



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### Twenty-fourth session

#### Summary record of the 427th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 March 2023, at 3 p.m.

*Chair:* Ms. Villa Quintana

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports of States parties to the Convention** *(continued)*

*Initial report of Costa Rica* (CED/C/CRI/1; CED/C/CRI/Q/1; and CED/C/CRI/RQ/1)

1. *At the invitation of the Chair, the delegation of Costa Rica joined the meeting.*
2. **The Chair**, welcoming the delegation of Costa Rica to the meeting, explained that additional members of the delegation would be participating via video link.
3. **Mr. Sánchez Torres** (Costa Rica) said that international instruments ratified by Costa Rica took precedence over domestic law and, insofar as they granted more extensive rights, over the Constitution. The country was a party to the Inter-American Convention on Forced Disappearance of Persons, the Rome Statute of the International Criminal Court (Rome Statute) and the International Convention for the Protection of All Persons from Enforced Disappearance. Against that legislative backdrop, all the institutions that might be called on to intervene if a case of enforced disappearance was ever to occur were prepared to respond and to offer effective protection to potential victims.
4. According to article 386 of the Criminal Code of Costa Rica, crimes against humanity carried a penalty of between 10 and 25 years' imprisonment. The provisions of the Code criminalizing the concealment of a detained person, deprivation of liberty without a financial motive, kidnapping and kidnapping for extortion – with the latter carrying a penalty of between 6 to 25 years' imprisonment – and abuse of authority could be applied in a case of enforced disappearance, in respect of both private individuals and State agents.
5. The Constitution and domestic law provided broad protection against unlawful detention and extensive procedural guarantees at all stages of criminal proceedings.
6. Information on persons deprived of their liberty was stored in computerized data systems such as the Centralized Criminal Register, the Police Information Platform and IGNIS; requests for non-confidential information on the status of a detainee submitted by family members or third parties with a legitimate interest could be dealt with immediately thanks to those tools.
7. In situations where communicating with a third party might jeopardize the successful outcome of investigations, detainees could be held incommunicado for up to six hours by the criminal investigation police or the Public Prosecution Service, and for up to 10 days by a judge, by means of a reasoned decision. The right of persons held in pretrial detention to communicate with their defence counsel, relatives or third parties could not be curtailed under any circumstances.
8. Persons who considered that their rights in that connection had been violated could challenge the offending decision or act by submitting an application for habeas corpus or *amparo* to the Constitutional Chamber of the Supreme Court, or file a complaint with, inter alia, the competent sentence enforcement court, the Ombudsman's Office or the Office of the Comptroller of Services.
9. Under the state of emergency declared between 16 March 2020 and 10 August 2022 in the context of the coronavirus disease (COVID-19) pandemic, some constitutional rights had been restricted by the executive branch in order to safeguard the right to life, which was above all other rights. However, no person who had been found to be in breach of the restrictions imposed or requirements introduced during the pandemic had been subject to arrest. The sole purpose of those measures had been to control the spread of the disease.
10. Different avenues of complaint were available in the event of abuse of authority by State officials. Complaints could also be lodged when the whereabouts of a person were unknown. The Judicial Investigation Agency and the Public Prosecution Service responded immediately and impartially to such complaints, taking all the steps necessary to support victims, injured parties or witnesses, secure evidence and establish the facts of the alleged offence. All cases in which the manner of death was unknown were duly investigated, including ex officio, in line with the standards set by the International Criminal Police

Organization (INTERPOL). The victims' family and the competent authorities were duly informed without delay.

11. Victims of crimes against humanity were entitled to compensation and full reparation; civil actions for damages could be brought concurrently with criminal proceedings.

12. Owing to its geographical location, Costa Rica was often used as a hub for organized crime, drug trafficking and trafficking in persons, which heightened the risk of enforced disappearance. The Office on Migrant Smuggling and Human Trafficking of the Directorate General for Migration and Alien Affairs and the National Coalition against Smuggling of Migrants and Trafficking in Persons had been established to tackle that problem. A protocol had also been developed to enable the early detection of and a rapid response to "special migration situations" and the provision of immediate assistance to all persons concerned. The protocol also served to raise the awareness of the public and civil servants of the dangers of human trafficking. An inter-institutional approach was applied when investigating and dealing with cases of trafficking in persons.

13. Costa Rica was also a transit country for migration. Intraregional migration flows had increased by 77 per cent between 2021 and 2022, circumstances which, again, heightened the risk of enforced disappearance. The principle of non-refoulement enshrined in the General Act on Migration applied in situations where there were substantial grounds for believing that a person seeking asylum or refugee status would be in danger of being subjected to enforced disappearance if removed. To date, no extradition requests had been received in respect of foreign nationals accused of having committed an act of enforced disappearance in Costa Rica. The Extradition Act prohibited extradition under certain conditions, for example, if the offence for which extradition was being requested was punishable by the death penalty in the requesting State.

14. Any public official found to be involved in the commission of an act of enforced disappearance could be held criminally liable on grounds of dereliction of duty or subject to disciplinary sanctions under the General Public Administration Act. A strict monitoring regime was in place to prevent abuse of authority by public officials who had direct contact with persons deprived of their liberty, which helped to reduce the associated risk of enforced disappearance. In recent years, 92 cases of abuse of authority had been recorded in the national prison system, 43 of which were pending resolution. Most of the incidents had come to the authorities' attention through complaints submitted by detainees to the Ombudsman's Office. Public officials could report to the competent judicial authorities any orders given by their direct superiors to commit an act which they believed to be unlawful. The same was true for superiors who believed one of their subordinates to have engaged in unlawful conduct.

15. The Government of Costa Rica upheld the rule of law, provided broad procedural safeguards in criminal proceedings, had established an accessible human rights protection system and offered effective avenues of complaint. The country had no armed forces and thus had been able to avoid armed conflicts and similar situations that might be conducive to enforced disappearance. Still, the absence of specific legal provisions criminalizing enforced disappearance remained a significant challenge. Broad consultations that could pave the way for the adoption of provisions to fill that legal lacuna were currently under way.

16. **Mr. Ravenna** (Country Rapporteur) said that he would like to hear more about the reasons why the State party had still not incorporated a legal definition of enforced disappearance into its domestic criminal law. The delegation might also specify exactly which criminal law provisions would apply in the event of an act of enforced disappearance occurring.

17. Contrary to the assertion made in paragraph 20 of the State party's initial report, to the effect that none of the provisions on states of emergency in the Costa Rican legal system permitted acts that would undermine individuals' freedom of movement, it appeared that the right in question could in fact be restricted if a state of emergency was declared. The delegation might explain that contradiction and indicate whether and to what extent the rights and guarantees recognized in the Constitution could be suspended in that situation.

18. He also wished to know why the State party had not yet recognized the competence of the Committee to receive and consider individual and inter-State communications under articles 31 and 32 of the Convention, respectively, and to know whether it might do so in the near future.

19. He found it hard to believe that, to date, the Costa Rican authorities had not received any complaints or reports of disappearances, abductions or similar acts, particularly during police operations in the context of migration flows across the Darién Gap. The Committee would appreciate additional details of investigations or other action undertaken by the police or judicial authorities in response to any such complaints or reports.

20. The practice whereby detainees could be held incommunicado for short periods if, in the view of the authorities, the circumstances of the investigation warranted such a measure was irreconcilable with the Convention. Short-term, incommunicado detention, however brief, constituted a form of enforced disappearance. He wondered whether any reports of that practice being carried out, especially in prison settings, had been received.

21. He also wished to know to what extent the State party engaged with non-governmental organizations in the preparation of reports and other information submitted to the United Nations human rights treaty bodies.

22. The definition of crimes against humanity contained in article 386 of the Criminal Code, and reproduced in the State party's initial report (CED/C/CRI/1, para. 40), appeared unduly narrow. It would be useful to know whether that provision could also be applied for the purposes of investigating and prosecuting autonomous offences and acts that could be classed as crimes against humanity but that had not been committed in the context of a widespread or systematic attack against a civilian population.

23. In view of the large number of migrants, including so-called migrant caravans, that transited through the State party, he would be interested to know what procedures were followed when the presence of undocumented migrants or other migrants in an irregular situation was detected. In particular, he wondered what measures were taken to identify those persons and to prevent abuse of authority in the arrest, detention and expulsion of migrants.

24. Regarding the requirement of due obedience, he wished to know what reporting channels were open to a subordinate who had been ordered by a superior to commit an unlawful act and under what criminal law provisions indirect perpetrators of such acts were typically investigated, tried and punished. Lastly, in the event of a case of enforced disappearance occurring in Costa Rica, he would like to know which mitigating and aggravating circumstances might apply.

25. **Mr. López Ortega** (Country Rapporteur) said that, since enforced disappearance had not yet been defined as a separate offence in the Criminal Code, he would welcome clarification on when the effects of continuous offences, such as kidnapping for extortion, were considered to have ceased for the purposes of calculating the applicable statute of limitations. He wished to know how cases of enforced disappearance or kidnapping for extortion committed abroad against or by a Costa Rican national would be prosecuted under Costa Rican law, given that article 7 of the Criminal Code, on international offences, did not make specific reference to either offence (CED/C/CRI/1, para. 62).

26. He wondered how the State party would ensure that, in practice, any and all cases of enforced disappearance that might occur would be investigated *ex officio*, even if no formal complaint was filed; what protocols were in place to ensure that a search would be launched immediately in the event of a case of enforced disappearance coming to light; and how the State party would guarantee the rights of a disappeared person's family members and loved ones to report the facts, have access to free legal assistance and participate actively in proceedings as bearers of the procedural rights granted to victims under article 71 (3) of the Code of Criminal Procedure. Moreover, the Committee was concerned that the definition of a victim contained in the Code of Criminal Procedure was at variance with that set out in article 24 of the Convention.

27. It would be useful to learn more about the roles and responsibilities of the Victim and Witness Protection Unit of the Judicial Investigation Agency and the Crime Victim Support and Protection Office of the Public Prosecution Service and about how the two entities

worked together in practice. He would also like to know what specific protection measures were available to victims and witnesses in cases of kidnapping for extortion, institutional violence and, hypothetically, enforced disappearance, including how many persons had benefited from such measures to date. Lastly, he wished to know what specific measures were in place to ensure that any members of law enforcement bodies or the security forces who might be accused of having committed an act of enforced disappearance or another act of institutional violence, or of having been involved in its commission, as well as the other members of their unit or force, would be excluded from the ensuing investigation.

*The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.*

28. **A representative of Costa Rica** said that there was real political will in the Legislative Assembly to work towards the adoption of bills to strengthen her country's human rights framework, including bill No. 20187 amending the Criminal Code to, inter alia, specifically define enforced disappearance as a separate offence.

29. **Ms. Duncan Villalobos** (Costa Rica) said that her Government had recognized the competence of other treaty bodies and bodies in the inter-American system to receive and consider individual complaints. It had yet to make the declaration provided for under article 31 of the Convention simply because there had been no cases of enforced disappearance in her country; her Government would make that declaration in due course. The declaration provided for under article 32 was a separate issue, however, as there had been instances in the past when inter-State communications had been politicized or used for political ends.

30. **Mr. Sánchez Torres** (Costa Rica) said that he wished to clarify that, for as long as bill No. 20187 was under consideration, any cases of enforced disappearance that might occur could be dealt with under the criminal law provisions that he had mentioned previously. To date, no complaints of enforced disappearance had been received by the Costa Rican authorities; nevertheless, standard operating procedures for investigating disappearances were in place. For example, the criminal investigation police were required to conduct due diligence, contact and provide support to the victim's family members and carry out other investigative measures, such as visiting the scene of the alleged offence and tracing the victim's last known movements. Some of those measures had to be carried out within 24 hours of the submission of the complaint.

31. **Ms. Duncan Villalobos** (Costa Rica) said that the suspension of constitutional rights and guarantees was strictly regulated and could be declared only in exceptional circumstances. No state of emergency had been declared in her country since the entry into force of the Constitution in 1949, and the latter did not provide for the possibility of imposing a curfew. The state of emergency declared as a result of the COVID-19 pandemic had been the closest the Government had ever come to suspending constitutional rights. The measures it had taken had included limiting capacity at gatherings, closing certain businesses and restricting vehicular mobility but, otherwise, it had not prevented people from leaving their homes.

32. **Mr. Sánchez Torres** (Costa Rica) said that the practice of placing arrested persons, migrants or unaccompanied minors in short-term detention did not occur in his country. Safeguards were in place to ensure that persons in holding cells were always traceable. For instance, when a person was arrested and placed in a holding cell, the arresting police officer was obliged to inform the public prosecutor on call of the reasons for the person's arrest. It was then for the public prosecutor to assess whether a prosecutable offence had been committed and to decide, based on that assessment, whether to order the detention of the person for the purposes of launching a criminal investigation or requesting precautionary measures, or to release them. There were strict control measures in place to ensure full respect for the human rights of persons from the time of their arrest. Administrative oversight was ensured through the keeping of a register of arrested persons, who were likewise entitled to make a telephone call. From the outset, arrested persons had the right to defence counsel, including a public defender, who could visit them in the cell to begin preparing their defence. The entire process was transparent and, thus, short-term detentions could not occur. Although a number of complaints alleging the use of short-term detention had been received, it had transpired that the persons concerned did not have freedom of movement because, for example, a warrant had been issued for their arrest, they were under criminal investigation or

they had a criminal background. Although the concept of short-term detention had not been defined in law, any person who believed that they had been subjected to that measure could lodge a complaint of abuse of authority with the Public Prosecution Service.

33. **Ms. Duncan Villalobos** (Costa Rica) said that the reports submitted to the treaty bodies and the universal periodic review mechanism were drafted by the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations, which comprised State institutions and a civil society representative. Once a report had been drafted, the civil society representative had the opportunity to make comments. A report was considered finalized when adopted unanimously by the Commission; thus, if the civil society representative was not in agreement, he or she could prevent it from being issued.

34. In article 386 of the Criminal Code, reference was made to the provisions of the international human rights treaties to which Costa Rica was a party and to the provisions of the Rome Statute. The definition of crimes against humanity contained in the Rome Statute had therefore been incorporated into the Criminal Code.

35. **A representative of Costa Rica** said that the immigration police checked the particulars of migrants entering the country against INTERPOL databases in order to identify vulnerable persons, including persons who were victims of crimes such as human trafficking, people-smuggling, kidnapping or robbery. The police informed the National Child Welfare Agency of any arriving unaccompanied minors, who were then placed in the Agency's care. A dedicated centre for migrants located at the country's southern border provided vulnerable people transiting through Costa Rica with accommodation, food and medical attention, as required. The Public Prosecution Service was informed if any vulnerable individuals or groups had been involved in a crime committed within or outside Costa Rica so that an investigation could be launched.

36. The aforementioned INTERPOL databases were also used to identify individuals who might pose a risk to national security. The General Act on Migration provided for a range of administrative measures that could be applied to foreign nationals, including subpoena, house arrest and temporary confiscation of documents. Of those measures, detention was the most serious and was only resorted to in cases where an individual had been confirmed to pose a risk to national security and was to be deported to their country of origin. The Act also provided for measures such as non-admittance at the frontier and expulsion, the latter being applied in cases where a foreign national who was lawfully resident in Costa Rica had committed an offence in the national territory.

37. The Ministry of Public Works and Transport had taken steps to establish a route from the country's northern border with Nicaragua to its southern border with Panama to help migrants to safely transit through Costa Rica and avoid criminal gangs that kidnapped migrants for extortion.

38. **A representative of Costa Rica** said that enforced disappearance had not yet been defined as an autonomous criminal offence because there had been no reports of any such cases having occurred in Costa Rica. Any acts of enforced disappearance that might take place would be treated as kidnapping for extortion or deprivation of liberty without a financial motive and investigated as such. An investigation could be opened at any time and would be conducted by the Judicial Investigation Agency in accordance with the Code of Criminal Procedure. A definition of crimes against humanity broader than that contained in article 386 of the Criminal Code was used for the purposes of extradition. Provisions of international treaties and other instruments ratified by Costa Rica had also been incorporated into the domestic legal system and were applied as appropriate.

39. **A representative of Costa Rica** said that any subordinate who was ordered by their superior to carry out an act which they believed to be unlawful should inform the Public Prosecution Service so that it could investigate the matter. Under article 36 of the Criminal Code, officials acting under orders were exempt from criminal liability, provided that, *inter alia*, the orders did not entail the commission of a manifestly punishable offence. If an official disagreed with and chose to disobey orders for that or another valid reason, they had a constitutional obligation to notify the competent authorities. Article 45 of the Criminal Code defined a direct perpetrator as anyone who committed an act classed as an offence either

alone or using the services of one or more other persons, meaning that the person carrying out an order and the person who had issued that order would both be liable for punishment. In such cases, the Public Prosecution Service would determine which person or persons had functional control of the act and proceed to investigate and punish them accordingly.

40. Given that enforced disappearance had not yet been defined as an autonomous offence in the Criminal Code, the latter did not envisage any specific mitigating or aggravating factors applicable to it. However, article 215 of the Criminal Code established aggravating factors for the crime of kidnapping for extortion.

41. As was the case for other continuous offences, the statute of limitations for enforced disappearance would start to run from the date on which its effects ceased – that was, when the person was found or released. Unless a different, specific provision was established for the crime of enforced disappearance, the applicable term of limitation would be calculated based on the maximum penalty decided by lawmakers, which, in line with article 31 (a) of the Code of Criminal Procedure, could not exceed 10 years.

42. Article 7 of the Criminal Code listed the international offences over which Costa Rica could exercise jurisdiction, irrespective of the nationality of the perpetrator and the place where the offence was committed. Article 6 provided that judicial proceedings could be brought in respect of offences committed abroad and that Costa Rican law could be applied in such cases when: they had produced, or might produce, their effects in the national territory; they had been committed by persons in the service of Costa Rica who had not been prosecuted in the place where the act had been committed by virtue of diplomatic or functional immunity; they had been perpetrated against a Costa Rican national or had violated his or her rights; or they had been committed by a Costa Rican national. Furthermore, according to article 4, Costa Rican criminal law applied to any person who committed an offence in the national territory, regardless of their nationality. Therefore, in the light of those legal provisions, any case of enforced disappearance that might occur could be investigated and punished under domestic criminal law.

43. Since enforced disappearance was not yet an autonomous criminal offence in Costa Rica, there was no specific protocol in place for investigating such cases. Evidence would be collected through the usual investigative means, such as interviews, call tracing and searches.

44. **Mr. Sánchez Torres** (Costa Rica) said that, if a suspected case of enforced disappearance came to light, a search would be initiated immediately. Searches were coordinated between the Judicial Investigation Agency, which was part of the judicial branch, and the administrative police, which came under the authority of the executive branch. Information would also be immediately disseminated on social media networks and through the victim's own social network. The Public Prosecution Service must be informed immediately and the family contacted to establish the facts surrounding the case.

45. **A representative of Costa Rica** said that there had been no reports of enforced disappearance in the country because of the checks and balances provided by the State authorities. Although the Public Defence Service was part of the judicial branch, it enjoyed technical independence to implement such checks and balances.

46. Most victims of crime were represented by the Crime Victim Support and Protection Office of the Public Prosecution Service, and individuals under investigation were provided with technical support by the Public Defence Service. Victims already in the criminal justice system could choose to be represented by a private lawyer or to be assigned a public defender at the time of their detention. From that point onward, the Public Defence Service kept records of the victim's legal situation and physical location in the respective sector of the criminal justice system. The Public Defence Service acted as guarantor of the victim's rights within the prison system by providing legal counsel and supporting them during their detention, whether temporary or long-term. Once an individual had been formally declared to be a victim in line with article 70 of the Code of Criminal Procedure, the Public Prosecution Service became responsible for their protection.

47. **Mr. Ravenna** said that the Committee's concerns related not to short-term detention but to short-term disappearance. That concept referred to cases in which a victim's whereabouts were unknown for a short period of time, possibly following a period spent in

the custody of State officials. For example, the Committee had adjudicated on the case of a detainee in another State party to the Convention who had been transferred from one prison to another by State agents, who had not informed his family or third parties, including the judicial authorities, of his relocation. Until he was eventually located, the detainee had been a disappeared person.

48. It would be interesting to know whether civil society actors participated in the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations and were able to voice any concerns they had in that forum.

49. He wished to recall that States parties to the Convention had obligations towards migrants. While no country was obliged to accept foreign nationals as refugees, States had a responsibility not to leave migrants unprotected at international borders. Even though enforced disappearance had not yet been established as a separate offence in its domestic criminal law, the State party must ensure that any convicted offenders deported to their country of origin under bilateral agreements would not be at risk of disappearance upon arrival.

50. The Committee was aware of the potential for the misapplication of article 32 of the Convention by States parties seeking to submit inter-State communications for political purposes. When the Convention was being drafted, steps had been taken to ensure that only States parties that agreed to the principle of reciprocity contained in that article could submit communications concerning other States parties. The State party might wish to reflect on that point when considering whether to recognize the Committee's competence to receive and consider communications under articles 31 and 32 of the Convention.

51. **Mr. López Ortega** said that he remained concerned that enforced disappearance had still not been defined as an autonomous offence in domestic criminal law. He would be interested to know the State party's current position on the matter, including whether it intended to criminalize the offence of enforced disappearance in the short term and whether it had drafted any legislative proposals on the subject that could be shared with the Committee. Short-term disappearance and other forms of unlawful deprivation of liberty by State or non-State actors could not be adequately addressed under criminal law provisions dealing with a different and separate offence, such as kidnapping for extortion. In order to punish such acts, the crime of enforced disappearance must be expressly defined in law. In that connection, it would be useful if the delegation could provide the Committee with a copy of the protocol that would be followed in the event of a case of enforced disappearance occurring.

52. Although the Government was clearly making considerable efforts to manage the influx of migrants entering the country and to verify their identity, he understood that there might still be a certain number of migrants whose whereabouts in the country were unknown. While it was true that missing migrants were not necessarily victims of enforced disappearance, they could still fall victim to other crimes associated with disappearance, such as human trafficking. He wondered what steps had been taken to find and assist those migrants.

53. The Committee would welcome further clarification of the precise nature of the restrictions that could be placed on personal freedom in the event of a suspension of constitutional rights and guarantees being declared, for example, under a state of emergency. According to the State party's written replies, in the event of manifest public need, certain individual rights and guarantees established in the Constitution could be suspended for a maximum of 30 days, during which time the executive branch could order the detention of persons in establishments not intended for ordinary convicts (CED/C/CRI/RQ/1, para. 23). Even though such a suspension had never taken place in the State party, he wished to receive a clearer explanation of the associated practical implications. It would also be helpful to know whether the provisions of the General Public Administration Act under which public officials must disobey orders to commit manifestly unlawful acts and report their objections also applied to police officers.

54. He would like to know whether the State party might consider bringing the definition of a victim contained in article 70 of the Code of Criminal Procedure into line with that set out in article 24 of the Convention. As things stood, certain persons who would be recognized



as victims of enforced disappearance under the Convention would not, in principle, have the same status in Costa Rica. He also wished to know whether, in practice, all the persons defined as victims in article 70 of the Code would enjoy the procedural rights guaranteed to them in article 71 (3) in cases of kidnapping for extortion. For example, he would be interested to hear whether the relatives of the kidnapped person would be given access to legal assistance and, if so, whether that service would be provided free of charge and whether they could challenge any decision handed down by the courts.

55. It would be useful to know whether, under domestic law, a State official suspected of involvement in the commission of a criminal offence, in addition to the other officials working in their unit or department, could be suspended from duty. Clarification as to whether the State party could exercise jurisdiction over offences of enforced disappearance committed by or against a Costa Rican national abroad would also be welcome. Furthermore, the delegation might indicate whether, owing to the double criminality requirement, the fact that enforced disappearance had not yet been established as a separate offence in the State party might make it more difficult to secure an extradition for that crime. The Committee would also welcome further information on the one request for international cooperation that the State party had received in connection with a case of enforced disappearance.

56. **A representative of Costa Rica** said that her country was not only strongly committed to establishing enforced disappearance as a separate offence but recognized that it had a responsibility to do so. Bill No. 20187, which had been submitted in 2017, was insufficient insofar as it framed the offence of enforced disappearance solely in the terms used in the Rome Statute. It was the Government's firm intention to draft strengthened legislation on the basis of the Committee's concluding observations. The delegation could share the text of the existing bill with the Committee to that end.

57. **Ms. Duncan Villalobos** (Costa Rica) said that civil society had a permanent seat on the Inter-Institutional Commission for the Follow-up and Implementation of International Human Rights Obligations. The civil society representative was able to offer a different perspective on the reports submitted by Costa Rica to international human rights bodies, which were only submitted once they had been unanimously approved by the Commission.

58. **A representative of Costa Rica** said that his country had an extremely porous border; despite the challenges that it faced, the Government made a determined effort to identify all migrants in its territory and to monitor those in transit, often in collaboration with the authorities of other countries. A dedicated centre for migrants had been set up to provide appropriate support and assistance. The staff at the centre were trained to detect signs of vulnerability and to report any cases where they suspected that migrants might be victims of crime to the Public Prosecution Service. The Costa Rican authorities were in permanent contact with the consulates of other countries for the purpose of obtaining official documentation for migrants who could not prove their identity. Under the General Act on Migration, the authorities were also obliged to inform the relevant consulate of any plans to deport one of its nationals.

59. **A representative of Costa Rica** said that the definition of a victim contained in article 70 of the Code of Criminal Procedure encompassed not just the person directly affected by the crime but also his or her spouse, any partner of over two years, sons or daughters, adoptive mother or father, close relatives and legally recognized heir. The Crime Victim Support and Protection Office of the Public Prosecution Service provided victims with a lawyer to accompany them during legal proceedings. The Victim and Witness Protection Unit of the Judicial Investigation Agency was staffed by, inter alia, psychologists, sociologists and criminologists and had its own budget.

60. **A representative of Costa Rica** said that suspected cases of enforced disappearance would be duly investigated by the Public Prosecution Service; anyone found guilty of committing an act of enforced disappearance would not go unpunished. Although it was true that the Service's efforts to investigate such acts would be greatly facilitated by the incorporation of enforced disappearance into the Criminal Code as an autonomous offence, its absence would not present an insurmountable obstacle to securing an extradition or to exercising extraterritorial jurisdiction, since offences such as enforced disappearance and kidnapping for extortion could be treated as crimes against humanity. Furthermore, in

accordance with the double criminality principle, the extraditable offence did not necessarily have to bear the same name in both countries.

61. The obligation to disobey orders that were manifestly unlawful applied to all public officials, including members of the police and security forces, the Judicial Investigation Agency and the immigration police. The procedural rights of victims established in article 71 of the Code of Criminal Procedure included the right to report offences, the right to be heard in court, the right to appeal, the right to attend the preliminary hearing and the right to bring civil proceedings for damages. Costa Rican law did not provide for the possibility of suspending the staff of an entire unit or department of a State institution if one or more officials were suspected of involvement in the commission of criminal acts. Any such cases would be examined individually by the prosecuting authority and anyone singled out for investigation would be temporarily relieved of their duties.

62. **Ms. Duncan Villalobos** (Costa Rica) said that it was wrong to say that declaring a state of emergency did not restrict personal freedom since, as stipulated in article 121 of the Constitution, the Legislative Assembly had the right to suspend certain individual rights and guarantees, including the right to freedom of movement and the right not to be arrested without substantiated evidence of having committed a criminal offence and without a warrant. However, the Constitutional Chamber of the Supreme Court had confirmed that the Constitution provided only for the suspension of the rights and guarantees set forth in the articles listed in article 121. It was therefore not possible to suspend the constitutional order or the right to habeas corpus or the right of *amparo*. Those guarantees would remain in place and any actions taken by the authorities during a state of emergency would have to comply with the principle of the prohibition of arbitrariness.

63. **A representative of Costa Rica** said that Act No. 8720 on Protection for Victims, Witnesses and Other Persons Involved in Criminal Proceedings set out the role and responsibilities of the Crime Victim Support and Protection Office of the Public Prosecution Service, which was tasked with protecting the rights of victims and their families, including, where necessary, by arranging for their relocation or even their departure from the country. In such matters, the Office worked in close coordination with the Victim and Witness Protection Unit of the Judicial Investigation Agency, which was responsible for transferring at-risk victims to new locations and ensuring their ongoing safety.

*The meeting rose at 5.55 p.m.*