in cooperation with the National Learning Institute (INA)) and software development. These additions have been introduced to cover skills that are in demand by businesses. The new two-year technical studies plan is open to students who have completed secondary school but who do not have the diploma required for entry to institutions of higher learning. These young people will thus have the opportunity to obtain technical training in their chosen field of specialization while attending the same school where they can complete the tests required for an academic high school diploma.

731. The National School Cooperatives Programme is being merged with the National Technical Education System in order to boost the potential of school and student

cooperatives for strengthening students' entrepreneurial capacities while also giving greater priority to this area in secondary education and for developing production activities in the country's 40 cooperative schools.

732. The implementation of the conversational English instruction plan in technical schools and 12 new specialized English courses will help graduates find jobs. An English programme for call centres has also been developed. English courses have been incorporated into the curriculum for specializations in industrial electrical and electronic technologies, software development, computer networking and occupational health. Progress has also been made in introducing virtual management simulation programmes in the curricula for technical courses of study in simulation software design and implementation, and these tools have been incorporated into the accounting curriculum as well.

733. The effort to promote vocational training that is being led by INA, as the lead agency in this field, in cooperation with the Association of Community Colleges, the Central American School of Animal Husbandry (ECAG) and the Technical Education Research and Advanced Training Centre (CIPET), has contributed to the progress made in bringing vocational training curricula and the needs of the production sector closer together.

734. A total of 84,110 students received training in INA technical programmes over a four-year period in three areas of specialization: agriculture, commerce, and industry and services. This represented a 28 per cent increase over 2002. The training that they received was provided via a total of 55,649 instruction units.

735. The University for Work Programme was developed to build a bridge between formal education and vocational and occupational training. Cooperation agreements and letters of understanding have been signed with State universities and community colleges that have benefited a total of 16,446 people.

736. State-run community colleges provided training through community outreach and technical assistance programmes to 31,250 people between 2002 and 2006, thereby opening up educational opportunities for young people and adults with low levels of educational attainment.

737. In 2007 an agreement was signed by institutions working in the education and social sectors and in the effort to combat poverty. Under this agreement, persons under 15 years of age will have access to INA vocational training programmes offered to people who are already in school.

**Enrolment of young men and women, 2002-2007 (includes personalized training)**

<i>Year</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>
2002	25 806	14 455	11 351
2003	29 192	15 664	13 528
2004	35 332	18 594	16 738
2005	39 645	19 412	20 233
2006	38 851	18 972	19 879
2007*	28 156	14 292	13 864

*Source:* INA file 1808-2007.

\* Data up to October 2007.



## 8. Educational information and orientation

738. The Ministry of Education has developed a number of communication programmes and projects to provide orientation to the student community, such as the Orientation Studies Programme for the first and second cycles. This programme is conducted by the Student Life and Orientation Department and served 896,864 students in 2002. In 2007, 919,052 students were provided with this type of information.

739. Students in the third and diversified cycles are also furnished with orientation services that provide a channel of communication for the requests of their parents or guardians, as well as those of the students themselves. This service is supplemented by the councils established for each grade level, which coordinate orientation activities and organize activities focusing on such subjects as study techniques, self-esteem, drugs, sexuality and, in the upper grades, vocational guidance.

740. School libraries are another source of information for students. A project is currently under way to overhaul the libraries, consolidate them as educational institutions and increase their bibliographic and other educational resources. The 2007 budget also provided for an increase in posts for librarians. Work on the job descriptions for potential candidates has been coordinated with the Association of Librarian Science. Each resource centre has a laptop computer and a projector, together with the appropriate software, for the use of teachers and students in learning activities. Administrative procurement procedures are under development.

## 9. Drop-out rates

741. Students who drop out before finishing their studies are one of the most serious concerns for educational authorities. Determined efforts have been made to deal with this problem, but no permanent solution has yet been found. The drop-out rate<sup>127</sup> reflects a situation that has many economic, cultural and social causes, in addition to factors at work within the education system itself. This is a formidable challenge which must be met by means of a joint effort on the part of the Ministry of Education, the schools and the students' families. An enabling environment needs to be created for students' daily work in the classroom.

742. At the elementary level, the drop-out rate held fairly steady in 2003-2005 at between 3 per cent and 4 per cent. In 2006, it reached 3.8 per cent of total initial enrolment. Students drop out in all school districts, but the rates are higher in schools districts in the coastal Limón and Puntarenas provinces.

743. The average nationwide drop-out rate in secondary schools amounted to 13.2 per cent in 2006. Despite the efforts made to lower this rate, especially in what are known as "equity programmes", no significant or sustained reduction has been achieved. The third cycle (particularly seventh grade) has the highest drop-out rate. The rate declines progressively as the students move up from one grade to the next in the secondary education system, with the national average for 2006 declining from 19.3 per cent for seventh grade to 2.8 per cent in eleventh grade. Tenth grade is the exception to this pattern, since it had a significantly higher rate (12.7 per cent) in 2006.

744. As part of the effort to keep adolescents in school (and, in this case, teenage mothers, in particular), 500 teenage mothers in the education system have been receiving a 50,000 colones monthly scholarship since 2008. The idea is for them to use part of this money to pay for childcare while they continue to attend school. This is made possible by an agreement under which PANI is to transfer 300 million colones to the Ministry of

<sup>127</sup> See annex 7-35.

Education for the 2008 school year. This programme is to be expanded each year until it covers all teenage mothers in the school system so that they can finish their studies successfully and then either go on to university or learn a technical skill or trade that will allow them to find employment.

745. The Ministry of Education is in the process of designing the National Drop-out Prevention Model, which will focus on convincing students to stay in school, helping them to avoid repeating grades and reintegrating drop-outs into the education system. It is also working to implement the Citizens Project and to organize large-scale cultural and sports events, such as the Student Games, music and arts festivals, the National Creativity Festival and the National Bands Festival.

746. As part of Plan 200, a media campaign was launched under the slogan “be really into school” to counter the tendency of many children to drop out when the time comes to make the transition from the second to the third cycle of the basic education system. This campaign is designed to reinforce the students’ ownership of the process involved in transitioning from elementary to secondary school.

747. In addition, general basic education institutions have been established. These schools go all the way up to ninth grade, which helps to prevent the drop-out rate from peaking between the sixth and seventh grades.<sup>128</sup>

#### 10. Equity in access to educational services

748. As a matter of State policy, Costa Rica offers access to a formal education to all school-age children throughout the country. This policy is based on one of the principles enshrined in the Constitution, and its application has been reinforced by a range of support programmes to address everything from economic obstacles to curricular issues.

749. These support programmes are coordinated so that they begin at the same time as the academic year. The schedules for the preschool, primary, secondary and special education systems and the equity programmes serving the poor population (scholarships for students and initial scholarships provided by the Ministry of Education and educational access subsidies) are therefore synchronized.

750. The pattern of investment in the various programmes designed to provide equitable access to education attests to the extent of the effort being made by Costa Rica to implement the right to education throughout the country.

#### Investment in equity programmes by the Ministry of Education, 2002-2006

In millions of colones at current prices

Year	2002	2003	2004	2005	2006
Scholarships	3 312.3	3 285.8	3 563.3	4 540.2	5 245.8
Student transportation	3 683.0	3 749.4	5 479.3	7 909.5	8 161.3
School meals programmes	5 979.0	6 440.7	9 078.9	9 928.4	11 981.9
Initial scholarships	630.9	707.1	777.3	809.5	889.8
<b>Equity programmes – Total</b>	<b>13 605.2</b>	<b>14 183.0</b>	<b>18 898.8</b>	<b>23 187.6</b>	<b>26 278.8</b>

Source: Ministry of Education.

<sup>128</sup> See annex 7-17 to this chapter for information on drop-out rates by area, gender and sector (public/private).

### **School cafeterias**

751. In 2007, a total of 604,723 students were served meals at school, which was an increase of 22 per cent over the figure for the start of 2002. In 2006, over 80 per cent of the schools serving indigenous populations (according to data from UNICEF) enjoyed this right, despite the problems they faced. The school meals programme is one of the most successful and consolidated educational equity programmes. It is divided into three subprogrammes: meals service, payments for cooks and cooking equipment, and improvements in school cafeterias. Meals service was provided to 604,723 children and young people enrolled in the different grade levels in 2007 at a cost of approximately 23 billion colones. Work has also been done on designing software to improve beneficiary targeting in the implementation of the Health and Nutrition Surveillance System (SISVAN) in coordination with other sectors and agencies (Ministry of Education, CCSS, Ministry of Health). One of the most important advances in this area has been the introduction of a new resource allocation policy under which the amount granted to each student has been doubled and actual coverage has been greatly expanded in percentage terms. A study done this year by the World Bank provided confirmation of user (families, students and educational centres) satisfaction with this programme. During the three years in question (2003-2005), this programme exceeded the target level of beneficiaries even though budget execution fell short of the 100 per cent mark, which attests to the efficiency of the boards of education and administrative boards responsible for managing these resources (CSG, 2006: 9-10).

752. Strategies for boosting quality and achieving greater equity (c-7-a) in the education system in rural areas and for strengthening local institutions have been drawn up.

### **Scholarships**

753. The Student Scholarship Programme served 15,549 students in 1999. Since then, its coverage has been expanded a great deal, peaking in 2007 at a total of 74,148 scholarships. This very significant increase in the number of scholarships has been achieved despite the long-standing implementation problems experienced by the National Scholarship Fund (FONABE).

754. The coverage of the Initial Scholarship Programme (formerly known as the School Vouchers Programme) during the reporting period ranged between 63,000 and 74,148 students. An effort has been made to steadily increase the number of students receiving such scholarships, but a variety of problems have been encountered, including decreased enrolment in some schools, inconsistent information regarding applicants and their guardians, problems experienced by educational centres in sending out the information, and problems with documentation in the case of foreign students.

755. Although the budget allocation was increased considerably in 2004, this did not result in an actual increase, since over 46 per cent of the budget was not executed owing to the problems mentioned in the preceding paragraph. In 2005, the target figure was attained, although the available resources were not sufficient to provide as many scholarships as had been granted in 2000 and 2001. This was because the scholarships were bigger (and so fewer persons received them). In order to resolve this problem, the scholarships were converted into monthly payments that are issued in addition to the regular scholarship granted to elementary school students. The report on the National Development Plan states that a total of 325,558 initial scholarships were granted in 2002-2006.

### **Student transportation programme**

756. Under this programme, free transportation was provided to a total of 70,692 students in 2006 and to 72,137 students in 2007. During the period in question, the coverage of this

programme has been expanded by 2 per cent relative to its 2006 level. The programme uses three different avenues for providing these services: arrangement of transportation routes directly by the programme, the issuance of transport vouchers to students, and transfers of funds to the Administrative Boards so that they can make the necessary arrangements.

757. The transportation situation for the indigenous population is somewhat different, since, as mentioned in the report entitled “Niñez y Adolescencia Indígena en Costa Rica: su derecho a la salud y la educación” (indigenous children and adolescents in Costa Rica: their right to health and education), only a relatively small proportion of the indigenous population (not more than 10 per cent) receives this benefit, mainly because the administrative procedures and paperwork involved are complicated and because the funds are issued in the form of checks for deposit only. The strategy in place for ensuring the indigenous population’s right to education is to open up local schools so that the students do not need to travel far from their homes.

758. IMAS also helps to keep students in school by providing a monthly incentive payment during the school year. To receive these payments, children’s parents sign a letter in which they make a commitment to send their children to school and help them with their homework. IMAS then coordinates with the schools and receives reports on whether or not the students have remained in the school system.

#### **The Avancemos Programme**

759. The new inter-agency Avancemos Programme (c-7-b) was created in 2006 and serves Costa Rican and foreign students attending any public secondary educational institution of any sort in the country. It covers adolescents between the ages of 12 and 18, as well as young people up to 21 years of age or even older under special circumstances.

760. The programme components include cash transfers, improvements in educational services and savings. The savings component is designed to ensure that, when students graduate from secondary school, they will have funds that they can then invest in their further education or in the development of job skills.

761. The implementation of these components focuses on the following objectives:

- (a) Providing poor families with additional income so that they can keep their teenagers in school;
- (b) Expanding formal and informal educational options and improving the quality of education in order to help keep poor teenagers in school;
- (c) Encouraging participating adolescents and their families to become committed to and involved in building their future;
- (d) Fostering the development by participating adolescents of a culture of saving and investment;
- (e) Helping to lower student drop-out and repetition rates in the secondary education system;
- (f) Helping to reduce child and teenage labour.

762. The cash transfers made under this programme are distributed by educational level as follows.

In colones

<i>Educational level</i>	<i>Amount of transfer</i>
7 <sup>th</sup>	15 000
8 <sup>th</sup>	20 000
9 <sup>th</sup>	25 000
10 <sup>th</sup>	35 000
11 <sup>th</sup>	45 000
12 <sup>th</sup>	50 000

*Source:* Technical Secretariat, Avancemos Programme.

763. The Ministry of Education's National Scholarship Fund (FONABE)<sup>129</sup> assists students in elementary and secondary school and in higher education. Although the scholarships it provides are smaller, these monthly transfers nonetheless allow children from poor households to stay in school.

764. In its evaluation of the National Development Plan for 2006-2010,<sup>130</sup> the Ministry of Planning and Economic Policy reported that:

“3. Avancemos Programme: Conditional cash transfers to poor households to help adolescents to stay in school and to complete their secondary education.

3.1 Provide transfers for 130,000 adolescent students from poor households.

Progress made during the period (in percentages): 75.6 per cent (98,284 students)

The extent of progress made towards the target figure for item 3.1 amounts to 75.6 per cent, which corresponds to 98,284 students, according to the information reported for 2007. Other participating institutions have contributed by referring potential programme participants to the programme's executing agencies. It should be noted that the Ministry of Education did not report on the work done by social and anti-poverty agencies to contribute to the achievement of this goal. It should also be noted that, although the Ministry of Housing and Human Settlements is not named as an executing agency in connection with this goal, because the Avancemos Programme is such a high priority for the Government, the Ministry has prepared 12 progress reports on its work.”

## 11. The right to education under special circumstances<sup>131</sup>

765. The strategy of the Ministry of Education has been to offer various educational options to all students who have economic difficulties or who experience academic difficulties owing to special circumstances such as disabilities, residence in rural areas that are far away from educational centres, illness, deprivation of liberty, HIV/AIDS or ethnic origin.

766. A plan has been put in place for promoting the necessary skills, values, awareness and knowledge to inculcate a healthy lifestyle among all potential student populations, at all educational levels and in all the various kinds of educational options, within the framework of a harmonious relationship with nature and an education for sustainable development. The main activity to be pursued under this plan is to develop and implement a national

<sup>129</sup> See the regulations contained in annex 7-18 to this chapter.

<sup>130</sup> See the full report in the supplementary annex (Ministry of Planning and Economic Policy folder).

<sup>131</sup> See Ministry of Education bulletin No. 08-07 on special education in annex 7-19.

programme to bring about cultural change. An integral, holistic approach will be taken to promoting respect and caring for life and ecological health as a basis for encouraging people to lead fuller, more healthful lives. On this basis, it will seek to embrace all persons by fostering the realization of human potential, harmonious coexistence within a democratic framework, the search for equity and sustainable productivity in detecting problems related to HIV/AIDS, drugs, violence, sexual commercial exploitation of minors, teenage pregnancies and environmental problems.

767. As part of the restructuring of the central organs of the Ministry in 2007, the Department of Human Development and Education for Health<sup>132</sup> and the Department of the Environment within the Curricular Development Directorate were established at decision-making levels in the Ministry of Education. These departments can coordinate initiatives in these fields and the implementation of projects and strategies in the country's educational institutions. A number of specific actions have been taken, including: a national strategy for the application of the comprehensive education policy on human sexuality and prevention of HIV/AIDS, budget codes for the appointment of teachers in social institutions, educational support for the "Hogares Crea" (creation homes) Programme, which helps persons who have drug addictions, the "Aula Abierta" (open classroom) Programme, scholarships for students with disabilities and the inter-agency Avancemos Programme.

## **12. Disciplinary procedures**

768. The Ministry of Education has an ample body of laws and regulations that govern relations between students, teachers, directors, supervisors, regional bureaus and the staff of central offices.

769. This legal framework includes the Basic Education Act, the Education Code, the Children and Adolescents Code, Act No. 7600, the Civil Service Statute, and numerous decrees and regulations.<sup>133</sup>

770. The procedure to be followed in opening disciplinary files on students is specified in article 87 of the regulations on the evaluation of learning performance.

771. In all levels, branches and institutions of the formal education system, the implementation of the remedial measures provided for in the regulations for the commission of serious, very serious and extremely serious offences are subject to the guarantees afforded by due process.

## **13. International cooperation**

772. The implementation of educational programmes has been made possible by technical, financial and non-reimbursable international cooperation.

## **14. Access to technology and computer hardware**

773. Access to technologies differs strikingly from one educational centre to the next. For example, in the first and second cycles, there is one computer for every 48 students in the Regional Desamparados District, whereas there is one computer for every 103 students in the Regional San Carlos District. In the third cycle, 20 students share a computer in the San

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<sup>132</sup> See Ministry of Education bulletin No. 02-08 on health in annex 7-20 to this chapter.

<sup>133</sup> See the supplementary annex (Ministry of Education folder) for a list of laws, regulations and rules relating to education.

Carlos and Upala Districts, whereas, in the Aguirre Region, there is one computer for every 153 students.<sup>134</sup>

## **B. Educational objectives**

774. The section of the National Development Plan devoted to the educational sector has the following mission statement: “An education sector that offers a quality education at all levels of instruction, that addresses the interests and needs of the population within a democratic and opportunity-embracing environment in which personal and social interests are reconciled and that focuses its efforts on promoting the development of the country as the way forward towards a better quality of life”. It also contains the following policy statement: “The implementation of a relevant education model capable of meeting the challenges faced by Costa Rican society, primarily in the areas of human development and the right to an education of excellence that will ensure each student’s inclusion and success, thereby reducing inequality in educational opportunities”.

775. Children are prepared to lead a responsible life in a free society through the following programmes: (a) Culture of Peace, (b) a reformulated version of the National Education for All Plan, and (c) National Value Development Programme.

### **1. Respect for the natural environment**

776. As part of the process of restructuring the centralized units of the Ministry of Education in 2006, the Human Development Department and the Department of Education for Health and the Environment were created within the Ministry’s core management structure. These departments can coordinate initiatives in these fields and the implementation of the projects and strategies of the country’s educational institutions. Specific measures that have been taken include the following: the country’s commitment, as a result of an initiative undertaken by the Ministry of Education, to the Decade of Education for Sustainable Development, the Ecological Blue Flag Programme, and the Health Schools Project under the National Plan for the Prevention of Risks and Disasters: Ethics, Aesthetics and Citizenship.

### **2. Respect for religious practices**

777. The Constitution establishes Catholicism as the official religion of Costa Rica, but students who profess another religion or belong to another denomination have the right to have that choice respected and are not obliged to embrace Catholicism.

778. A programme which, although administered by the Catholic church, does not attempt to inculcate Catholic doctrine, focuses on the formation of spiritual values. This programme does not teach the catechism.

779. Students who do not wish to receive religious instruction remain in the classroom and do other types of work. If the parents wish to take the child out of the classroom, they may do so. The student is not allowed to leave the classroom on his or her own because the school and the teachers are responsible for the child during the school day.

780. The programme covers three areas: (a) Christianity in interaction with oneself and with one’s family, social, cultural and religious environment; (b) Christianity in interaction with Creation and with its possible scientific and technological applications (based on a commitment to do God’s work); (c) Christianity in interaction with the religious

<sup>134</sup> See annex 7-36.

community as a follower of Christ and as a participant in the effort to attain a better quality of life based on Christ's love.

781. These lessons are offered once per week. The classes are 80 minutes long in elementary school and 40 minutes in secondary school.

### **3. The right to association and to participate in student government**

782. Student elections are held once each year in educational establishments. The students form different parties, each of which has a name, banner and some symbol of its own.

783. They run campaigns to inform other students about their platform, distribute campaign materials and present their candidates.

784. The Student Elections Code governs these elections. It sets out the procedures to be followed by party members for the preparation of pamphlets, election materials, voter registration cards and electoral ballots, the organization of events held during campaign week, and the organization of the elections themselves.

785. Children and adolescents have the right to stand for election and elect candidates (including migrants) to student government on an entirely non-discriminatory basis.

### **4. Teacher training**

#### **Improving the qualifications of teachers, administrators and the human resources of the education sector in general**

786. The agencies that have been responsible for enhancing teachers' qualification over the past two decades are the National Teaching Centre (CENADI) (since the 1990s) and the Uladislao Gámez Solano Institute (since 2007). The Ministry of Education does, however, carry out joint activities to support efforts to attain the objectives set out in the Jorge Manuel Dengo National Development Plan for 2006-2010.

787. As a specialized agency of the Ministry of Education, CENADI centralizes functions and activities aimed at helping to improve instruction and learning processes.

788. In 2003 training guidelines for teachers and administrative staff were developed.

789. In 2002-2007, advanced training courses for teachers were held in all of the country's school districts by the Ministry of Education on its own initiative or in conjunction with public universities and other educational establishments.

790. The Uladislao Gámez Solano Institute was established in 2007 for the purpose of exposing teachers to a wider range of cultures and enhancing their pedagogical skills by offering advanced professional training courses and activities. It focuses on teacher training, advanced training and refresher courses, as well as on building skills, working on personal skills, and a dedication to learning based on action-oriented research geared to the particular learning environments involved. This approach assumes that the individual beneficiaries will become active participants in all aspects of their education.

791. A total of 680 million colones was budgeted for use in 2007 to train 25 per cent of active teaching and administrative staff. The largest share of this training was offered in December 2007 as part of the Plan 200, which provides for training during the closing weeks of the school year.<sup>135</sup>

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<sup>135</sup> See annex 7-37 for the percentage of professionally trained teachers.



792. Some adolescents and children in the San José Region have said that the formal education system is unappealing and that some teachers have difficulty in setting limits for the students.

## 5. Private education

793. Executive Decree No. 24017-95<sup>136</sup> guarantees that, within a democratic framework, private individuals shall have the freedom to operate private schools. Such schools must comply with national and international standards, including, of course, the Convention on the Rights of the Child: “Article 4 – The education offered in private centres of learning shall be democratic in essence and in its general orientation. It shall be governed by the principles, aims and objectives established for education in Costa Rica in Education Act No. 2160 of 25 September 1957 and in international laws in force in the country”.

794. In order to ensure that the freedom of private individuals and entities to establish and operate educational institutions is respected, the Department of Private Centres of Learning is governed by Decree No. 24017-95 of 27 February 1995. Instruction No. DECDOP 409-03<sup>137</sup> (7-24) governs the processing of private schools’ accreditation applications.

795. Executive Decree No. 33550 of 7 February 2007 governs the granting of incentives for private enterprise in the field of education by the Ministry of Education.

## 6. Achievements

### Expanded coverage of the secondary education system

796. The objective of the Ministry of Education is to expand the coverage of the third cycle of the general basic education system and the fourth cycle of the diversified academic education system in order to increase young people’s opportunities for upward social mobility through education.

797. The figures for 2007 on the third cycle and diversified academic cycle indicate that, with a total of 211,882 students receiving instruction, the enrolment rate for these levels has been maintained.

798. This has been made possible by the use of various strategies to bring more young people into the formal education system, such as the creation of general basic schools that start at the preschool level and continue on up to the third cycle. This model has been developed to avoid the transition between elementary and secondary school. In line with this objective, secondary schools and distance-learning secondary schools have also been opened throughout the country and especially in rural areas.

799. The technical education tract allows young people to obtain a secondary degree in technical studies that qualifies them for employment in skilled occupations once they complete their studies or for pursuing a university degree programme.

800. Enrolment in the third cycle and diversified technical cycle rose to 63,848 in 2007. This increase is attributable to the introduction of more relevant curricula that include a second language<sup>138</sup> and to the results of round-table discussions with employers, which have made it possible to offer areas of specialization that are in demand in the labour market.

<sup>136</sup> See the supplementary annex (Ministry of Education folder) for the relevant legislation.

<sup>137</sup> See annex 7-24 to this chapter.

<sup>138</sup> See Ministry of Education bulletin No. 10-07 on second language instruction in annex 7-25.

**Ethics and aesthetics**

801. One major area of work begun in 2007 with a view to offering a comprehensive education that will enable students to learn how to live and how to live with others entailed the assignment of teachers qualified to teach art, music and physical education in the first and second cycles to a larger number of schools. In order to accomplish this, schools had to be surveyed in order to determine whether they had the infrastructure needed for this purpose.

802. Another line of work during the year focused on innovative projects designed to sensitize students, to teach them about values and emotions, and to encourage them to engage in art, sports and civic activities. To that end, student fairs are being organized for the end of the school year. The hope is that these activities will help to lower drop-out rates in elementary and secondary schools and to boost the percentage of students who complete their elementary education.

**Social programmes**

803. The number of students receiving school transportation services climbed from 63,579 in 2006 to 72,137 in 2007, which means that more secondary-school students, and particularly those in remote rural areas, have an opportunity to pursue their studies.

804. The sum allocated to each educational institution for the school meals programme was increased, thereby benefiting the poorest sectors of the population.

805. Supplementary meal services were offered in 4,131 schools to 604,723 students; 74,112 initial scholarships and 42,582 regular scholarships were granted. A considerable improvement was made in free school transportation services in rural zones, which were provided to 72,137 students.

806. Nearly 22 billion colones were allocated to boards of education and administrative boards for the construction of infrastructure in line with the priorities that were set following a number of different needs assessment studies.

**Medium-term framework: the National Development Plan for 2006-2010**

807. The section of the National Development Plan for 2006-2010 on education<sup>139</sup> includes the following mission statement: “An education sector that offers a quality education at all levels of instruction, that addresses the interests and needs of the population within a democratic and opportunity-embracing environment in which personal and social interests are reconciled and that focuses its efforts on promoting the development of the country as the way forward towards a better quality of life”. It also sets out lines of action and benchmarks for the education system.

**Long-term framework: an educational policy for the twenty-first century**

808. **The policy on education for the twenty-first century** reflects the effort made to establish a long-term framework for the development of Costa Rica’s education system. The policy is a means of aligning the existing constitutional mandate with the specific conditions that exist in the country today. The policy was approved by the Higher Education Council at its Session No. 82-94 on 8 November 1994. The legal framework for this policy is provided by the Constitution, while the Education Act sets out the aims and objectives of education.

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<sup>139</sup> See supplementary section c-7-j on institutional objectives and policies.

**Helping to increase funding allocations for education from 6 per cent to 8 per cent of GDP**

809. **Objective:** The Ministry of Education will help, within its sphere of responsibility, to ensure that a steady supply of sufficient funding is available for the education system through the establishment of a constitutional guarantee that a minimum of 8 per cent of GDP is to be allocated to Costa Rica's education system. In order for this to be made a reality, the approval of new sources of revenue to finance the application of this constitutional amendment is a *sine qua non*.

**C. Rest, leisure, play, recreation and cultural and artistic activities within the education system**

810. In Pérez Zeledón, during the process involved in validating the report, children said that these rights are in fact respected "because they love us and they want us to be healthy and to be happy. When you play, you're happy and are healthy" and "we have to study first and then play". Adolescents said that programmes and infrastructure for recreation, cultural activities and music were lacking.

811. In Siquirres, they said: "Some are allowed to go out and play (football, mini-football, gymnastics, cultural activities) after they finish their homework; others aren't allowed to because it isn't safe, and their right to play and recreation is restricted".

812. In San Carlos, children felt that their right to recreation was respected, although it was harder for children in remote areas to exercise this right. They also felt that it was the Government's responsibility to provide sports fields and courts.

813. In Ciudad Quesada, there are facilities and opportunities for drama and dance in the schools, but many people think that public areas are for adults and they do not let children play there. The community and the Government should build a recreation centre for people of all ages.

814. Parents said that "[these] rights are not exercised; the communities lack the means and economic resources; the sports fields are closed. Parents don't have time, the children turn to electronic games instead; people accuse children of being lazy; and safety is an issue" (Pérez Zeledón).

815. People also said: "Because of a lack of resources there are no opportunities for healthy entertainment in some households; there are displays of graphic pornography and slot machines that anyone can use; the city needs to do more to create leisure facilities" (Siquirres).

816. And in Ciudad Quesada: "Parents aren't willing to put much effort into recreation for their children. Local governments don't offer facilities or opportunities, especially for the poor. The State doesn't transfer funds to local governments, and communities don't get organized. Recreation is limited because areas are unsafe".

**1. Design and start-up of the Ethics, Aesthetics and Citizenship Project by the Association for the Central American Programme for Democratic Sustainability (PROCESOS) as the executing agency, with funding from UNDP and technical assistance from UNICEF**

817. The project is designed to integrate ethical and aesthetic values into students' experiences as citizens by rethinking the programmes offered to students in the fields of art, music, physical education, civic education, industrial arts, homemaking, Spanish language and others. The project is up and running, and the workshops planned for the first phase

have been carried out.<sup>140</sup> In addition, the following actions have been taken: (c-7-n) design and implementation of the plan for taking greater advantage of “the 200 days” (Plan 200); an increase in the number of posts for art teachers; and, under an agreement with the Piensa en Arte (think about art) Foundation and the Cisneros Foundation, progress in implementing the “Think about Art” Programme.

## 2 Ministry of Culture and Youth

818. The Ministry of Culture, Youth and Sports became the Ministry of Culture and Youth when sports activities were transferred to the Ministry of Health in 2007.<sup>141</sup>

819. Advisory services and training concerning Convention rights and ways of upholding them in day-to-day life have been provided by the Ministry of Culture and Youth to professional staff of the Ministry working in the fields of culture and arts, as well as to independent groups and community youth organizations. These training courses were coordinated with Save the Children-Sweden, the ILO International Programme on the Elimination of Child Labour (ILO/IPEC) and the National University and were attended by approximately 4,750 minors and adults in charge of various programmes.

### Participation in cultural and artistic activities

820. The Ministry of Culture and Youth provides young people with opportunities to take part in a wide range of cultural and artistic activities that are held outdoors and in theatres, museums, libraries, cinemas, elementary and secondary schools, shopping malls, town squares, parks and streets.<sup>142</sup>

### Budget

821. Although the Ministry does not have a specific budget for activities for children and adolescents, its institutional policy is based on a cross-cutting approach to ensuring respect for the rights of children and young people. Adherence to this principle is monitored by the Unit on Gender, Child and Adolescent Affairs of the Institutional Planning and Development Advisory Section, which is responsible for providing advisory services to decentralized programmes and bodies in this field. In parallel with this organizational structure, the Ministerial Commission on Gender, Child and Adolescent Affairs has been established to coordinate cultural and artistic activities for this age group. Apart from this, there are a number of programmes and projects that are exclusively for young people<sup>143</sup> (7-39), including the National Music Institute, the House of Artists, the Museum of Shapes, Spaces and Sounds, the National Dance Workshop and the José María Figueres Cultural Centre.

822. Adolescents from San Carlos stated that, although now there are some cultural and sports programmes, there are few opportunities for cultural activities or recreation outside of school and that the places that are available are unsuitable and unsafe.

823. Children and adolescents from San José said that there are not many community facilities for musical or sports activities, and that those that do exist are dangerous, are designed for boys only and are generally poorly run.

824. Parents also talked about how dangerous recreational locations were (Pérez Zeledón and Siquirres) and said that community sports fields and courts were closed (Pérez Zeledón).

<sup>140</sup> See Ministry of Education bulletin No. 11-07 in 7-26.

<sup>141</sup> See annex 7-38 to this chapter for a list of programmes.

<sup>142</sup> Programme descriptions are provided in annex 7-39 to this chapter.

<sup>143</sup> See annex 7-39.

## X. Special protection measures

### A. Children in situations of emergency

#### 1. Refugee children

825. The Directorate-General for Migration and Alien Affairs follows the Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, which has been published by the United Nations High Commissioner for Refugees (UNHCR). In following these procedures, the Directorate-General for Migration and Alien Affairs must also observe the rules established in the Convention on the Rights of the Child and the Children and Adolescents Code, as well as other instruments of international humanitarian law.

826. When a minor is not represented by his or her parents or a court-appointed guardian or curator, PANI becomes the child's legal representative, as established in article 4 of the Organization Act of PANI: "... 1) To serve as legal representative of minors who are not under the authority of a parent or guardian, as well as those who are under the parental authority of a person who is not able to ensure that their rights will be guaranteed...". In other cases, PANI assists with the administrative procedures to ensure that the best interests of the child are served.

827. The Ministry for Foreign Affairs of Costa Rica has reported that there have been no cases involving asylum for minors.

828. At the national level, the procedures to be followed in determining status are laid down in the Immigration Act and in the Decree on Refugees, Decree N° 32195-G<sup>144</sup> (8-01), which was published in *La Gaceta* N° 15 of 21 January 2005.

829. The annexes to this chapter include a list of international human rights and humanitarian instruments<sup>145</sup> (8-02) that Costa Rica has signed at the multilateral, regional and bilateral levels.

830. In order to guarantee family reunification on Costa Rican soil, the Directorate-General for Migration and Alien Affairs, working in coordination with UNHCR, drafted a procedural agreement with the Costa Rican Consulate in Colombia to allow recognition of refugees for purposes of family reunification.

831. The right to family unity is enshrined in Costa Rican legislation. As noted earlier in this report, minors who are refugees enjoy the same rights and civil, economic and social freedoms as all Costa Rican children and adolescents. The migrant population is assured of an education, health care, the right to remain with their family and, in general, all the rights established in the Convention and in the Children and Adolescents Code.

832. Independently of their migratory status, all migrants have the right to receive an education. This right is respected in the schools of the communities where they reside.

833. All procedures must guarantee the right of children and adolescents to locate their nuclear family (father and mother) and, if appropriate, their extended family (grandparents, uncles and aunts, cousins, among others). All administrative or judicial decisions regarding the legal status of children and adolescents must bear in mind their right to remain with their families or with persons with whom they have family ties and ties of affection, so as to

<sup>144</sup> See annex 8-01 to this chapter, containing the complete text of Decree N° 32195 published in *Diario Oficial La Gaceta* N° 15 of 21 January 2005.

<sup>145</sup> See annex 8-02 to this chapter, containing the list of regulations relating to the immigration of minors.

promote family reunification. The Constitutional Chamber holds the view that a child has a fundamental right to interact with his or her parents.

834. The Office of the United Nations High Commissioner for Refugees coordinates and cooperates with the immigration authorities to provide training in regard to the care and protection of asylum seekers, especially children and adolescents. Both UNHCR and IOM issue legal opinions and conduct studies to help determine refugee status in exceptional situations, such as human trafficking. The Asociación de Consultores y Asesores Internacionales (ACAI), a private NGO that implements UNHCR programmes, coordinates several programmes that provide care for refugees in Costa Rica.<sup>146</sup>

835. The following international legal instruments are in force for Costa Rica:

- (a) 1951 Convention relating to the Status of Refugees;
- (b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- (c) ILO Convention 182 on the Worst Forms of Child Labour Convention, 1999;
- (d) Inter-American Convention on International Traffic in Minors;
- (e) Convention on the Rights of the Child.

836. As far as training is concerned, the Migration Department of the Directorate-General for Migration and Alien Affairs has coordinated several training activities on subjects such as human rights, human trafficking and procedures.

837. From the year 2000 onward, applications for refugee status have increased dramatically as a result of the conflict in Colombia. The Office of the United Nations High Commissioner for Refugees estimates that a total of 22,000 persons need international protection; of these, 12,000 are recognized refugees (United Nations, 2006: 4).

838. The goal for 2010 established in the National Agenda on Children and Adolescents is that the country shall have plans targeting different populations: migrants (in the case of Costa Rica, this includes a significant number of refugees), indigenous persons and other persons in special situations.

## 2. Children in armed conflicts

839. Article 12 of the Political Constitution of 7 November 1949 stipulates that “the Army as a permanent institution is abolished. There shall be the necessary police forces for surveillance and the preservation of the public order. Military forces may only be organized under a continental agreement or for the national defence; in either case, they shall always be subordinate to the civil power: they may not deliberate or make statements or representations individually or collectively”.

840. Costa Rica is not currently involved in any hostilities or internal conflicts that might require calling up armed forces, either as a regular or a special measure, as permitted by the Constitution. On 17 November 1983, the Government of Costa Rica announced to the world that Costa Rica shall maintain its position of active, perpetual and unarmed neutrality.

841. In keeping with its democratic tradition and its efforts to promote human rights internationally, Costa Rica has ratified the Optional Protocol to the Convention on the

<sup>146</sup> See document 8-1. A report by the Asociación de Consultores y Asesores Internacionales on psychological and social assistance programmes for child refugees, promotion of the right of participation, development of child and adolescent groupings, sensitization programmes.

Rights of the Child on the involvement of children in armed conflict. This was done by Act N° 8247, which was ratified by the executive branch in Decree No. 30657 of 12 June 2002.

842. In 2005, the Government submitted to the Committee its initial report under article 8(1) of the Optional Protocol.

843. Costa Rica is a party to most of the treaties on international humanitarian law, although it has not yet ratified the following related international instruments: (a) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare; (b) the Protocol on Explosive Remnants of War; (c) the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons; and (d) the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

844. Costa Rica recently ratified the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, Protocol III (Act N° 8609<sup>147</sup> (8-08), published in *La Gaceta* No. 232 of 3 December 2007).

845. As indicated above, Costa Rica has no army. Neither is it involved in any hostilities of a warlike nature.

846. The Rome Statute of the International Criminal Court was ratified by Costa Rica on 7 June 2001 by Decree N° 8083.<sup>148</sup> Article 8, paragraph 2 (b)(xxvi) of the Statute stipulates that it is a war crime to conscript or enlist children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities. Article 8, paragraph 2 (e)(vii) also lists the same crime in the context of armed conflicts not of an international character, expanding the definition to include not only conscription or enlistment of children into armed forces but also into groups.

847. The Costa Rican Commission on International Humanitarian Law is responsible for reviewing measures that are taken to incorporate international legal instruments into domestic legislation. An important example of this effort is bill N° 16272, which is currently under consideration by the Legislative Assembly's Special Committee on Human Rights. Thus, war crimes, crimes against humanity and genocide are all included and defined in article 410 of the bill, which stipulates, in regard to the recruitment of children to participate in hostilities, that anyone who, on the occasion of an armed conflict or a developing conflict, should recruit or conscript children under the age of eighteen years or use them to participate actively in hostilities, shall be sentenced to 15 to 30 years imprisonment.

848. Thus, the margin of protection is expanded to include minors up to the age of eighteen years.

849. Article 59 of the General Police Act stipulates that the minimum age for entering any police force (of a purely civilian nature) is 18 years. Accordingly, the competent authorities must request documentation and take note of the birth certificate issued by the Civil Registry to confirm compliance with the minimum age requirement.

850. As mentioned above, the Legislative Assembly has taken action to protect civilians in the event of a possible armed conflict. Those measures are set forth in legislation that has already been enacted as well as in bills that are currently before the Legislative Assembly.

851. The National Development Plan 2006-2010 describes certain actions to be taken to promote a culture of peace, of non-violence and of reconciliation with nature.

<sup>147</sup> See annex 8-08.

<sup>148</sup> See annex 8-09.

852. On the subject of measures to be taken to protect the civilian population during armed conflicts, it should be borne in mind that Costa Rica is a country of peace and is not involved in any armed conflict with any country. Nevertheless, during peacetime the country promotes legislation and incorporates into its domestic legislation the aforementioned international human rights conventions in order to ensure that there are no legislative gaps in the event an armed conflict should occur. Accordingly, the country does not have any programmes of assistance and humanitarian aid for children and adolescents who are victims of war; no special arrangements have been made in this regard. Social spending is aimed at promoting a culture of peace with a view to ensuring that human rights prevail, eliminating all types of violence and promoting cultural diversity, democracy, social participation and tolerance of different ideologies.

## **B. Children in conflict with the law**

### **1. Administration of juvenile justice**

#### **Legislative measures and principles**

853. One of the legislative measures adopted was the Juvenile Criminal Justice Act (Act N° 7576), which entered into force on 30 April 1996. During the period of this report, the Act on the Application of Juvenile Criminal Penalties.

854. Article 7 of the Juvenile Criminal Justice Act establishes the guiding principles to be followed in regard to juvenile criminal justice (article 7 of the Act on the Application of Juvenile Criminal Penalties and article 7 of the Juvenile Criminal Justice Act).

855. In 2006, there were 12,027 criminal complaints against juveniles (8-20), less than the 14,061 complaints reported in 2002. In 2006, there were 476 more complaints than in 2005, representing an increase of 4.1 per cent (*Anuario del Poder Judicial*, [www.poder-judicial.go.cr](http://www.poder-judicial.go.cr)).

856. As in previous years, the trend in terms of gender differences remained at about 80 per cent male and 20 per cent female juvenile defendants. In 2006, 9,448 (78.6 per cent) of the juveniles against whom complaints were filed were male, 2,366 (19.7 per cent) were female, and the gender of 213 (1.8 per cent) was not known.

857. Some of the reasons for minors breaking the law that were mentioned by adolescents in Pérez Zeledón were the fact that they had little money and wanted to have something; that they were not taught about the law; that their parents did not discipline them.

858. Adolescents in Siquirres mentioned the following reasons: Adolescents break the law because they learn this behaviour at home and from their friends; it is easier to steal something to get money than to study. Public places are not safe, "it's not safe to carry nice things because you can be mugged or assaulted"; "kids carry weapons and knives".

859. In San Carlos, adolescents stated that "Lots of kids try to act smart so as to get attention and they get in trouble"; they have distorted values (wanting material things, looking "cool" in front of their peers); there is no communication at home; they want to belong to a group (have a sense of belonging). "They think the cops will be nice to them; they don't know much."

860. In San José, adolescents mentioned abuse of authority; minors commit crimes because of poverty, and they want to have what they can't afford; "it's easier to steal than to work". Parents don't set boundaries; adults entice teenagers and sell them cigarettes and drugs. "Your friends protect you better than your parents;" "parents are too critical. You're safer in school."



861. The administration of juvenile justice is governed by the following international instruments: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (“The Riyadh Guidelines”) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

862. As noted in the third periodic report, as part of a system that guarantees human rights, the right to due process is a fundamental tenet of the Juvenile Criminal Justice Act. Before a penalty can be imposed on a juvenile defendant, he or she must be guaranteed the same constitutional and procedural rights that are available to adults, in addition to the special guarantees established for minors.

863. The Juvenile Criminal Justice Act follows the model of accountability for offences committed by minors and an essential and minimal (*esencial y mínimo*) approach to criminal law. It recognizes the principles of legality and culpability (*culpabilidad*) for acts committed. It includes procedural guarantees. It recognizes adolescents as subjects of rights and responsibilities and is based on the doctrine of comprehensive protection, both legal and social, of adolescents.

864. Above all, the Juvenile Criminal Justice Act embodies the principles of comprehensive protection of minors, given that bearing in mind the special and distinct situation of minors, the State has the obligation to seek their reinsertion into society. This entails conducting an objective analysis of the characteristics and needs of the juvenile defendant in the light of the acts he or she has committed.

865. In March 2007, the judge in charge of juvenile criminal penalties began operations. Under the principle of specialized justice, the State is required to establish the necessary institutions specializing in adolescents for purposes of processing and implementing penalties. In keeping with the principle of legality, the limits established by law must not be exceeded, and hence, offences must be clearly defined and penalties established before they can be enforced against a minor.

866. Two fundamental principles must be observed in juvenile criminal procedures. The first is the right to privacy, and the second is the principle of confidentiality, which entails the prohibition to reveal the identity of a minor who is involved in court proceedings.

867. Article 10 of the Juvenile Criminal Justice Act specifies the general guarantees that apply as follows: “Article 10 – Basic and special guarantees: From the beginning of police investigations and during court proceedings, minors must be afforded the basic procedural guarantees provided for adults, as well as such additional guarantees as may be appropriate given the minor’s particular situation. The guarantees enshrined in the Political Constitution, in international instruments ratified by Costa Rica and in the relevant laws are fundamental”.

868. The minimum age at which a person shall be deemed criminally liable shall be the age of 12 years (article 1 of the Juvenile Criminal Justice Act and article 2 of the Act on the Application of Juvenile Criminal Penalties).

869. Juvenile criminal justice may only be applied to adolescents who are over 12 years of age and under 18. In this context, children under the age of 12 years are considered to be not liable. However, children under the age of 12 who commit an act that is considered an offence are cared for by the administrative authorities, which in this case is PANI. PANI determines what administrative protection measures are needed, except that when a child’s liberty is to be restricted, PANI must consult with the judge in charge of enforcing juvenile penalties (article 6 of the Juvenile Criminal Justice Act). There are no reports of cases in which this article would be applicable.

870. The Juvenile Inmates Programme of the Ministry of Justice operates the Zurquí Juvenile Training Centre, a facility that takes in minors between the ages of 12 and 18 years who have been convicted or have been given a temporary sentence. The two groups are housed separately, as required by the relevant regulations.

871. In addition, the Centre for Young Adults takes in males over 18 years of age who have been convicted or are serving temporary sentences for offences committed when they were minors. Adult women who committed offences when they were minors are held at the El Buen Pastor institutional centre. They are separated from adult women who committed offences as adults.

872. In compliance with the legislation, both international and domestic (see annex), as well as the relevant institutional regulations, the Juvenile Inmates Programme has been developed and improved over the years since 1996. The Alternative Penalties Programme, which covers the entire country, is responsible for monitoring compliance with the whole range of social and educational penalties (in most cases, probation (85 per cent) and community service) and with the court's requirement to provide orientation and supervision. Between 2003 and 2007, services were provided for an average of 400 minors, of both sexes, per month.

873. The most frequent penalty is probation, which is usually applied in conjunction with a court mandate to provide guidance and supervision with the aim of changing the minor's behaviour. The law requires that probation must include the following requirement for the accused minor: he or she must remain in a stable residence or change residence; stop having contact with certain individuals; stop frequenting certain places; enrol in a formal educational centre or some other educational centre; get a job; refrain from drinking alcoholic beverages or using hallucinogenic substances, "downers", narcotic drugs or toxic substances that are addictive or habit-forming; and check in to a public or private health centre or receive outpatient treatment for purposes of detoxification or rehabilitation.

874. Thus, a number of technical intervention projects have been developed and improved so as to meet the special needs of young people, including the following:

- (a) Treatment of sexual offenders;
- (b) Outpatient treatment of young people who are addicted to illegal substances;
- (c) Treatment of youth deprived of their liberty who have addiction issues;
- (d) Treatment of young people who have committed offences involving violence (in process);
- (e) Personal growth;
- (f) Community service project.

875. Special emphasis is placed on group treatment and individual treatment in special cases.

#### **Alternative conflict resolution measures envisaged in the Juvenile Criminal Justice Act**

876. The Juvenile Criminal Justice Act envisages several alternative conflict resolution measures. One of these is conciliation (arts. 61 ff.), which is defined as a voluntary judicial measure for the alternative resolution of criminal conflicts between the plaintiff or plaintiff's representative and the minor. Advice is provided, as appropriate, by the Office of the Public Prosecutor and the defence attorney.

877. Another alternative measure is probation (*suspensión del proceso a prueba*) (arts. 89 ff.). This is defined as an alternative measure that involves suspending the

proceedings at the request of the parties and providing orientation and supervision as required by article 121 of the Act; in any event, such measures must be applied whenever a suspended sentence (*ejecución condicional de la sanción*) is applied (art. 132). If all the conditions are met, the case is closed; otherwise, a hearing is held with the parties, the non-compliance is noted, and the proceedings continue.

878. The Act establishes two types of penalties (art. 121):

- (a) Non-custodial penalties;
  - (i) Social and educational measures:
    - a. Reprimand and warning;
    - b. Probation (*libertad asistida*);
    - c. Community service;
    - d. Reparation for damages to the victim;
  - (ii) Orientation and supervision;
- (b) Custodial sentences;
  - (i) House arrest;
  - (ii) Part-time detention;
  - (iii) Detention in a specialized centre.

879. Title II of the Act on the Application of Juvenile Criminal Penalties specifies the manner in which social and educational penalties are to be applied, as well as the orientation and supervision that will be required. Title III describes the manner in which custodial sanctions are to be applied (arts. 31-76).

880. Another area that poses a major challenge is the absence of a programme to provide systematic training for staff who must deal with these issues. At present, the judiciary has to rely on assistance from NGOs and international agencies; the lack of economic resources is also a hindrance.

881. The Juvenile Inmates Programme is responsible for juveniles who have been sentenced and are awaiting a final resolution of their case. The Programme is working with Defence for Children International on a diagnosis of training requirements and staff profiles with a view to facilitating more specialized intervention. The concept of specialization in juvenile criminal justice is being developed in consultation with the inmates and with the participation of all Programme staff. Since 2005, when the Act on the Application of Juvenile Criminal Penalties entered into force, the staff concerned have received training on work with young people who are addicted to drugs and with sex offenders.

882. Every year the Office of the Deputy Public Prosecutor organizes a refresher course on juvenile criminal justice for prosecutors. The course, which is national in scope, is open to all prosecutors concerned with juvenile criminal matters.

883. The most significant development of this period has been the enactment of the Act on the Application of Juvenile Criminal Penalties. The main challenge remaining is to implement the Act with the maximum amount of available resources.

884. The Act on the Application of Juvenile Criminal Penalties introduces the following improvements:

- (a) It reaffirms the rule of law, legality of enforcement, deprivation of liberty as an exceptional measure, proportionality and the best interests of the child.

(b) It emphasizes specialized training for staff in charge of applying juvenile criminal penalties (art. 15).

(c) It clearly defines the competencies and responsibilities of the judge in charge of enforcing penalties (*juez de ejecución*) (art. 16) and the administrative bodies that carry out penalties (art. 20), as well as other authorities concerned.

(d) It provides for self-regulation and judicial oversight (art. 25).

(e) It defines the manner of execution and compliance with all penalties includes in the Juvenile Criminal Justice Act and, in some cases, the office responsible for follow up.

(f) It specifies which institutions are responsible for enforcing penalties that involve mandated orientation and supervision (arts. 45, 46 and 50).

(g) It devotes several articles to addiction issues and the institutions that deal with them (arts. 51-58). This has led to the establishment of an inter-agency commission which is responsible for promoting implementation of specialized intervention projects for juvenile inmates who have been sentenced (IAFA, ICD, the Social Rehabilitation Directorate). Training, logistical support, supervision and technical advice have also been provided.

(h) In regard to juvenile inmates, the Act includes a chapter on coercive measures and another on disciplinary measures (chapter III) and disciplinary procedures (chapter IV).

(i) The Act includes provisions regarding compensation for damages when a person has been deprived of his or her liberty without legal justification.

(j) It defines the responsibilities and powers of the Youth Council and CNNA (art. 22).

(k) It stipulates that IMAS and PANI shall provide special protection when a juvenile cannot live at home (art. 40).

(l) It provides for placement or treatment of juveniles in residential or outpatient facilities (art. 58).

(m) It provides that for emotional assistance to be provided to prepare juveniles for release from institutional facilities and scholarships for their re-entry into the community (art. 76).

(n) It includes regulations for special security to be provides as an exceptional measure (art. 98).

(o) It establishes the responsibilities of the Office of the Ombudsperson as the agency charged with protecting the rights of juveniles (art. 114).

## **2. Children deprived of their liberty**

885. Several articles of the Juvenile Criminal Justice Act and the Act on the Application of Juvenile Criminal Penalties address this issue:

886. The Juvenile Criminal Justice Act covers certain principles with a view to ensuring that detention, jail or imprisonment of a minor is carried out in accordance with the law. Thus, article 13 establishes the principle of legality according to which no juvenile may be tried for an act that is not defined in criminal law as an offence or be sentenced to any penalty that has not previously been established by law; article 14 establishes the principle of harm, which requires that before a juvenile can be punished for an act, damage or danger to a tangible asset must be clearly established. Article 19 establishes the principle that the

most favourable rule must be applied. Article 25 establishes the principle of rationality and proportionality, namely, that any penalties applied in the proceedings must be rational and proportion to the violation or offence in question.

887. Deprivation of liberty is an exceptional measure, according to article 131 of the Juvenile Criminal Justice Act. Article 3 of the Act on the Application of Juvenile Criminal Penalties deals with the principle of legality, establishing that juveniles against whom penalties have been imposed may not be deprived of their liberty or of any other right except as a direct and inevitable consequence of the penalty imposed. Likewise, under article 4, juveniles may not be subjected to disciplinary measures nor may their rights be restricted unless the alleged act is described in the Act. Article 5 establishes rules of proportionality and the higher interest of the child in regard to penalties, such that the penalty applied must be the one that is least prejudicial to the adolescent and is proportional to the offence in question.

888. Article 25 of the Act on the Application of Juvenile Criminal Penalties establishes a mechanism for self-regulation and judicial oversight of the application of penalties. No formalities are required for submission of a request or petition; it is sufficient for the judge responsible for execution to acknowledge, by any means, the adolescent's request. Article 65 provides for compensation in cases of unlawful deprivation of liberty. Article 131 of the Juvenile Criminal Justice Act lays down the requirements for application of imprisonment.

889. Provisional detention (referred to as preventive detention in the case of adults) is governed by article 58 of the Juvenile Criminal Justice Act and shall be applied if, and only if, the following conditions are met:

- (a) There is a reasonable risk that the juvenile will escape;
- (b) There is a risk of destruction of or tampering with the evidence;
- (c) There is danger of harm to the victim, the person who reported the offence or a witness.

890. Detention is carried out at specialized detention centres in which juveniles must be separated from those who have already been convicted.

891. Most of the first 27 articles of the Juvenile Criminal Justice Act are identical to the provisions of the Convention on the Rights of the Child.

892. Following the classification for "types of cases", it was found that 70.4 per cent of juveniles (8,471) committed offences; 22.5 percent (2,711), contraventions; 5.4 per cent (649), traffic violations; and a missing-persons investigation is underway in 1.6 per cent (196) of cases.<sup>149</sup>

893. During the past five years, the highest percentage of juveniles accused of and committing offences occurred in 2006 (8,471 and 70.4 per cent); on the other hand, the lowest number of traffic violations and disappearances under investigation were recorded during that year, namely, 5.4 per cent and 1.6 per cent in that order.

894. Robbery continues to be the act that is most often reported in juvenile cases. During that year, 1,730 robberies (16 less than in 2005), or 19.9 per cent, were reported. Robberies were followed by 1,752 reported violations of the Psychotropic Substances Act, specifically, drug possession. These are the only two offences for which more 1,000 reports were filed.

<sup>149</sup> *Anuario del Poder Judicial*, [www.poderjudicial.go.cr](http://www.poderjudicial.go.cr). See annex 8-21.

895. As in 2005, the highest number of reports of contraventions were for “very minor injuries”, i.e., 664 (24.8 per cent) juveniles accused (218 fewer than in 2005). These were followed by “threats”, with 371 (13.8 per cent), 64 more than during the previous year.

896. There was a notable increase in the number of juveniles brought to trial for violations of the Psychotropic Substances Act. This figure had been declining during the previous two years. This group includes all drug-related cases.<sup>150</sup>

897. In 2006, 15,002 juvenile cases, 114 more than during the previous period, were resolved.<sup>151</sup> This represents an increase of 0.8 per cent.

898. Specifically, 61 per cent of all juvenile cases resulted in dismissal (40.7 per cent) or acquittal (20.3 per cent).

899. In 2006, 644 juveniles, 42 more than in 2005, were convicted; this represents 4.3 per cent of total decisions in juvenile cases, which is the highest percentage of the last five years.<sup>152</sup>

### Convicted juveniles

900. In 2006, 644 convictions were handed down in juvenile cases, 42 more than in 2005, for a percentage increase of 7 per cent.

901. When broken down by type of sentence,<sup>153</sup> statistics show that from 2002 onward, convictions declined in terms of percentages, while the opposite was true of acquittals. In absolute terms, however, the downward trend in convictions was broken in 2004, and the upward trend in acquittals showed a slight change in 2005.

902. As regards the types of measures imposed on juveniles who were convicted<sup>154</sup> in 2006 supervised freedom was the measure most often applied (149 juveniles, or 63.1 per cent of cases); this was followed by detention in a specialized centre (25 juveniles, or 10.6 per cent of cases).

903. Legal certainty is provided for in article 26 of the Juvenile Criminal Justice Act. Under no circumstance may indefinite penalties be imposed on juveniles. This does not preclude a juvenile being granted early release.

904. The following oversight mechanisms are in place in some institutions:

905. Under the Juvenile Criminal Justice Act:

(a) Article 43 provides that a legal representative for PANI may participate as an interested party at all stages of the proceedings, in order to monitor, oversee and guarantee full compliance with the legal provisions aimed at benefitting the minor, whether he or she be the victim or the perpetrator;

(b) Under article 63, PANI may participate in hearings, in conciliation and at the stage of submission of evidence. It may also propose such measures as it deems appropriate (art. 96);

(c) Under article 113, PANI shall have the right to present an appeal.

<sup>150</sup> See annex 8-10 in this chapter, table showing type and number of cases for violation of the Psychotropic Substances Act, and annex 8-22.

<sup>151</sup> See annex 8-23.

<sup>152</sup> See annex 8-11 in this chapter table on types of decisions in relative terms.

<sup>153</sup> See annex 8-24.

<sup>154</sup> See annex 8.25.

## Act on the Application of Juvenile Criminal Penalties

### *Participation by PANI*

906. Article 22 of the Act on the Application of Juvenile Criminal Penalties includes measures for harmonizing the National Comprehensive Protection System and established public policies in coordination with the Council on Children and Adolescents and the National Council on Young People in matters relating to juvenile penalties.

907. Under article 40, both IMAS and PANI are responsible for offering alternative special protection when a juvenile has been ordered not to stay in his own home.

908. The Social Rehabilitation Directorate, assisted by PANI and IAFA, may recommend that juveniles voluntarily enter an official detention or treatment programme at a residential or outpatient centre. This is in line with the social and educational purpose of the Act, which seeks to prevent minors who are at risk, in both social and health terms, from committing offences (art. 58).

910. Extraordinary protection measures should be applied only in exceptional cases when a juvenile's behaviour or mental health problems raise concerns that he or she might escape or cause harm to him or herself, to other persons or to property (art. 98).

911. The following actions are considered to be extraordinary security measures:

- (a) Confiscation or seizure of objects the possession of which is permitted;
- (b) Handcuffing;
- (c) Placement in a more confined space;
- (d) Placement in a single-person cell;
- (e) Other measures considered appropriate by penitentiary administration.

912. All extraordinary security measures must be reported immediately to the enforcement judge, who may order that they be stopped. Applying a security measure for more than 24 hours must be authorized by the competent court. The defendant's defence attorney must be notified of all actions taken, as well as PANI if the defendant is a minor. Notification must be made through the most expeditious communication channels.

### *Participation of the Office of the Ombudsperson*

913. The Office of the Ombudsperson, acting through its unit on the rights of adolescents, may enter any juvenile detention centre at any time, whenever it considers that necessary, in order to determine whether there have been violations of the human rights of detained juveniles. For the purposes of the inspection, the Office of the Ombudsperson may set up a committee of officials from State institutions and NGOs whose mission it is to protect the rights of juveniles. If the Office of the Ombudsperson confirms the existence of human rights violations, it must report the matter to the competent judicial agency (art. 114).

914. It is encouraging to be able to report that there are no reports of juveniles being deprived of their liberty in an illegal and arbitrary manner.

915. There are no reports or known cases of children being deprived of their liberty in an illegal and arbitrary manner. Further details on adolescents who have been deprived of their liberty are mentioned in paragraphs 885 ff.

916. During the period of this report, one of the key achievements in the area of juvenile criminal justice has been the enactment of the Act on the Application of Juvenile Criminal Penalties. This Act guarantees that adolescents will be treated humanely and with respect for their dignity, with due regard for their own needs and rights.

917. Those responsible for applying penalties must take the necessary steps to enable young defendants to continue their personal growth, to be reinserted into their families and into society, and to develop a sense of responsibility and improve their skills. They must also be given the necessary tools for adjusting to society so as to avoid any further conflicts with the law in future. To this end, the State institutions and non-profit NGOs must guarantee that their programmes, projects and services for young people are in compliance with this Act (art. 8).

918. To ensure compliance with article 8, their needs must be met in the following areas:

- (a) Education, health and recreation;
- (b) Personal growth;
- (c) Sense of dignity and self-esteem;
- (d) Active participation in the development and implementation of their individual life plan;
- (e) Minimize negative effect of the penalty on their future life;
- (f) When possible and advisable, encourage family and social ties that contribute to their personal growth;
- (g) Promote open contacts with the local community.

919. Family ties and social contacts are fundamental to achieving the purpose of the Act. Hence, physical space and conditions of confinement should be conducive to personalized treatment and access to family members, as well as a healthy environment from every standpoint (art. 64).

920. The objectives of the penalties set forth in the abovementioned articles of the Act on the Application of Juvenile Criminal Penalties have guided the design of technical projects aimed at the entire prison population. More specialized technical resources are becoming available for improving adolescents' access to other rights such as recreation, arts and culture, sports and communication.

921. When minors are deprived of their liberty, either as a provisional or a definitive measure, they have the right to be placed in a specialized centre that is devoted solely to minors, not in an adult prison. If they are detained by the administrative or judicial police, such authorities shall keep them separated from adult prisoners and remand them as soon as possible to specialized centres for juveniles (art. 27, Act on the Application of Juvenile Criminal Penalties).

922. The Zurquí Juvenile Training Centre is a specialized centre in which juveniles are separated by age, sex and legal situation.

923. The competent officials of the Social Rehabilitation Directorate (those responsible for the application of penalties) seek to encourage contacts with the families of convicted juveniles. To this end, they are required to inform the immediate families of juvenile inmates, on a regular basis and at least every three months, of the measures taken, the advantages and the disadvantages of individual plans for execution of penalties (article 13 of the Act on the Application of Juvenile Criminal Penalties).

924. Minors have the right to receive regular and special visits on the terms laid down in the visitation rules of the Social Rehabilitation Directorate.

925. They also have the right to receive two-hour visits at least twice a week if that is allowed by centre regulations. In special cases, this right may be limited for security reasons.



926. Visits from specific individuals may be prohibited when there is good reason to believe that their presence would interfere, directly or indirectly, with the treatment process or that the individual might cause disturbances or be a security risk, or when the minor requests such prohibition. The minor who is affected by this limitation may submit an appeal to the enforcement judge (art. 93, Act on the Application of Juvenile Criminal Penalties).

927. Members of the families of minors detained at the Zurquí Centre may visit on Thursdays and Sundays. They are also allowed to use the telephone; there is one telephone in each module.

928. Juveniles have the right to maintain appropriate communications with persons outside the centre by means of correspondence, public telephones in the centre. They may also have access to radio and television programmes and receive visits from authorized organizations that have an interest in them. Use of telephones or other communications technologies shall be governed by the regulations of the Centre administration (art. 96, Act on the Application of Juvenile Criminal Penalties). In addition to their contacts with family and friends, detained juveniles may also have contact with volunteer groups (or with other minors) for the purpose of participating in recreational, cultural or spiritual activities.

929. Conditions at residential establishments are supervised and monitored by the Office of the Ombudsperson, the Office of the Comptroller of Services and PANI. The Ministry of Justice has its own system for dealing with complaints.

930. The Ministry of Justice is currently reviewing proposed regulations for handling complaints.

931. The Ministry of Justice conducts periodic reviews of the situation of detained children and the circumstances of their detention and submits quarterly reports to the enforcement judge.

932. The enforcement judge has the following duties, in addition to those set forth in the Juvenile Criminal Justice Act:

(a) To visit centres where sentenced youth are remanded, as well as the Alternative Penalties Programme, at least once a month;

(b) To ensure that the physical structure of specialized detention centres is suited to the social and educational objectives of the Juvenile Criminal Justice Act (art. 16, Act on the Application of Juvenile Criminal Penalties).

933. Administrators of specialized centres must supply newly admitted minors with a detailed explanation, written in clear and simple language, of all their rights and duties and the rule and routines that must be followed in the centre. If the centre officials determine that the young inmate does not know how to read or write or has limited understanding, the information must be presented orally or, if the minor does not understand the official language or requires a special language, interpretation services must be supplied.

934. Convicted juveniles have the right to submit complaints, either in writing or orally, to the director of the specialized centre. Complaints must be resolved within no more than 10 work days or immediately, if the personal safety of the juvenile is in danger. Juveniles also have the right to communicate fully with other staff of the institution or with their counsel during the entire period being served. Complaints may also be submitted through the defence attorney (art. 69, Act on the Application of Juvenile Criminal Penalties).

935. When the penalty imposed is such that preliminary measures are required prior to execution of the sentence, an individual plan must be drawn up. The plan must be discussed with the juvenile, and the defence attorney must be allowed to express his or her views on the matter.

936. The plan, which must be drawn up by the Social Rehabilitation Directorate, must include a clear description of the steps to be followed and the objectives of the penalty, as required by the Act.

937. In the case of custodial penalties, the plan must be completed within no more than eight work days from the date of admission to the detention centre. In case of other types of penalties, it must be completed within one month from the date that the sentence becomes final.

938. The individual plan must be appropriate for the penalties imposed and must take into account the opportunities available in public institutions and institutions run by private non-profit organizations (article 10 of the Act on the Application of Juvenile Criminal Penalties).

939. The implementation plan must be updated in the light of the results obtained and the progress of the young offender. It must therefore be reviewed every three months, at least, by the Social Rehabilitation Directorate (article 11 of the Act on the Application of Juvenile Criminal Penalties).

940. During the execution stage, officials of the Social Rehabilitation Directorate must submit reports to the execution judge, at least every three months, on the progress made or obstacles encountered in carrying out the individual plan, as well as on the juvenile's family situation and social environment. If necessary, the execution judge may issue instructions to the public entities concerned regarding compliance with the programmes specified in the individual implementation plan (article 12 of the Act on the Application of Juvenile Criminal Penalties).

941. The Zurquí Juvenile Training Centre has a policy of protecting the rights of juvenile inmates by providing professional services in education, health and employment, and facilitating interaction with family members and other people. Priority is given to formal and informal education and to therapy.

942. Education is provided for 100 per cent of the population through an agreement with the Ministry of Education. All levels of schooling are provided, including the beginning literacy, middle and final levels (primary and secondary). In addition, civic and scientific activities, games and entertainment are organized. The facilities include a computer room, a gym and a sports field. The schedule of activities for adolescents is shown in the annex (8-12).<sup>155</sup>

943. All young people have the right to health and preventive and corrective medical care. They are also entitled to dental, ophthalmological and mental health services and to receive pharmaceutical products, as well as special meals when recommended by a doctor.

944. Medical services should normally be provided in health-care facilities located in the same community as the detention centre. Juvenile detainees have the right to receive services, at their own expense, from private doctors and other health professionals, as well as to receive care provided by private associations or volunteer professionals (art. 83, Act on the Application of Juvenile Criminal Penalties).

945. A special facility for young adults (those over 18 years old who committed offences when they were minors) was built in 2006. Plans have been drawn up for construction of a multipurpose room as a result of a training course provided by INA for 15 young people in the centre. This infrastructure will be used to provide systematic training for this population; in view of their age, such training is a key part of their individual implementation plans. Another facility is currently under construction with financing from

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<sup>155</sup> See the proposed schedule in annex 8-12 to this chapter.

the Catholic prison ministry; this will provided additional space for individual and group programmes.

946. Legal assistance is included in the right to a defence which is guaranteed at all stages of a trial and of the execution of penalties.

947. As regards challenges, the Juvenile Criminal Justice Act guarantees the right to appeal against decisions that restrict a fundamental right (article 12(b) on provisional detention), as well as the right to appeal in cassation against a conviction (art. 116). The courts that are empowered to hear such cases are the Higher Juvenile Criminal Court, in the case of appeals (art. 30(c)) and the Court of Cassation (art. 118).

948. Although the Juvenile Criminal Justice Act does not include specific provisions regarding complaints for delays in justice, article 9 of that Act allows for a supplementary application to be brought under article 174 of the Code of Penal Procedures, which provides that the party concerned may request prompt action on the part of an official who does not meet established deadlines for the performance of his or her duties in the case.

949. Legal assistance is guaranteed in 100 per cent of the cases, including those in which a minor defendant has not appeared before the court to be identified despite having been duly summoned (cases in which the defendant is declared absent under article 50 of the Juvenile Criminal Justice Act).

950. There are no studies to establish the percentage of cases in which the Higher Juvenile Criminal Court has confirmed the provisional detention of a minor when appeals have been brought.

951. In this regard, the most significant achievement in recent years has been the passing of the Act on the Application of Juvenile Criminal Penalties. This Act closed a number of legal loopholes and helped to resolve certain operational issues, as it clearly provided more safeguards for minors and for adults who have responsibilities at different stages of the criminal proceedings (see also paragraphs 879 ff. above).

### **3. Sentencing of juveniles**

952. As noted above, Costa Rican legislation does not allow capital punishment or life imprisonment.

953. The Act on the Application of Juvenile Criminal Penalties is the most significant achievement of the system, given that it ensures respect for the dignity of minors as subjects of law during the stage of execution of juvenile criminal penalties.

### **4. Recovery and reintegration**

954. The following programmes and projects are being implemented in addition to those mentioned above.

955. Programmes aimed at ensuring physical and psychological recovery and reintegration into society are mentioned above (paras. 959 ff.)

956. In this regard, the following provisions of the Act are pertinent:

- (a) Article 76, on release of juveniles from detention centres;
- (b) Article 77, on the right to education and vocational training;
- (c) Article 79, on professional activities;
- (d) Article 81, on the right to rest;
- (e) Article 82, on religious practices;

- (f) Article 83, on health and medical assistance;
- (g) Article 86, on drug prevention programmes;
- (h) Article 87, on medical treatment.

957. In compliance with article 40 of the Convention, the Youth Opportunities Centre of the Social Rehabilitation Directorate, which operates within the framework of the Juvenile Inmates Programme, provides inter-agency coordination and analysis through the network strategy. This has enabled it to coordinate the work of governmental and non-governmental organizations concerned with this population.

958. The network was set up in 2003 in response to a diagnosis of the needs of the target population. It is also responsible for monitoring juvenile offenders who are on probation. It has achieved positive results; it provides guidance for programmes aimed at promoting the right to equitable education and the enjoyment of the benefits of technological development, training, the right to a family, to participate in artistic and cultural life, to recreation and to sports.

## **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

### **1. Economic exploitation, including child labour (article 32)**

#### *National and international legal framework*

959. In 1974, when Costa Rica ratified without reservation ILO Convention 138, concerning minimum age for admission to employment, it set the minimum age at 15 years. The Convention stipulates that the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.

960. By ratifying Convention 138, Costa Rica undertook to develop a national policy aimed at effectively abolishing child labour and gradually raising the minimum age for admission to employment to a level that would allow children to fully develop their physical and mental capacities.

961. The enactment of the Children and Adolescents Code (Act No. 7739) tacitly annulled any measures that were contrary to it, but not those that would close loopholes or work for the best interests of the child. All articles in the Labour Code that were not in line with the Children and Adolescents Code were left without effect.

962. Thus, according to the principle of annulability of statutes, the minimum age for admission to employment is 15 years, as stipulated in article 78 of the Children and Adolescents Code, not in articles 88 and 89 of the Labour Code. This is in line with the provisions of ILO Convention 138 on minimum age for admission to employment.

963. Chapter VII of the Code lays down special mandatory rules relating to child and adolescent labour, entitled "Special Protection for Adolescent Workers". This chapter not only introduces new elements to be considered in all labour relations involving adolescent workers, but also, in article 92, it absolutely prohibits the hiring of children under 15 years old and establishes regulations governing own-account work and family work.

964. In the light of the above and bearing in mind that Costa Rica ratified ILO Convention 138 without reservations, no exceptions are allowed, even for activities that are considered "light".

965. Violations, by action or omission, of the provisions of this and other articles on the part of employers shall be considered gross negligence (*falta grave*) and shall be penalized under article 101 of the Code.

966. The Regulations for the hiring of adolescents and conditions for their occupational health were issued by Executive Decree No. 29220-MTSS<sup>156</sup> (8-13), which entered into effect on 10 January 2001. These regulations are fully in line with ILO Convention 182, on the worst forms of child labour.

967. The Ministry of Labour and Social Security subsequently set up a committee which worked with a consultant hired by ILO/IPEC to draft a bill on the prohibition of hazardous and unhealthy work for adolescent workers (File No. 15929)<sup>157</sup> (8-14). This bill is currently being considered by the Committee on Children and Adolescents of the Legislative Assembly.

968. The following articles of the Children and Adolescents Code are pertinent to this issue.

969. The Children and Adolescents Code guarantees to all minors the right to lodge complaints (c-8-g) concerning acts committed against them and through a representative of the Office of the Public Prosecutor, to bring civil actions in that regard.

*Creation of specialized agencies to protect the rights of adolescent workers*

970. On 13 June 1996, the Government signed a Memorandum of Understanding with ILO (renewed in June 2003) where it joined IPEC and undertook to make a special effort to gradually eliminate all child labour.

971. To fulfil this commitment, Executive Decree No. 25890-MTSS, of 12 March 1997, was issued to create, at the political level, the National Steering Committee to Combat Child Labour. This was subsequently changed by Decree No. 25517-MTSS of 18 December 1998, and the name of the committee was changed to National Steering Committee on the Prevention and Gradual Elimination of Child Labour and Protection of Adolescent Workers in Costa Rica.

972. In November 2003, the name was again changed, through Executive Decree No. 31461,<sup>158</sup> to National Steering Committee on the Prevention and Elimination of Child Labour and Protection of Adolescent Workers in Costa Rica. The Committee has a Technical Secretariat, which is made up of technical representatives of each of the sectors and agencies that belong to the Committee. The Committee is defined as a fully deconcentrated organ under the Ministry of Labour and Social Security whose main purpose is to establish and promote policies relating to child and adolescent labour.

973. The Office of Assistance and Elimination of Child Labour and Protection of Adolescent Workers was set up by Decree No. 27516-MTSS<sup>159</sup> (8-16), of 18 December 1998. The Office, which is a permanent unit of the National Social Security Directorate of the Ministry of Labour and Social Security, is responsible for directing policy and actions in this area and providing technical support to the National Steering Committee and coordinating these efforts with those of public and non-governmental institutions, the labour and trade union sector and national and international agencies.

<sup>156</sup> See the Decree in annex 8-13 to this chapter.

<sup>157</sup> See the bill in annex 8-14 to this chapter.

<sup>158</sup> See Decree in annex 8-15 to this chapter.

<sup>159</sup> See Decree in annex 8-16 to this chapter.

**Implementation of the Immediate Assistance Programme**

974. The National Plan and the Programme of Immediate Assistance for Adolescent Workers, which is carried out by the Ministry of Labour and Social Security, provides comprehensive services (through inter-agency coordination) for adolescent workers and their families. The Programme is implemented by the Office of Assistance and Elimination of Child Labour and Protection of Child Workers, which conducts a study of the psychological, social, economic and employment situation of adolescent workers. This involves visiting the adolescent worker's home and place of work and interviewing both the worker and his or her parents or guardians to determine their needs and decide what type of comprehensive services are required.

975. In the context of the Programme, a record is kept of child and adolescent workers who are served by the Office of Assistance and Elimination of Child Labour and Protection of Child Workers and of those who are identified and referred by other bodies, both within and outside the Ministry. Between 2002 and the first half of 2007, the Programme provided assistance for approximately 8,684 working children, including 3,634 who were helped by the National Scholarship Fund, which recommended scholarships for them. The others were referred to IMAS for economic aid, to PANI and to the Ministry of Education (c-8-h), mainly for assistance to enable them to remain in the educational system. Some were also referred to CCSS and to INA, depending on their needs.

976. All minors, regardless of whether or not they work, have unlimited access to the different departments of the Ministry of Labour, where they are able to inquire in person about employment issues and receive legal advice and other services. During the period 2002-2007, information and advice was provided to 7,500 children and adolescents who asked about their rights, current legislation, the responsibilities of those concerned in different sectors and available resources for the comprehensive services offered by the Ministry.

977. Between 2005, when the Ministry began keeping records on these cases, and 2007, the National Labour Inspections Directorate processed 334 cases involving minors. This figure includes cases of dismissal, dismissal procedures and intervention by the Directorate in cases where workers' rights had been restricted.

**Research and diagnostic studies**

978. The following research studies have been undertaken: (1) A study on adolescent fishery workers on the Pacific coast of Costa Rica. This study is planned in view of the increasing involvement of minors in ocean fishing activities. It will be carried out by the Ministry of Labour and Social Security and the Costa Rican Fisheries Institute (INCOPELCA). (Funding is still pending). (2) A diagnostic study on child and adolescent labour among migrant populations in Upala and Los Chiles). (3) A diagnostic study on child and adolescent labour among migrant indigenous populations who move with their families from Panama to Costa Rica during coffee-picking season and settle in the area of Los Santos and the southern region). (4) Research studies on the effect on children's health of their work in the production of potatoes, sweet peppers and tomatoes. Studies were also conducted in communities in Cartago and in the Brunca region among adolescents who perform domestic chores at other people's homes, those who gather shellfish and those who work on farms.

**Projects on the elimination of child labour and protection of adolescent workers**

979. Several projects have been developed which directly benefit a large number of child and adolescent workers. These have been carried out with technical and economic support

from ILO/IPEC, working through NGOs, and with the participation of public and private institutions.

980. As the national counterpart, the Ministry of Labour and Social Security and its Office of Assistance and Elimination of Child Labour and Protection of Adolescent Workers have provided advice, staff, supervision, follow-up, selection and direct assistance to the target population in connection with the following projects on the elimination of child labour and protection of adolescent workers.<sup>160</sup>

981. The following projects on elimination of child labour were carried out during the reporting period: A sensitization campaign on the elimination of the worst forms of child labour (2002-2003). Elimination of child labour in the coffee industry in rural areas of Guanacaste (2000-2003). Defence and promotion of human rights so as to improve living and working conditions of Ngöbe indigenous families, as well as Nicaraguans and local migrants who do seasonal work during the coffee harvest in the Los Santos region (2007-2008). “Primerero Aprendo” (first I learn) (2007-2008). Promotion of human development. Elimination of child labour and protection of adolescent workers in rural communities in the cantons of Mora and Puriscal with the aim of ensuring that no children work in the granulated *dulce* (raw sugar) industry within the Association of Organic *Dulce* Producers (2007-2008).<sup>161</sup>

982. National Plan on the Prevention and Elimination of Child Labour and Protection of Adolescent Workers.

983. As of this date, Costa Rica has had two national plans on the elimination of child labour. The first one was the National Plan for the Prevention and Gradual Elimination of Child Labour and the Protection of Adolescent Workers for 1998-2002.

984. In 2003, work began on the design of the second National Plan for the Prevention and Elimination of Child Labour and Protection of Adolescent Workers for 2005-2010. Working and non-working adolescents were asked about their views, and this made it possible to draw up a consensus document that would benefit young workers.

#### **Inter-agency coordination tools**

985. Protocols were developed for intra- and inter-agency coordination so as to offer timely services of good quality to child and adolescent workers. The process was coordinated by the Office of Assistance and Elimination of Child Labour and Protection of Adolescent Workers, and technical and financial support was provided by ILO/IPEC in the context of a fixed-term programme.

986. The inter-agency protocol outlines the terms of coordination between the Ministry of Labour and Social Security, working through the aforementioned Office, IMAS, INA and the Ministry of Education, and PANI. It establishes the procedures to be followed by the offices in charge (in each institution) in providing immediate assistance in matters affecting minor workers that are referred to them.

987. The development and implementation of the protocols for intra- and inter-agency protocols represent a step forward in the effort to improve and implement tools to facilitate professional work in dealing with an issue as difficult to manage as that of child and adolescent labour within adult-centres institutions that are trying to open up new spaces. Work is currently in progress on the drafting of a legal framework for implementing these tools.

<sup>160</sup> See map of projects (Ministry of Labour and Social Security) in annex 8-17 to this chapter.

<sup>161</sup> See list of projects carried out between 2002 and 2008 (Ministry of Labour and Social Security) in annex 8-18 to this chapter.

**Training and sensitization**

988. During the period between 2002 and 2007, a number of training activities were carried out in order to raise awareness and change attitudes about the problems faced by children and adolescents when they join the work force at an early age and to disseminate information about national and international legislation on this issue.

989. In 2003, to comply with ILO Convention 182, the Government worked in coordination with ILO/IPEC to organize activities leading to a definition of dangerous and unhealthy work. Training activities were carried out throughout the country, and a sensitization campaign was organized with the slogan “Mobilize, Costa Rica, say no to child labour”. The campaign was launched in January 2003 with a press conference held by the Minister of Labour and Social Security, Mr. Ovidio Pacheco. Posters were placed in strategic locations such as bus stops, promotional spots were broadcast in different media, as well as radio and television programmes, and essay and painting contests featuring the theme were held for child and adolescent workers.

**International agreements**

990. In April 2005, the ministries of labour of the region signed a white paper entitled “La Dimensión Laboral en Centroamérica y República Dominicana. Construyendo sobre el progreso: reforzando el cumplimiento y potenciando las capacidades” (The Labour Scene in Central America and the Dominican Republic. Building on progress: strengthening compliance and improving capacities). This was the result of a joint effort by the deputy ministers of labour and of economic affairs or trade in Central America and the Dominican Republic, who began work on it in July 2004 under the auspices of IDB. The white paper includes the national and regional commitments undertaken voluntarily by the signers to improve implementation of the relevant legislation. The paper also outlines six priority issues in the area of labour that must be dealt with, including the worst forms of child labour.

991. In March 2006, the national authorities participated in the twenty-first regular meeting of the Council of Ministers of Labour. Among other things, the Ministers of Labour agreed to support the preparation of a subregional programme on decent work as a general framework for ILO cooperation in Central America and the Dominican Republic. The programme will also address the issue of child and adolescent labour.

992. In April 2007, Costa Rica took part in the first binational meeting of National Commissions for the Prevention and Elimination of Child Labour and Protection of Adolescent Workers in Panama and Costa Rica, which was held in David, Panama.

993. The meeting, which had the support of ILO/IPEC, was promoted by the Deputy Minister of Labour, Mr. Guillermo Matamoros Carvajal. It was held to discuss the situation of thousands of Ngöbe Bugle families who because of their poverty and the lack of jobs and opportunities in their villages in Panama emigrate to Costa Rica, where they are faced with difficult circumstances owing to crowded living conditions and climate changes. They come seeking jobs to improve their quality of life. They come with their entire families, including children and adolescents, who join the work force along with their parents. Their work is sometimes hazardous, as they work long hours on farms and do not attend school, precisely because of their temporary status.

994. The purpose of the meeting was to begin a dialogue between the National Commissions. Accordingly, they developed joint strategies for addressing child and adolescent labour among the indigenous people, and for improving access to education and health and in general, improving their living conditions. Special attention was paid to the situation of Ngöbe children and adolescents who emigrate to Costa Rica with their families to pick coffee.



### Information and data-collection system

995. In 2002, the module on child and adolescent labour of the Multi-Purpose Household Survey was conducted in order to update statistics and determine the extent and the characteristics of this issue. This will facilitate decision-making and help decide on strategic actions to be carried out to address the problem. The statistics have not been updated since then.

996. The information obtained showed that Costa Rica has a population of 1, 113,987 children and adolescents between the ages of 5-17 years; of these, 113,523, i.e., 10.2 per cent, are working. Of these, 82,512 are boys and 31,011 are girls; 84,054 of child and adolescent workers live in rural areas and 29, 469, in urban areas.

997. Fifty-six per cent (63,372) of these 113,523 child and adolescent workers are over 15 years old. This means that around 44 per cent (50,151) are younger than 15 and therefore, not old enough to be allowed to work.

998. In order to provide users of its services with information on child and adolescent labour in Costa Rica, in 2006 the Ministry of Labour and Social Security set up access to the Office of Assistance and Elimination of Child Labour and Protection of Adolescent Workers on its website through the icon associated with the National Social Security Directorate.

999. The website provides basic information on the work of the Office, national and international legislation; technical matters such as concepts, causes and consequences; statistics; national policies and “¡denuncia ya!” (report abuses now!).

1000. The page may be accessed at [www.ministrabajo.go.cr](http://www.ministrabajo.go.cr) or [www.mtss.go.cr](http://www.mtss.go.cr). The icon “Dirección Nacional de Seguridad Social” directs users to the information on the Office. The Office now has an information system that shows the cases that have been handled by the Office.

1001. The Ministry of Labour and Social Security has a budget for its activities in protecting the rights of children and adolescents.

1002. Between 2002 and 2007, the Ministry spent approximately 498 million colones on its activities relating to children and adolescents. This includes payments to specialized staff, per diem, transport and office supplies. PANI has an information system<sup>162</sup> for reporting on cases of work-related exploitation.

### Boys and girls

1003. In the process of validating the report in Pérez Zeledón, the boys and girls who were interviewed were explicit about the nature and the source of the problem; they perceived causal relationships and understood their role with respect to their parents. “Boys and girls beg and work because their parents don’t work; their parents can’t get work because they don’t study.” “Parents are worried and stressed, that’s why they neglect their children: They mistreat their children to let off steam because they have problems; children have to cooperate and help their parents; they need help.”

1004. In Siquirres, children notice that street children are not being protected. “Boys and girls shouldn’t work, but nobody gives work to kids over 15. Lots of them are exploited.”

1005. Boys and girls in San Carlos hold parents responsible for child labour; children are abused because of negligence; they think that boys and girls should not work. “Boys and

<sup>162</sup> See annex 8-26.

girls are on the street because their parents don't take care of them, they abuse them, or they abandon them at PANI, at IAFA. The Government should help prevent this."

### **Adolescents**

1006. Adolescents in Pérez Zeledón said that there is a lack of communications between parents and children, and a lack of values.

1007. In Siquirres, they speak of economic need and disintegration, and say that parents "solve everything by yelling".

1008. Adolescents in San Carlos stressed the problem of poverty and said that jobs are a good experience provided they don't affect their studies.

1009. In San José, adolescents said that having a job was one reason for dropping out of school.

### **Mothers and fathers**

1010. In San Isidro de El General, parents indicated that one cause for child labour was economic necessity and the loss of values.

1011. In Siquirres, some parents did not consider studying to be very important in the life of children; they said it was a waste of time.

1012. In San José, parents agreed that poverty was a cause, and said that parents "could do whatever they wanted to".

## **2. Drug abuse**

1013. Work is proceeding on the construction of a centre for the comprehensive treatment of children and adolescents addicted to psychoactive substances which is being established pursuant to a ruling of the Constitutional Chamber of the Supreme Court.<sup>163</sup> Since that decision was handed down, all the public institutions working in this field have been coordinating their efforts to secure funds and develop the infrastructure and programmes mandated by the Constitutional Chamber.

1014. CCSS and IAFA have carried out nationwide campaigns for the prevention of drug use. IAFA has also implemented treatment programmes<sup>164</sup> for drug users.

1015. In 2006, PANI launched a comprehensive programme for street people who use drugs. It also has established two specialized shelters ("La Garita" and "Barrio San José") (see Directive No. 103 for additional information).

1016. On 5 September 2006, PANI donated 241 million colones to IAFA for the construction of the above-mentioned psychoactive addiction treatment centre for children and adolescents.

1017. PANI transferred 159.5 million colones in 2006 to Renacer, Hogares Crea and Comunidad Encuentro for the protection of persons under 18 years of age who use drugs.

1018. PANI has signed an agreement with the United for Children Association of the Banco de Costa Rica with the aim of collecting 3 billion colones to fund assistance for this population group. The Association spends 400,000 colones for each girl in the Renacer shelter.

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<sup>163</sup> See annex 8-19.

<sup>164</sup> See annex 8-27.

1019. As part of its substantive work in educational institutions, the Student Life and Orientation Department of the Ministry of Education carries out activities aimed at instilling values, attitudes and behaviours in the students that will provide them with motivations and tools for achieving their self-actualization as young people with their own characteristics, concerns and needs.

1020. The Ministry of Education has, in addition to its efforts to build students' self-esteem and values, focused on institutional intervention in areas such as violence and drug use, which are major causes of the deterioration in the quality of life of young people and of the members of society in general. The National Plan for Violence Prevention and Response (executed by the Commission for the Prevention of Violence of the Ministry of Education) and the National Anti-Drug Education Plan (executed by the Orientation Department and other units of the Ministry of Education, including the Adult Education, Religion, Special Education and Preschool Education Departments, student cooperatives and the Education Improvement System (SIMED)), as well as the "Trazando el Camino" (mapping out a course) and "Si es Alcohol no es Conmigo" (if it is alcohol, it's not for me) programmes are examples of the work being done by the Ministry.<sup>165</sup>

1021. CCSS has launched the "Nuevos Horizontes" (new horizons) Programme for underage drug users. This programme concentrates on detoxification.

1022. The institutions involved in this effort have also started up coordination activities and formulated treatment protocols aimed at delimiting the areas of responsibility and action of each institution. In 2005 and 2006, an inter-agency coordination protocol was developed.

1023. The administrative protection measures which PANI is legally authorized to undertake include the issuance of custodial and out-patient treatment orders for minors. In the case of custodial treatment orders, the minor in question enters the CCSS Nuevos Horizontes Programme. If out-patient treatment is ordered, the minor, at the family's expense, continues to live with his or her family and receives treatment at solidarity homes, the La Garita or Barrio San José facilities or NGO programmes (Renacer, Hogares Crea and Comunidades de Encuentro). PANI supervises and monitors compliance with treatment orders. If these administrative orders are not complied with, judicial measures can be taken to ensure the young person's treatment, recovery and reintegration into the community.

1024. One of the difficulties faced at this time is the lack of a specialized centre capable of providing comprehensive assistance to this population group. The most pressing task is therefore to complete the construction of the new centre, which will be staffed by experts in the field. Another challenge is the creation of networks and systems for the provision of comprehensive assistance that will pave the way for oversight of the reintegration of minors into their communities. The existence of the necessary infrastructure is not enough; the external structure provided by such centres is needed for the intake of children and adolescents.

1025. IAFA is attached to the Ministry of Health and serves as the lead technical agency for measures to counter drug use. It will be in charge of the specialized centre and its programmes, which will provide advisory assistance, guidance, and physical, psychological and medical follow-up care, in addition to the work to be done with family members. It is also responsible for certifying NGOs (8-28).

1026. Act No. 8204 of 11 January 2002 was a comprehensive reform of the Act on Psychotropic Substances, Illicit Drugs and Related Activities (C-8-L). These amendments were approved by the Assembly on 17 December 2001.

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<sup>165</sup> See Ministry of Education bulletin No. 07-07 in annex 7-22 to chapter 7 for a description of existing programmes on drug use.

1027. If the persons requiring treatment are minors, PANI issues the corresponding protection measures as provided for under the Children and Adolescents Code.

1028. Article 25 of Alcohol Sales Act No. 10 provides that minors may not enter establishments that sell only liquor. Those establishment that sell other merchandise may sell products other than liquor to minors but must make sure that, once they are served, the minors vacate the premises immediately.

1029. Article 1 of Act No. 7633 of 26 September 1996 on the regulation of the store hours of businesses dispensing alcoholic beverages states that alcoholic beverages may not be sold to minors and that minors must not be allowed to stay in establishments whose principal activity is the sale of alcohol for on-site consumption.

### **3. Sexual exploitation and sexual abuse (article 34)**

1030. There have been three major achievements with respect to the offence of commercial sexual exploitation.

1031. The first is the formulation of a second national plan for combating commercial sexual exploitation,<sup>166</sup> to be implemented in 2008-2010.

1032. This plan was approved by the Council of Government, and its implementation is mandatory for institutions with responsibilities in this area. It is interlinked with the National Development Plan for 2006-2010, and budgetary funds have been allocated to each executing agency.

1033. The contents of the plan are based on agreements reached with the National Commission to Combat Sexual Exploitation for Commercial Purposes (CONACOES).

1034. The plan is as follows:

(a) An intersectoral, inter-agency approach is combined with strategies focusing on promotion/prevention, assistance, protection and defence of victims' rights;

(b) It has been designed to address the specific type of sexual exploitation of children and adolescents for commercial purposes that occurs in Costa Rica, as identified in a number of national and international studies which were used as reference documents for this purpose:

(c) Its basic operating principles are as follows:

(i) Inter-agency and intersectoral coordination;

(ii) Coordination between the public and private sectors;

(iii) Participation of children and adolescents;

(iv) A socio-geographic focus (actions are targeted at the cantonal and regional levels on the basis of poverty rates, population density and the extent to which children and adolescents are at risk of sexual exploitation for commercial purposes).

1035. A hard copy of the National Plan to Combat Sexual Exploitation for Commercial Purposes, 2008-2010, is attached.

1036. The second major achievement is the passage of Act No. 8590, which reinforces the efforts being made to combat the sexual exploitation of minors by amending and adding a number of articles to the Criminal Code and by amending the Code of Criminal Procedure.<sup>167</sup> The main changes made in the law are:

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<sup>166</sup> For the full text of the second plan, see the supplementary annexes (PANI folder).

<sup>167</sup> For the full text of Act No. 8590, see the supplementary annexes (legal folder).

- (a) The age established for the protection of minors was raised from 12 to 13 years;
- (b) Penalties were established for the production of pornographic material;
- (c) Penalties were established for the possession of pornographic material in which minors appear;
- (d) This statute of limitations is measured from the date when the victim reaches the age of majority;
- (e) Kinship and relationships of authority and trust are more clearly defined for the purpose of the classification of offences.

1037. The third major achievement is the implementation of a response cycle model<sup>168</sup> encompassing the different actions taken to protect minors from commercial sexual exploitation. This model was developed by the ILO International Programme on the Elimination of Child Labour (IPEC) and permits the mobilization of all inter-agency measures for the comprehensive protection of minors.

1038. Costa Rica's National Commission to Combat Sexual Exploitation for Commercial Purposes (CONACOES) has made significant inroads during the reporting period. These advances include preventive actions, legal reforms, suppression, assistance and monitoring (c-8-m).

#### **International action**

1039. Costa Rica has maintained an international presence and participates in international, regional and global forums, conferences and assemblies dealing with the rights of children and adolescents in general and specifically with sexual exploitation for commercial purposes.

1040. National campaigns have been carried out each year since 2004 (four in total) to raise awareness and inform people about this issue and to encourage people to report incidents.

1041. The country is basing its work on the response cycle model for coordinated action to protect minors at risk of sexual exploitation for commercial purposes and is training the staff of the lead agency in its use. These staff members are, in turn, working with this model in conjunction with other agencies in the locales identified as priority areas in the National Plan to Combat Sexual Exploitation for Commercial Purposes, 2008-2010.

1042. The Plan's indicators are currently being revised with a view to the inclusion of nationwide monitoring activities in the National Development Plan, with support from the Ministry of Planning. Work on the development of a follow-up and monitoring system is moving forward.

1043. Foreigners who commit offences in Costa Rica are subject to Costa Rican law.

1044. The staff of the country's police forces and of the Ministry of Public Security have received training. A manual on procedures to be followed in these types of situations has been prepared in conjunction with the PANIAMOR Foundation.

1045. No bilateral agreements concerning this issue have been signed.

1046. The ILO International Programme on the Elimination of Child Labour (IPEC) worked with CONACOES on the development of the National Plan to Combat Sexual

<sup>168</sup> For a description of the response cycle model for coordinated action to protect minors at risk of sexual exploitation for commercial purposes, see the supplementary annexes (PANI folder).

Exploitation for Commercial Purposes and is also working with it on victim assistance programmes and in the review of legislation and rights promotion activities.

1047. Other NGOs that belong to CONACOES also have programmes for promoting rights and providing assistance. There are a number of inter-agency programmes, including one that is being implemented in cooperation with ILO/IPEC in San José and Pavas, another that is being executed in cooperation with the University of Costa Rica in Golfito and two others in San José that are being run by FUNDESIDA and the “Construyendo Esperanzas” (building hope) Programme.

1048. As the lead agency in the protection of the rights of children and adolescents, PANI has laid down clear, non-discriminatory guidelines and follows special procedures for the defence of children’s rights on an entirely non-discriminatory basis.

1049. There is no information system on the sexual exploitation of children and adolescents that disaggregates the data by the specific type of situation and the degree of seriousness. Within the framework of the National Plan to Combat Sexual Exploitation for Commercial Purposes, PANI is working to introduce a system for following up on victims of commercial sexual exploitation for use by the offices responsible for implementing the Plan. This has not yet been accomplished, however, and precise data can therefore not be supplied.

1050. Problems also continue to be encountered in keeping accurate records on incidents of commercial sexual exploitation because they are often confused with cases of sexual abuse. More training is needed.

1051. Children or adolescents are taken away from their parents only in extreme cases. PANI seeks to ensure that minors can stay with their families by mobilizing other Government agencies to provide support to these families. Difficulties in inter-agency coordination and response continue to be encountered, however.

1052. The judicial branch, through the Department of Social Work and Psychology, has reported that it has taken a number of steps in order to prevent the revictimization of minors involved in legal proceedings, including the creation of interdisciplinary teams, the issuance of rules and protocols, and the use of one-way mirrors.

1053. The judicial branch has also issued a series of circulars<sup>169</sup> concerning the prevention of the revictimization of minors.

#### **4. Sale, trafficking and abduction (article 35)**

1054. In order to comply with the Convention and with the national regulations referred to above, PANI works to promote rights and prevent rights violations by means of the following actions, which are included in its institutional operating plan:

- (a) Actions taken by the 41 local offices of PANI include:
  - (i) National campaigns such as the Ricky Martin Foundation’s “Llama y Vive” (call and live) campaign;
  - (ii) Provision of information to the general public on internal and cross-border trafficking on the radio, in written materials and on television at the national, regional and local levels;
  - (iii) Training of PANI staff in all regions of the country;
  - (iv) Incorporation of this issue into the PANI service platform;

<sup>169</sup> See the supplementary annex for a complete set of the circulars issued by the judicial branch.

(v) Implementation of the two existing protocols: the internal PANI protocol (PANI is the only agency that has a specialized protocol) and the Inter-Agency Coordination Protocol;

(vi) Promotion of the National Plan to Combat Sexual Exploitation for Commercial Purposes, since the great majority of cases of trafficking are associated with commercial sexual exploitation;

(vii) Preventive work with persons in the various alternative protection facilities (solidarity homes, shelters, NGO facilities);

(b) Projects being carried out by the 58 Child Protective Services Boards in cantons where these boards exist.

1055. PANI, as the technical secretariat for CNNA, promotes public policies and sets up inter-agency coordination mechanisms.

### **Sphere of protection measures**

1056. PANI, like all other State institutions, must take the necessary steps to protect children and adolescents (article 2 of the Convention) and to guarantee their right to the protection of the State (article 13 of the Children and Adolescents Code), as well as their right to protection from grave danger.

1057. This is done through the application of temporary shelter, provisional care or other protection measures that will ensure that minors' rights are respected.

1058. The services provided by PANI include comprehensive assistance to victims. The local PANI offices provide care for victims of trafficking, abduction or the sale of children.

1059. The administrative justice system (protection measures) ensures that the principles of participation and confidentiality are upheld, that interviews are conducted in a way that respects the rights of minors to not be revictimized, that victims are not questioned at length or repeatedly, and that other judicial principles and guarantees are respected.

### **Sphere of suppressive measures**

1060. The institution has the obligation to lodge the corresponding complaint immediately (in accordance with article 281 of the Code of Criminal Procedure, articles 49 and 117 of the Children and Adolescents Code and article 4 of the National Child Welfare Agency Organization Act).

### **Protocols**

1061. PANI also has two protocols for dealing with cases of trafficking and smuggling: an internal, administrative protocol; and an inter-agency coordination protocol.

1062. In accordance with its internal protocol, the institution's work focuses on the following areas:

(a) Meeting basic needs (food, shelter, clothing and so forth);

(b) Assessing risk and safety levels;

(c) Guaranteeing confidentiality in order to ensure safety and make certain that the investigation is not jeopardized;

(d) Ordering the application of protection measures, as necessary;

(e) Filing complaints with the Office of the Public Prosecutor or the Judicial Investigation Agency for their subsequent investigation.

1063. PANI provides comprehensive services in the following areas:

- (a) Identifying minors;
- (b) Formulating an intervention plan and determining which rights have been violated, the sociocultural context, factors relating to protection and risk levels;
- (c) Cooperating in the preparatory arrangements for the giving of evidence, providing emotional support, preparing the file, and accompanying and supporting the child in question.

1064. In dealing with underage victims of trafficking, PANI follows the guidelines laid down in the inter-agency coordination protocol for the repatriation of victims of trafficking and smuggling, which is in turn based on the principles that underpin the rights of children and adolescents (best interests, confidentiality, avoidance of revictimization, shared responsibility, presumption of minority, comprehensive approach, prompt action, non-discrimination) and on the rights-based, gender, generational and contextual perspectives.

1065. In addition to the prior stages, this protocol covers the following:

- (a) Assessment and coordination of repatriation arrangements;
- (b) Arrangements with the Ministry of Foreign Affairs and consulates, and coordination with counterpart agencies in the country of origin;
- (c) Preparations for the minor's departure from Costa Rica and return to his or her country of origin;
- (d) Administrative decisions and procedures concerning departures from alternative protection facilities.

1066. Where necessary, PANI staff members accompany minors who are being repatriated.

1067. Minors are handed over to the persons designated by PANI counterpart agencies in the country concerned.

#### **Coalition to combat trafficking and smuggling**

1068. The Costa Rican National Coalition against Migrant Smuggling and Human Trafficking was established by Executive Decree No. 32824 of 8 November 2005, which was published in *La Gaceta* on 16 December 2005. This decree was amended by Executive Decree No. 34199, published on 3 January 2008. Amended article 2 establishes which agencies are to be members of the Coalition.

1069. The Coalition is structured as follows:

- (a) Executive Board: This senior political body is composed of the heads of the member institutions of the executive branch.
- (b) Committee for Follow-up: This technical/operational committee is composed of senior technical personnel from the Coalition's member agencies and receives support from other branches of government and from selected international and national organizations. At its monthly meetings, the Committee develops national and international policy proposals, formulates its annual work plan, supports and monitors the operationalization of policies, prepares biannual progress reports for submission to the Executive Board and performs any other tasks required to achieve the Coalition's objectives.



(c) Technical Secretariat: The Technical Secretariat coordinates the work of the Coalition.

#### **Cases identified and processed**

1070. Since September 2003, PANI has, for example, taken care of a group of 10 Guatemalan child victims of trafficking for purposes of international adoption. Seven of those children were returned to Guatemala under the protection of the PANI counterpart agency or their families.

1071. When it proved impossible to identify or locate the families of the remaining three children, steps were taken to issue certificates of abandonment. The Inter-American Convention on International Traffic in Minors was also invoked. National adoptions were arranged for these children.

1072. The year before, six Chinese adolescents (from 16 to 17 years of age), who were among a group of over 50 people found on the high seas, were repatriated in accordance with the obligations assumed under the institutional and inter-agency protocols.

1073. Another 10 Ecuadorian and Peruvian minors were repatriated. The repatriation arrangements were coordinated by the Ministry of Public Security and PANI.

1074. Thanks to the Ricky Martin campaign, 34 reports were received over the 911 hotline. These reports were promptly processed and referred to the Public Prosecutor's Office for investigation and prosecution.

#### **D. Children belonging to a minority or an indigenous group**

1075. Article 6 of the Children and Adolescents Code establishes the obligation to take a minor's sociocultural environment into account in arriving at decisions regarding the minor. Article 14 sets forth the freedoms enjoyed by children and adolescents, which include freedom of religion. In addition to article 3 (non-discrimination), article 107 guarantees all minors the right to have their views heard in their own language and to have the services of a translator if necessary; this right is guaranteed for all administrative and judicial proceedings.

1076. Article 3 of the Children and Adolescents Code states that all minors are rights-holders and enjoy all human rights on an equal footing and that they may not be discriminated against on the basis of sex, ethnic origin, economic status, geographical location, age or disability status.

1077. Article 23 of the Children and Adolescents Code recognizes minors' right to a name, a nationality and identity documents issued by the Civil Registry at the Government's expense. PANI is to provide minors with suitable assistance and protection when they have been illegally deprived of any facet of their identity.

1078. As noted earlier, the Civil Registry issues juvenile identity cards to minors over 12 years of age. These cards contain the basic information needed to identify the minor; they do not contain any information that could lead to discrimination against them.

1079. When any such situation does arise, Government response mechanisms enter into operation. PANI can issue protection measures to order any public or private institution to halt any action that violates a minor's rights and to respect those rights. The Office of the Ombudsman is another independent agency that ensures that State institutions respect the rights of children and adolescents.

1080. The programmes and projects implemented by public agencies take the indigenous population into account, as explained in the section on education and health. A number of public services have been adapted to take the circumstances and rights of the indigenous population into consideration as well.

1081. Some of the inter-agency projects being undertaken by PANI, DINADECO and UNICEF in 2008 provide for the coordination of modules geared to the indigenous population.

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