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State of implementation of the United Nations
Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

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* CAC/COSP/IRG/2024/1.
II. Executive summary

Costa Rica

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

The implementation by Costa Rica of chapters III and IV of the Convention was reviewed in the fourth year of the first review cycle, and the executive summary of that review was issued on 26 May 2016 (CAC/COSP/IRG/I/4/1/Add.39). Costa Rica also requested that the full report of the review be published on the web page of the United Nations Office on Drugs and Crime.1

Costa Rica has adopted the principle of direct application of international conventions. According to article 7 of the Political Constitution of 1949, ratified treaties prevail over domestic laws. The legal system is based on the continental legal tradition.

The national legal framework for preventing and combating corruption comprises provisions of various laws, including the Criminal Code, the Code of Criminal Procedure, the Act against Corruption and Illicit Enrichment in the Public Service (Act No. 8422), the Act on Narcotic Drugs, Psychotropic Substances, Illicit Drugs, Related Activities, Money-Laundering and the Financing of Terrorism (Act No. 7786), the General Act on Public Procurement (Act No. 9986) and the Civil Service Statute (Act No. 1581), the General Act on Internal Oversight (Act No. 8292), the Act on the Liability of Legal Persons for Bribery of Public Officials, Transnational Bribery and Other Offences (Act No. 9699) and the Organized Crime Act (Act No. 8754).

The Costa Rican authorities cooperate at the international level through various mechanisms and networks, including the Financial Action Task Force of Latin America and its Asset Recovery Network, the Egmont Group of Financial Intelligence Units and the International Criminal Police Organization (INTERPOL).

Costa Rica has a number of bodies and agencies responsible for preventing and combating corruption, including the Office of the Counsel for Ethics in Public Service, the Public Prosecution Service, the Criminal Court for Economic and Public Service Offences, the Costa Rican Drug Institute, the Ombudsman’s Office, the Supreme Electoral Tribunal, internal oversight offices, the Office of the Comptroller General of the Republic, the Civil Service Tribunal and the Office of the Superintendent General for Financial Institutions.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Costa Rica has a national strategy for integrity and corruption prevention for the period 2021–2030, which was drawn up by a working group in which the supervisory authorities, the executive, the judiciary, the National System of Ethics and Values, the private sector, civil society and academia participated. The strategy comprises five workstreams: (a) governance in the fight against corruption; (b) human talent management to fight corruption; (c) promotion of the participation of society and citizen oversight; (d) management of corruption risks in public-private interaction; and (e) access to information of public interest and accountability. One of the goals of the strategy is the formulation of a national anti-corruption policy (goal 1.2).

1 www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?
CountryProfileDetails=/unodc/corruption/country-profile/profiles/cri.html.
Costa Rica has implemented preventive anti-corruption initiatives and practices, including training activities aimed at improving the management of public finances and audits in institutions identified as vulnerable to corruption.

Despite the fact that the National Strategy for Integrity and Corruption Prevention refers to the need for appropriate monitoring and evaluation mechanisms, no such mechanisms are in place, nor is any plan for the evaluation of legal instruments and administrative measures with a view to determining their adequacy to fight corruption.

Costa Rica participates in regional and global anti-corruption initiatives, such as those led by the Organization of American States, the Financial Action Task Force of Latin America, the Working Group on Bribery of the Organisation for Economic Co-operation and Development, the Organization of Latin American and Caribbean Supreme Audit Institutions, the International Organization of Supreme Audit Institutions and the Open Government Partnership, and the Latin America and Caribbean Anti-Corruption Law Enforcement Network.

The Office of the Counsel for Ethics in Public Service (part of the Office of the Counsel General of the Republic; see arts. 1, 3 (h) and 7 of Act No. 6815 as amended by art. 2 of Act No. 8242) is the main preventive anti-corruption body.

The functions of the Office of the Counsel General include carrying out the necessary administrative actions to prevent, detect and eradicate corruption and to increase ethics and transparency in the public service (art. 3 (h) of Act No. 6815 as amended by art. 1 of Act No. 8242), to which end the Office organizes training for public officials and citizens in general. The Ministry of Justice and Peace serves as the governing body for the National Strategy for Integrity and Corruption Prevention. Being a ministry, the Ministry of Justice and Peace is not independent.

The functions of the Office of the Comptroller General of the Republic include overseeing the execution and settlement of the regular and extraordinary budgets of the Republic and examining, approving or rejecting the budgets of the municipalities and autonomous institutions and overseeing the execution and settlement of those budgets (art. 184 of the Constitution). The Office of the Comptroller General has functional and administrative independence in the performance of its duties (art. 183 of the Constitution; art. 2 of Act No. 7428).

Costa Rica has informed the Secretary-General of the United Nations that the Office of the Counsel General, through the Office of the Counsel for Ethics in Public Service, is the authority that may assist other States parties in developing and implementing specific measures for the prevention of corruption.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Constitution establishes that, with certain exceptions provided for in the Constitution and the Civil Service Statute, public servants must be appointed on the basis of proven competence and may be removed only on the grounds of justified dismissal as provided for by law (arts. 191 and 192 of the Constitution).
In Costa Rica, a large number of civil service regimes are in place, applying by institution and region. All of those regimes are defined by domestic law and their compliance with the Constitution (arts. 191 and 192) and domestic law is subject to monitoring. The Civil Service Statute is the most representative regime and applies mainly to employees of the executive branch, who are remunerated by the public treasury and appointed by formal agreement published in the Official Gazette (art. 2); exceptions apply to certain positions and groups, including workers rendering interim and occasional services or technical services (arts. 3–5). The Civil Service Statute regulates the appointment (art. 13 (b) and chapter V), promotion and transfer (arts. 32–36) and dismissal (chapter IX) of public officials.

Candidates eligible for appointment as public servants under the Statute are selected on the basis of competency tests (arts. 20 and 21). The Directorate General for the Civil Service is the body responsible for the tests and for the selection of candidates (arts. 21 and 22).

The Office of the Counsel for Ethics in Public Service offers in-person and online training courses for public officials with a view to promoting a culture of probity and ethics.

The remuneration of public officials is regulated by article 48 of Act No. 1581.

Costa Rica does not identify positions that are especially vulnerable to corruption for the purposes of article 7, paragraph 1 (b), of the Convention.

In Costa Rica, the impediments, grounds for disqualification and prohibitions applicable to elected office and the grounds for forfeiture of credentials are regulated by the Constitution (arts. 108, 109, 111, 131, 132, 150 and 151), while those applicable to municipal positions are regulated by the Municipal Code. For certain positions, the candidate must be a citizen able to exercise his or her rights as such fully, while for others the candidate must not be disqualified from holding office. There are no requirements with respect to criminal record or other violations.

Costa Rica has a mixed regime governing the financing of political parties, consisting of direct public financing, indirect public financing and private contributions (art. 96 of the Constitution; art. 137 (g) of the Electoral Code (Act No. 8765)). Private contributions must be recorded in the party’s accounting books and paid into a single bank account (arts. 121 and 122 of the Electoral Code). Political parties’ accounting information is publicly available, and treasurers must report periodically to the Supreme Electoral Tribunal (arts. 130, 132 and 135 of the Electoral Code). Private contributions, to which no limits apply, are attributed to the person who pays the funds into the bank account. Contributions from foreign legal and natural persons are prohibited, as are anonymous donations or donations made through intermediaries (arts. 122, 123 and 135 of the Electoral Code).

The Electoral Code also establishes criminal liability for offences related to party financing (arts. 273, 275 and 287).

Direct private financing of candidates or pre-candidates who have been approved by political parties is prohibited; all contributions must be made through the person in charge of the treasury of the political party (art. 125 of the Electoral Code). The Constitutional Chamber, in its ruling No. 3489-2003 of 2 May 2003, established that private contributions to political parties must be regulated by law and were subject to the principle that they must be made known to the public. Each year, audited statements of party finances, including a list of the names of all contributors, must be submitted.
to the Supreme Electoral Tribunal (art. 135 of the Electoral Code; art. 81 of Decree No. 17-2009).

The duty of probity and the obligation of public officials to act in the public interest are established in Act No. 8422 (arts. 3 and 4) and in article 113, paragraph 1, of the General Public Administration Act. Public officials must refrain from involvement in official matters when in a situation of conflict of interest (art. 1 (14) of Executive Decree No. 32333). While there is no general definition of “conflict of interest”, for members of the judiciary it is defined as “conflict between the public duty and private interests of a public servant, in which he or she has a private interest that may unduly influence the exercise of his or her official responsibilities and duties” (art. 3 of circular No. 72-2019), and the concept has also been elaborated in administrative case law (see, for example, rulings C-081-2020 and C-052-2021 of the Office of the Counsel General). The Office of the Comptroller General has issued general guidelines on ethical principles and statements to be followed by managers, subordinate officers, officials of the Office, internal auditors and public servants in general (No. D-2-2004-CO), those guidelines serving as the main source of guidance on preventing conflicts of interest. Although the guidelines state that public officials must declare any interest other than the public interest that could give rise to a conflict of interest (art. 1.1 (l)), a system for the declaration of interests by public officials has not been established.

It is prohibited to hold more than one public position, although certain exceptions apply (art. 17 of Act No. 8422).

There are regulations on the prevention, identification and appropriate handling of conflicts of interest in the judiciary (circular No. 72-2019).

Certain public officials, including judges and prosecutors, may not participate in the activities of political parties (art. 146 of the Electoral Code; art. 9, paras. 5 and 6, of the Organic Act on the Judiciary; art. 28, paragraph (c), of Act No. 6815). Deputies who breach the duty of probity forfeit their credentials in accordance with the provisions of the relevant act (art. 112 of the Constitution).

Act No. 8422 and the regulations implementing that Act (Decree No. 32333) contain rules aimed at preventing corruption and ensuring probity, impartiality and transparency in the performance of public functions. They also establish the administrative, civil and criminal liability regime and applicable sanctions (arts. 39 and 46 of Act No. 8422).

The executive has a Civil Service Ethics Handbook, while the legislature and the judiciary have their own codes of ethics.

Several institutions provide courses and training sessions on the codes of ethics and the Ethics Handbook.

Public officials are required to report offences that are prosecutable ex officio (art. 281 of the Code of Criminal Procedure). No specific channels have been established for officials, but they can use institutional portals for reporting purposes, as well as special telephone lines, email addresses and fax numbers. In-person reporting is also possible. The Reporting Office and the Confidential Information Centre of the Judicial Investigation Agency are open to the public 24 hours a day to enable reporting, including anonymous reporting. At the time of the country visit, a bill on the protection of reporting persons had been submitted to the Legislative Assembly.  

A significant number of public officials are required to file a sworn declaration of assets (see the section below on art. 52 of the Convention).

The acceptance of gifts, prizes, rewards or any other advantage in return for actions or omissions made possible by an official’s position, and items received as a gesture

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4 Bill on encouraging the reporting of acts of corruption and the protection of reporting persons and witnesses to such acts against retaliation in the workplace, legislative file No. 23449.
of courtesy or diplomatic custom are to be considered property of the nation if their value exceeds one base salary (462,200.00 colones – approximately $853 – in accordance with circular No. 263 of 15 December 2021; see art. 20 of Act No. 8422; arts. 40–51 of Decree No. 32333).

There is no general obligation to declare outside activities or to request approval of such activities in advance.

Judicial independence is provided for (art. 154 of the Constitution; art. 2 of the Organic Act on the Judiciary; art. 5 of the Code of Criminal Procedure).

Persons who have been brought to trial, sentenced to imprisonment for an offence, disqualified from holding public office or declared bankrupt or insolvent by a court, among others, cannot serve as members of the judiciary (art. 12 of the Organic Act on the Judiciary). For the selection of judicial officials, with the exception of judges, the Council of the Judiciary submits a shortlist of three candidates from among the eligible officials. If no candidates apply, the selection is made by means of competitive examination (art. 14 of the Organic Act on the Judiciary; art. 24 of the Judicial Careers Act), with a probationary period of one year (arts. 33 and 34 of the Judicial Careers Act). Judges are appointed by the Legislative Assembly for eight-year terms in accordance with the requirements and procedure established in the Constitution (arts. 121 (para. 3), 157 et seq.).

The High Council of the Judiciary performs administrative and disciplinary functions in the judiciary and is responsible for appointing, transferring, suspending and removing officials who administer justice, with the exception of officials of the Court (arts. 67 and 81 of the Organic Act on the Judiciary). The Background Checks Unit verifies the ethical and moral competence of applicants for positions in the judiciary.

Costa Rica has a judicial code of ethics applicable to the entire judiciary, including the Public Prosecution Service, and training on ethics issues is organized for judges. The judiciary’s Transparency and Anti-Corruption Commission (art. XXIII of the Agreement of the Supreme Court (meeting in plenary), session No. 33-2006) is responsible for promoting actions aimed at strengthening transparency and preventing corruption.

The Public Prosecution Service forms part of the judiciary and is responsible for criminal prosecution. It carries out its activities in accordance with the principles of unity of action and hierarchical dependence (art. 1 of the Organic Act on the Public Prosecution Service). It has functional independence (art. 3) with respect to investigations and functional oversight of the criminal investigation police, as a means of regulating and ensuring the legality of investigations.

The Attorney General decides on appointments, promotions, exchanges and transfers of prosecutors and accepts their resignations (art. 25 of the Organic Act on the Public Prosecution Service). Prosecutors must be persons of recognized moral integrity who are suitable for the position, and they are subject to a special disciplinary regime (arts. 27 and 28 of the Act).

Magistrates, judges, prosecutors and other members of the judiciary must provide a surety of between 3 and 28 base salaries in order to be able to exercise their functions (art. 19 of the Organic Act on the Judiciary; art. 11 of the Organic Act on the Public Prosecution Service).

Public procurement and management of public finances (art. 9)

The General Act on Public Procurement and the regulations implementing the Act establish the modalities for public procurement, which include, as ordinary procedures, tendering for high-, medium- and low-value contracts, in accordance with established thresholds that the Office of the Comptroller General must update annually (arts. 36 and 55–63 of the Act), and, as extraordinary procedures, auction and electronic reverse auction (arts. 64 and 65 of the Act). In addition, procedures are in place for cases of urgent need (art. 66 of the Act).
The principles governing public procurement include integrity, value for money, transparency, social and environmental sustainability, and effectiveness and efficiency (art. 8 of the General Act on Public Procurement).

Each public entity is responsible for its procurement processes (art. 131 of the General Act on Public Procurement). The Public Procurement Authority is the body that oversees procurement for the entire public administration, approves the proposal for the National Plan for Public Procurement and regulatory improvements and proposes guidelines to the executive (art. 128 of the General Act on Public Procurement), while the Public Procurement Directorate is the executing body (art. 129 of the Act). Staff involved in public procurement are required to undergo training (arts. 131 and 132 of the Act). Public officials who process contracts, as well as those who handle public funds, are required to file asset declarations (art. 21 of Act No. 8422).

All public procurement activities regulated by the General Act on Public Procurement must be carried out through the unified digital system (art. 16). The Integrated System for Public Procurement is an electronic platform for the management of and dissemination of information on procurement procedures. The bidding terms and conditions must establish the eligibility requirements and the parameters for verifying quality, and must include a bid evaluation system (art. 40 of the Act).

The Office of the Comptroller General considers objections to the bidding terms and conditions and hears appeals against the contract award decision, in both cases with respect to high-value contracts, as well as to purchases by the Costa Rican Social Security Fund that exceed the threshold applicable to high-value contracts in the case of medical and surgical tools, medicines, reagents and biologicals, raw materials and processing and packaging materials required in the manufacture of medicines (arts. 60, 95 and 97 of the General Act on Public Procurement). All other objections and applications for review are handled by the contracting institution. Both the remedy of objection to the bidding terms and conditions and that of appeal against or application for review of the contract award decision before the Office of the Comptroller General or the contracting institution have the effect of suspending the execution of that decision (arts. 86–98 of the Act). Pursuant to article 2 (a) of the Code of Procedure for Administrative Litigation, cases relating to public procurement are heard by the Court for Civil and Administrative Litigation Relating to Public Finance.

Act No. 8131 establishes obligations with respect to the financial administration of the Republic and public budgets. The budget must be accessible to the public, including by electronic means, and must be published together with its amendments on the websites of each agency (art. 45 of Act No. 8131), and, in the case of the national budget, submitted to the Ministry of Finance (art. 88 of the Technical Guidelines on the Budget for 2023). The procedure for the preparation and approval of the regular and extraordinary budget is regulated by the Act on Financial Administration of the Republic and Public Budgets, the regulations implementing the Act and amendments thereto. The Ministry of Finance prepares the draft budget in accordance with the powers conferred on it by article 177 of the Constitution. The Office of the Comptroller General approves the budget of the decentralized entities and the Legislative Assembly approves the budget of the central Government (arts. 178 and 184 of the Constitution).

The Office of the Comptroller General is responsible for overseeing the execution and settlement of the regular and extraordinary budgets and for the legal and technical approval of the initial and extraordinary budgets of the municipalities and autonomous institutions (art. 184, paras. 1 and 2, of the Constitution), as well as the budgets of the decentralized sector (art. 18 of the Organic Act on the Office of the Comptroller General of the Republic).5

The International Public Sector Accounting Standards are applied (Decrees Nos. 34918-H and 41039-MH), and the forgery of public and authentic documents is a criminal offence (art. 366 of the Criminal Code). Documents required by law to be preserved may be stored electronically provided that security measures are followed to ensure, inter alia, that such documents are not altered (art. 6 of Act No. 8454).

Public reporting; participation of society (arts. 10 and 13)

The Constitution guarantees freedom of access to administrative departments for the purpose of obtaining information on matters of public interest, with the exception of State secrets (art. 30). No law has been passed to further that constitutional right, nor have the terms “matters of public interest” and “State secrets” been defined. However, there are decisions rendered by the Constitutional Chamber of the Supreme Court of Justice that interpret those concepts. Decree No. 40200-MP-MEIC-MC regulates the exercise of the right of access to information in the executive branch, and Decree No. 400199-MP establishes the manner in which data of a public nature must be made available to the public as open data in order to facilitate access to such data. With regard to the executive, Decree No. 40200 establishes regulations aimed at ensuring effective realization of the right of access to information (art. 1). Article 3 stipulates that a request for information must set out a clear description of what is being requested and indicate a means of receiving notifications. The request for information must be processed within a maximum period of 10 working days (with the possibility of extension if the request is complex); precompiled information must be made available immediately (art. 5). Where the request is refused, the institution must explain in writing the reason and relevant legal basis for its decision (art. 9). In such cases, the applicant may appeal the decision through administrative or judicial channels (art. 10).

Decrees Nos. 40199 and 40200 establish a list of information that institutions must publish and update on their official website and on the National Portal in an open, neutral and interoperable format, that list including information on institutional budgets and their execution, internal audit data on institutional management and data generated at the various stages of public procurement processes (see art. 17 of both decrees).

Personal data are protected (art. 13 of Decree No. 40199; Act No. 8968 on the protection of individuals in connection with the processing of their personal data). The information published by Costa Rica includes reports on vulnerability in certain public procurement processes and risk prevention in certain staff recruitment and selection processes.

Costa Rica established the Integrated System for Public Procurement as a “one-stop shop” for public procurement. In addition, Act No. 8220 on the protection of citizens from excessive administrative requirements and procedures requires the designation of officials responsible for simplifying procedures in each body or entity of public administration (art. 11). Such officials have not been designated in all institutions.

Costa Rica is a member of the Open Government Partnership and has established a national commission for open government that comprises representatives of the executive, civil society, academia and the private sector. The commission is tasked with coordinating and facilitating the implementation of open government by assisting in the preparation and evaluation of national action plans, and coordinates activities aimed at implementing the principles of transparency, accountability and citizen participation. The judiciary and the legislature, the Supreme Electoral Tribunal and the municipalities have been included in the State’s efforts to become an “open State”.

The Office of the Comptroller General carries out campaigns to raise public awareness, including activities aimed at children and adolescents. The General Foundation of the University of Salamanca and the Office of the Comptroller General have designed a specialized course on corruption and applicable sanctions in the area of public finance.

A number of institutions have their own channels for reporting, including anonymous reporting, such as online portals, telephone lines or the possibility of in-person reporting at reporting offices. These channels are well known to the public.

**Private sector (art. 12)**

Taxpayers and liable persons are obliged to keep financial, accounting and all other records in good order, maintain them in accordance with the International Financial Reporting Standards and preserve them for a period of five years (arts. 17, 109 and 128 of Act No. 4755; arts. 3 and 5 of the Regulations on the Transparency and Beneficial Owners Registry (No. 41040-H)). Sanctions are established for violation of the rules contained in that Act (art. 84 of Act No. 4755).

Several professional associations, such as the Bar Association, the Association of Public Accountants and the Federal Association of Engineers and Architects, have issued codes of ethics.

Costa Rica has a registry of shareholders and beneficial owners in which natural persons (including foreign nationals) who are beneficial owners must be identified and to which information must be submitted annually (art. 5 of Act No. 9416; arts. 6, 9 and 10 of Regulation No. 41040-H).

No restrictions have been imposed on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, although that matter has been included as a task in the National Strategy for Integrity and Corruption Prevention.

Under the Criminal Code, criminal sanctions apply to any person who, for the purpose of committing or concealing an offence established in article 1 of Act No. 9699, falsifies, in whole or in part, the accounts, physical or electronic records or any other accounting document of a legal or natural person, and to any natural person who, for the same purpose, engages in double accounting or maintains accounts that are not recorded in the accounting books (art. 368 bis). The forgery of private documents, the removal, concealment and destruction of documents and the use of false documents are also criminal offences (arts. 368–370 of the Criminal Code).

Tax deductions for expenses that constitute gifts or offerings intended to benefit public officials or private sector employees with a view to expediting or facilitating a transaction are expressly prohibited (art. 9, para. 1, of the Income Tax Act). At the time of the country visit, a bill aimed at clarifying that matter in greater detail was being considered.7

**Measures to prevent money-laundering (art. 14)**

The legal regime for preventing money-laundering consists mainly of the Act on Narcotic Drugs, Psychotropic Substances, Illicit Drugs, Related Activities, Money-Laundering and the Financing of Terrorism (Act No. 7786), as amended by Act No. 9449, and the regulations implementing the Act, as well as regulations, resolutions and directives issued by the National Council for Supervision of the Financial System and the supervisory authorities, including those texts applicable to banks, bureaux de change, money remittance companies, insurance companies and designated non-financial businesses and professions.

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7 Development following the country visit: the Costa Rican authorities indicated that article 3 of Act No. 10373, enacted in September 2023, clarifies the non-deductibility of payments constituting bribes, gifts, compensation, material benefit or undue advantage, and of payments related to acts or activities established as offences in Costa Rican legislation.
In order to comply with anti-money-laundering requirements, financial institutions and designated non-financial businesses and professions must have internal anti-money-laundering systems that cover customer and beneficial owner identification and verification; ongoing monitoring of transactions; the application of enhanced due diligence measures in respect of high-risk customers, accounts and transactions; and record-keeping and the reporting of suspicious transactions (see the section below on art. 52 of the Convention).

In accordance with Act No. 7786 (art. 14), four supervisory authorities supervise the financial system, including for anti-money-laundering purposes: the Office of the Superintendent General for Financial Institutions, the Office of the Superintendent General for Securities, the Office of the Superintendent General for Insurance and the Office of the Superintendent for Pensions. Following a risk-based approach, these bodies authorize, regulate and supervise financial entities and conduct their activities under the direction of the National Council for Supervision of the Financial System.

Article 81 of Act No. 7786 provides for a range of fines that the relevant supervisory authority may impose on financial institutions and designated non-financial businesses and professions for non-compliance.

The Financial Intelligence Unit forms part of the organizational structure of the Costa Rican Drug Institute.

Requirements for the electronic transfer of funds are in line with the Convention (regulations implementing Act No. 8204).

Costa Rica has established a system through which cash and bearer negotiable instruments of a value equivalent to or exceeding $10,000 must be declared in writing upon entry into or exit from the country (art. 35 of Act No. 7786). The Act provides for immediate forfeiture of the cash or assets to the Costa Rican Drug Institute where they have not been declared or a false declaration is made, even if the funds are not proceeds of crime.

Costa Rica contributes to the development and strengthening of regional and international cooperation in combating money-laundering, in particular through its participation in the Financial Action Task Force of Latin America.

### 2.2. Successes and good practices

- Corruption prevention projects with the participation of students, such as “Young comptrollers” and “Probity awards” (art. 5, para. 2).
- The preparation by the Judicial Investigation Agency of a guide for reporting persons (art. 8, para. 4).
- Continuous efforts to achieve an “open State” and provide open, neutral and interoperable data (art. 10, para. (a)).

### 2.3. Challenges in implementation

It is recommended that Costa Rica:

- Develop and implement, in accordance with the National Strategy for Integrity and Corruption Prevention, an effective and coordinated national anti-corruption policy, and endeavour to establish a mechanism for monitoring and evaluating the Strategy and any future national anti-corruption policies (art. 5, para. 1).
- Endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption (art. 5, para. 3).
- Endeavour to identify public positions considered especially vulnerable to corruption and, where appropriate, to establish adequate procedures for the selection and training of individuals for such positions and the rotation of those individuals (art. 7, para. 1 (b)); in line with the objectives of the Convention,
consider prescribing criteria concerning candidature for and election to public office, including at the municipal level (art. 7, para. 2).

- Consider establishing limits with respect to private contributions to political parties (art. 7, para. 3).

- Endeavour to further strengthen measures to prevent conflicts of interest, including through an appropriate system for the declaration and management of interests (art. 7, para. 4, and art. 8, para. 5).

- Consider accelerating progress with respect to the bill on the protection of reporting persons (art. 8, para. 4).

- Endeavour to require public officials to declare outside activities, and to continue strengthening measures requiring public officials to declare gifts, employment and interests from which a conflict of interest may result (art. 8, para. 5).

- Continue enhancing transparency in public administration, including through the adoption of a law that applies to the entire civil service and that promotes the constitutional right of access to information (art. 10 (a)).

Costa Rica may wish to continue its efforts to simplify administrative procedures, inter alia, by designating officers responsible for the simplification of procedures in all institutions, as required by law; it may also wish to include internal reports on the risks of corruption as part of the minimum information that each entity must publish on its website (art. 10 (b) and (c)).

It is also recommended that Costa Rica:

- Monitor the application of measures relating to the requirement that individuals taking up a position in the judiciary provide a surety, so as to determine whether this constitutes an undue obstacle to public service in the judiciary, and, if so, adopt measures to eliminate that requirement (art. 11, paras. 1 and 2).

- Establish appropriate restrictions, for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, according to the risk identified (art. 12, para. 2 (e)).

- Make further progress with regard to the bill aimed at disallowing even more explicitly the tax deductibility of expenses that constitute bribes (art. 12, para. 4).8

- Consider revising its sanctions applicable to the cross-border transportation of cash in order to ensure the proportionality of those sanctions, especially in cases where funds that have not been declared or in respect of which a false declaration has been made are not related to criminal activities (art. 14, para. 2).

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

- Costa Rica indicated that it would need technical assistance in developing a national anti-corruption policy (art. 5) and training relating to the investigation of criminal and administrative offences (arts. 6, 7, 8 and 10).

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8 Development following the country visit: the Costa Rican authorities indicated that the bill had become Act No. 10373, enacted in September 2023, and that article 3 of the Act clarified the non-deductibility of payments constituting bribes, gifts, compensation, material benefit or undue advantage, and of payments related to acts or activities established as offences in Costa Rican legislation.
3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Costa Rica has not established a specific legal framework for asset recovery; that matter is governed by the provisions of various laws, including the Code of Criminal Procedure and Act No. 7786, and by the provisions of bilateral and multilateral treaties to which Costa Rica is a party. Costa Rica has established the concept of “social damage” with respect to corruption cases; that concept could also be applied to the return of assets.

The Asset Recovery Unit is responsible for administering and determining the economic value of confiscated property. Costa Rica may afford cooperation at the international level in the area of asset recovery, regardless of the existence of a treaty. In the context of such cooperation, it has recourse to the same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property. Costa Rica applies the provisions of the Convention directly in cases where no relevant agreement applies.

To date, Costa Rica has neither received nor made any requests related to asset recovery.

While there are no provisions expressly allowing the spontaneous exchange of information, the applicable laws do not prevent such exchange, and in practice the competent Costa Rican authorities do transmit information spontaneously, for example, through INTERPOL and the Egmont Group.

Various competent authorities, including the police, the Financial Intelligence Unit, the Office of the Attorney General and the superintendencies, have concluded memorandums and agreements concerning international cooperation in asset recovery.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)⁹

Financial institutions and designated non-financial businesses and professions are subject to anti-money-laundering requirements, in accordance with Act No. 7786 (arts. 14–27) and the regulations implementing that Act. Those requirements encompass customer due diligence requirements, including those of “know your client”, identification of beneficial owners and verification, continuous monitoring of transactions, periodic and ongoing updating of data, record-keeping for a period of five years (arts. 15 (b) and 22 of Act No. 7786) and reporting of suspicious transactions (art. 25 of Act No. 7786). They also include the evaluation and appropriate management of money-laundering risks and the application of enhanced due diligence measures to high-risk customers, accounts and transactions, including the accounts of foreign and national politically exposed persons and their spouses (regulations implementing Act No. 8204, art. 18). The requirements established for politically exposed persons do not extend to family members other than spouses or to close associates.

Financial institutions must assign each customer to a risk category: high, moderate or low (regulations implementing Act No. 8204, art. 4). For that purpose, they must design a risk classification methodology (regulations implementing Act No. 8204, art. 5), and the regulations establish criteria for the analysis of the customer’s risk profile (regulations implementing Act No. 8204, art. 6). The Financial Intelligence Unit may, at the request of another State or on its own initiative (through alerts communicated spontaneously), notify financial institutions of the identity of

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⁹ Development following the country visit: the Costa Rican authorities indicated that Act No. 10373, enacted in September 2023, contains provisions relevant to this section.
particular natural or legal persons to whose accounts those institutions will be expected to apply enhanced scrutiny, in addition to such persons as the financial institutions may otherwise identify.

The procedures for the establishment of financial institutions (Act No. 808 on the Office of the Superintendent General for Financial Institutions) prohibit the establishment of shell banks. The regulations implementing Act No. 8204 prohibit banks from having correspondent relationships with shell banks or with banks that provide correspondent services to shell banks (arts. 25 and 41).

Act No. 8422 establishes an asset declaration system that requires a wide range of public officials (approximately 21,000 declarants) to file asset declarations annually and at the beginning and end of their tenure (arts. 21–25). The declarations must be filed with the Office of the Comptroller General and must include detailed information on property, income, rights and obligations, both in Costa Rica and abroad, that constitute the public official’s assets. The declarations do not cover persons other than the public officials themselves, such as the official’s spouse and minor children. Since April 2016, declarations have been filed electronically. The Office of the Comptroller General reviews and verifies, by means of sampling, the information provided in the declarations. A court order is required in order to verify banking information. Although the content of the declarations is confidential, it may be shared with foreign competent authorities upon a formal request for mutual legal assistance submitted to the central authority. Administrative and criminal sanctions for non-compliance are provided for (arts. 39 and 46).

Costa Rica does not have any provisions requiring public officials who have an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts.

Act No. 7786 (arts. 123–126) establishes the functions and remit of the Financial Intelligence Unit, which is responsible for collecting and analysing suspicious transaction reports and forms from supervisory agencies and regulated entities in order to investigate activities relating to money-laundering and the financing of terrorism. The Unit has been a member of the Egmont Group since 1998.

The Financial Intelligence Unit relies mainly on the regular budget allocated to the Costa Rican Drug Institute and, although it may receive additional resources derived from sanctions for non-compliance with Act No. 7786, it does not appear to have sufficient resources for the proper performance of its functions.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Article 41 of the Constitution establishes the right of every person to receive reparation, through recourse to the law, for injury or damage caused to his or her person, property or moral interests. In addition, Costa Rican law establishes the right of any person, whether legal or natural, to initiate an action in the country’s courts to establish ownership of property or claim damages. This can be done by initiating a civil proceeding or by participating in a criminal proceeding (arts. 37–40, 70 and 71 of the Code of Criminal Procedure; art. 103 of the Criminal Code). These provisions also apply to foreign States, and one foreign State has relied on them in order to initiate an action unrelated to corruption.

Article 99 of the Code of Civil Procedure allows Costa Rican authorities to enforce foreign judgments through exequatur proceedings. This provision also applies to foreign confiscation orders, as confirmed by a decision rendered by the First Chamber of the Supreme Court of Justice in 2012 (Decision No. 000066-E-12).

The courts may order the confiscation of property of foreign origin by adjudication of a money-laundering offence (Act No. 7786, art. 72, read in conjunction with art. 83).
Confiscation is not conditional upon a prior criminal conviction (art. 83). Costa Rica has also established the sanction of forfeiture of newly acquired assets, which may be imposed if a person cannot account for his or her assets or for recent increases in those assets (arts. 20, 21 and 22 of Act No. 8754).

Although the legislation does not provide for the possibility of freezing or seizing property pursuant to a foreign freezing or seizure order, the Costa Rican authorities indicated that the Convention could be applied directly in order to freeze or seize property pursuant to a foreign order. The competent authorities may also freeze or seize property pursuant to a foreign request, since the same set of measures and procedures available in domestic criminal proceedings are available in the context of mutual legal assistance. The Code of Criminal Procedure and Act No. 7786 provide for a wide range of investigative measures for the tracing and freezing or seizure of proceeds of crime and instrumentalities for the purpose of confiscation, those measures also being available in the context of mutual legal assistance. All seizures of funds are carried out jointly by the regulated entity, the Financial Intelligence Unit and the Office of the Prosecutor for Money-Laundering Cases.

Costa Rican legislation does not explicitly permit the competent authorities to preserve property for confiscation in the absence of a foreign request, for example, on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

With the exception of article 99 of the Code of Civil Procedure on the enforcement of foreign judgments, Costa Rican law does not specify the information that must be included in incoming requests for mutual legal assistance.

Costa Rican law does not provide for the possibility of refusing a request if the property is of de minimis value. In practice, and before refusing a request or lifting a provisional measure, the requesting State may be invited to provide additional documents or information.

In addition to providing a legal basis for third parties to participate as civil plaintiffs in criminal proceedings, the Civil Code (arts. 327–330), the Criminal Code (art. 110) and Act No. 7786 (arts. 29, 90, 93 and 94) include provisions aimed at protecting the rights of bona fide third parties in cases of confiscation; those provisions could be extended to confiscation pursuant to a foreign request.

**Return and disposal of assets (art. 57)**

Costa Rican legislation does not cover the return and disposal of assets in detail. The general principle established by the Criminal Code is that confiscated property passes to the State, except for any rights that injured parties or third parties may have in relation to that property (art. 110). Furthermore, Act No. 7786 establishes that the court or competent authority must order the return of the property to any claimants having a legitimate interest in that property. No reference is made to the obligations set forth in article 57, paragraph 3, of the Convention.

Costa Rican law does not regulate expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property. However, that issue has been addressed in several agreements on mutual legal assistance to which Costa Rica is a party, those agreements generally providing that the requested State is to bear the ordinary costs of executing a request for assistance (see, for example, art. 18 of the Central American Treaty on Mutual Legal Assistance in Criminal Matters).

Costa Rica may, if necessary, conclude agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated assets, although to date it has not done so.

### 3.2. Successes and good practices

- Establishment of the concept of “social damage” to enable compensation for damage caused by corruption offences, a concept that could be applied to the return of assets (art. 51).
• Efforts to enhance the monitoring of sworn declarations of assets, resulting in the verification of all declarations filed in 2022 (art. 52, para. 5).

3.3 Challenges in implementation

It is recommended that Costa Rica:

• Extend the requirements established with respect to politically exposed persons to apply also to family members other than spouses and to close associates (art. 52, para. 1).10

• Consider modifying its financial disclosure system to include spouses and minor children of appropriate public officials and to allow verification of the full content of disclosed information, including banking information, without the need for a court order (art. 52, para. 5).

• Consider taking such measures as may be necessary to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts (art. 52, para. 6).

• Consider taking measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property (art. 54, para. 2 (c)); establish mechanisms for seizing and confiscating property of equivalent value to enhance its ability to provide effective international cooperation (art. 54, para. 2 (b), and art. 55, paras. 1 and 2).11

• Specify explicitly the information to be included in incoming requests for mutual legal assistance (art. 55, para. 3).

• Ensure that, in practice, wherever possible and before a provisional measure is lifted, the appropriate authorities give the requesting State an opportunity to present its reasons in favour of continuing the measure. If this does not happen in practice, legislative amendments will be necessary (art. 55, para. 8); expressly provide for the return and disposal of property in accordance with the provisions of article 57, paragraph 3, of the Convention (art. 57, paras. 1 and 3).

• Ensure that the Financial Intelligence Unit has sufficient resources for the proper performance of its functions (art. 58).

3.4 Technical assistance needs

• Costa Rica indicated that it needed technical assistance in order to develop anti-money-laundering guidelines for entities providing infrastructure services in the securities market and to provide training in the prevention and investigation of money-laundering (art. 52).

10 Development following the country visit: the Costa Rican authorities reported that Costa Rica was preparing a bill in order to include family members of concerned public officials and to propose an initiative enabling inter-institutional technological development so that the country has an official list, duly updated, that includes politically exposed persons. This technical bill was submitted to the Office of the President of the Republic by the Costa Rican Drug Institute, the National Council for Supervision of the Financial System and the Office of the Superintendent General for Financial Institutions.

11 Development following the country visit: the Costa Rican authorities indicated that Act No. 10373, enacted in September 2023, contained provisions establishing the obligation to pay to the Costa Rican Drug Institute an amount equivalent to the value of the confiscated property in cases in which confiscation is ordered by through a judgment and it is impossible to recover the property concerned.