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## Convention on the Rights of the Child

### COMMITTEE ON THE RIGHTS OF THE CHILD

### CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

#### Initial reports of States parties due in 2005

#### COSTA RICA\*

[11 November 2005]

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#### Introduction

1. This is the first report the Republic of Costa Rica is submitting for consideration by the Committee on the Rights of the Child under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed

conflict, which lays down that:

“Each State Party shall submit, within two years following the entry into force of the Protocol for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.”

2. The Government of Costa Rica signed the Protocol on 7 September 2000. On 24 January 2003 it deposited its instrument of ratification in New York and the Protocol entered into force in the country on 24 February 2003.

3. When it deposited its instrument of ratification, our country made the following declaration under article 3 of the Protocol “... article 12 of the Constitution of the Republic of Costa Rica proscribes the army as a permanent institution. Accordingly, my Government considers that the declaration in question may be dispensed with for the purposes of article 3, paragraph 2, of the Protocol”.

4. The Government of Costa Rica herewith submits to the Committee on the Rights of the Child its report, which has been drawn up in accordance with article 8, paragraph 1.

5. This report describes the measures of a legislative, administrative, judicial or other nature applicable in Costa Rica in order to guarantee the rights established in this Protocol. The content, form and presentation of the report follow the guidelines approved by the Committee at its 736th meeting on 3 October 2001 (CRC/OP/AC/1).

6. Given the nature of the report, it is based on information available in documentation and reports compiled by the national authorities.

## **Part One: General information**

### **1. Definition of the child and adolescent in national legislation**

7. Costa Rica promulgated the Children and Adolescents Code by means of Law No. 7739, which was published in *La Gaceta* (Official Journal) of 6 February 1998. Article 2 of the Code defines a child as any person from his or her conception up to the age of 12 and an adolescent as any person older than 12 but under 18 years of age. In case of doubt, the status of adolescent will prevail over that of adult and the status of child over that of adolescent.

8. In Costa Rican legislation any person under the age of 18 is regarded as a child. The theoretical, social and institutional advances in respect of gender perspective, which are indicative of the country's go-ahead spirit, are beginning to produce a clear differentiation between the boy child and the girl child.

9. The facts which have emerged from young people's participation in social processes have led us to opt unambiguously for social programmes and general schemes plainly distinguishing between adolescents and children and between adolescent boys and adolescent girls. Inclusive language has been streamlined into institutional practice in an endeavour to make it permeate collective attitudes.

10. A strenuous effort has been made to eliminate the term “minor” from institutional language, since it is considered to be discriminatory and pejorative. Hence, when speaking in general terms, care is taken to refer to these persons as “persons who have not attained their legal majority”.

11. Special care is taken when speaking and writing to refer to children and adolescents.

12. Furthermore, national legislation establishes very special rules for the protection of persons who have not attained their legal majority at various stages in their development.

13. In other words a distinction is drawn between a baby, a preschool child and a schoolchild, as well as between early and full adolescence, bearing in mind the needs and particularities of men and women in a traditionally patriarchal society with socialization canons which must be altered in order to overcome problems deriving from them, such as violence, unequal social participation and access to opportunities, higher exposure to risk, etc.

### **2. Applicability of the Protocol in Costa Rica**

14. Costa Rica's commitment to the promotion and protection of the human rights of all persons living in its territory and to the fostering of democracy are the foundations of decisions in all spheres. For this reason, Costa Rica is making a sustained effort to secure and improve the protection of persons who have not attained their legal majority.

15. As far as the Protocol's status in national law is concerned, article 7, paragraph 1, of the Constitution states, “Public treaties, international agreements and concordats duly approved by the Legislative Assembly shall have higher authority than the laws upon their enactment or from the day that they designate.”

16. The Constitutional Chamber set up in 1989 under amended articles 10 and 48 of the Constitution has referred to international human rights instruments, such as the Convention on the Rights of the Child and the Optional Protocols thereto, in the following words: “Constitutional case law has consistently held that the provisions of the international human rights instruments in force in the country are not applied under article 7 of the Constitution, since article 48 contains a special rule in respect of human rights thereby giving them normative force at the constitutional level. In consequence whereof, legal writers have recognized that the human rights instruments in force in Costa Rica not only have a force similar to that of the Constitution but, inasmuch as they grant greater rights or guarantees to persons, they have primacy over the Constitution.” (Opinion No. 1319-97, issued at 2.51 p.m. on 4 March 1997)

17. From the foregoing it may be concluded that, in Costa Rica, while the text of the Constitution suggests that international human rights standards have a supralegal status, by virtue of the courts' interpretation, which has become binding through the opinion of the Constitutional Chamber of the Supreme Court, the standards contained in international human rights instruments which offer guarantees exceeding those embodied in the Constitution, take precedence over the latter.

18. Furthermore, article 8 of the Children and Adolescents Code refers to the hierarchy of laws in the following manner, "The standards of this Code shall be applied and interpreted in conformity with the Constitution, the Convention on the Rights of the Child and other normative sources of the law on children and adolescents, in accordance with the following hierarchy:

- (a) The Constitution;
- (b) The Convention on the Rights of the Child;
- (c) Other international treaties and agreements on the subject;
- (d) The guiding principles of this Code;
- (e) The Family Code and pertinent laws on the subject;
- (f) Uses and customs proper to the sociocultural environment;
- (g) General legal principles."

### **3. Application of the Protocol in line with the general principles of the Convention on the Rights of the Child**

#### **3.1 Non-discrimination (article 2 of the Convention)**

19. It can be seen from article 3 of the Children and Adolescents Code that the provisions of the Code apply to any persons who have not attained their legal majority without any distinction as to their ethnic group, culture, gender, language, religion, ideology, nationality or other status or that of their father, mother, legal representatives or guardians. The article adds that the rights and guarantees enjoyed by this group are a matter of public interest, inalienable and immutable.

#### **3.2 Best interests of the child (article 3 of the Convention)**

20. National legislation, in the provisions of article 5 of the Children and Adolescents Code, stipulates, with regard to the best interests of the child, that any public or private action concerning a person under the age of 18 must take account of his or her best interests, which signifies ensuring respect for his or her rights in a healthy physical and mental environment as a means of bringing about his or her full personal development. The determination of a child's best interests must take into account:

- (a) His or her status as a person with rights and responsibilities;
- (b) His or her age, maturity, discernment and other personal characteristics;
- (c) His or her socio-economic background;
- (d) The consistency of individual interests with those of society.

21. In addition, article 9 of the Code establishes the principle that the most favourable standard must apply and states, "In the event of de facto or de jure doubt, when applying this Code, the standard chosen shall be that which proves to be most favourable to the person who has not yet attained his or her legal majority, in the light of the criteria determining his or her best interests."

#### **3.3 Right to life, development and survival (article 6 of the Convention)**

22. The right to life is fully safeguarded in Costa Rican legislation, in that the Children and Adolescents Code specifies that "A person who has not attained legal majority has the right to life from the very moment of conception onwards. The State must guarantee and protect this right with economic and social policies assuring decent conditions for pregnancy, birth and overall development."

#### **3.4 Right to respect for the views of the child (article 12 of the Convention)**

23. Article 105 of the Children and Adolescents Code guarantees respect for the views of persons who have not attained their legal majority. It is worded: "Persons who have not attained their legal majority shall participate directly in the processes and proceedings set forth in this Code and their opinion on a matter affecting them shall be heard. The judicial and administrative authorities shall at all times take account of such persons' emotional maturity in order to determine how their opinion is to be obtained. To this end, the Supreme Court shall establish appropriate arrangements for conducting interviews, with the support of the interdisciplinary team and in the presence of the judge."

24. We consider that the right to be heard of persons who have not attained their legal majority is, as a matter of fact, connected with the determination of what constitutes their best interests. Hearing persons who have not attained their legal majority does not imply simply listening to them, it means regarding them as individuals. When a court wishes to weigh up what decision is most beneficial to the person concerned, it envisages a better quality of life in physical and mental terms, more propitious development and fewer risks.

## Part two: articles of the Protocol

### 1. Article 1: Minimum age for direct participation in hostilities

25. Article 1 makes it incumbent upon States parties to raise the minimum age for direct participation in hostilities from 15 to 18. In Costa Rica, persons who have not attained their legal majority are protected by the national law which prohibits both voluntary and compulsory enlistment.

#### **Measures taken, including of a legislative, administrative or other nature, to ensure that members of the armed forces who have not attained the age of 18 years do not take a direct part in hostilities**

26. Costa Rica does not have any armed forces. Article 12 of the Constitution of 7 November 1949 lays down that “The army as a permanent institution is proscribed. There shall be the necessary police forces for surveillance and the preservation of public order. Military forces may be organized only under a continental agreement or for the national defence; in either case, they shall always be subordinate to the civil power: they may not deliberate or make statements or representations individually or collectively.”

27. A climate of peace and institutional stability is one of the characteristics of our country; various police forces have been set up in order to maintain the security of our borders as well as law and order.

28. The markedly civilian nature of the police forces is fully reflected in the General Law on the Police No. 7410 of 20 May 1994, as amended by the Law on the Strengthening of the Civilian Police No. 8096 of 15 March 2001, published in Supplement No. 24 to *La Gaceta* No. 59 of 23 March 2001.

29. According to the above-mentioned General Law on the Police, in particular article 6 thereof entitled “Forces”, the police forces responsible for public security comprise the following: the Civil Guard, the Rural Police Service, the police responsible for the control of unauthorized drugs and related activities, the Frontier Police, the Immigration and Aliens Police, the Financial Inspectorate, the Directorate of State Security, the Traffic Police, the Prison Guards Service and the other police forces whose competence is set forth in the law.

30. The main security force is the Civil Guard, which is responsible for protecting and maintaining national sovereignty and preserving law and order and public security in strict compliance with the law. The other security forces concentrate more on one specific area of activity.

31. One striking feature of our system of civilian police forces are the titles of the ranks. Thus the police regulations provide for hierarchies of senior officers, middle-ranking officers and low-ranking officers, who are called:

“Superintendent” instead of “Colonel”,

“Commissioner” instead of “Lieutenant Colonel”,

“Commander” instead of “Major”,

“Police Captain” instead of “Captain”,

“Intendant” instead of “Lieutenant”,

“Sub-Intendant” instead of “Sub-lieutenant”,

“Police Sergeant” instead of “Sergeant”,

“Police Inspector” instead of “Corporal”,

“Constable” instead of “Private”.

32. Among the requirements for joining the police forces, the General Law on the Police indicates that the person must be over 18. Under article 59 of this law, other requirements which must be met by applicants are:

(a) They must be Costa Rican;

(b) They must be citizens in full possession of their rights;

(c) They must swear loyalty to the Constitution and the law of the country;

(d) They must not have a previous criminal record in the Judicial Register of Offenders. If an applicant’s name were to appear on police records, it would be necessary to thoroughly investigate their life and habits in order to ascertain their suitability;

(e) They must be physically and mentally fit enough to carry out their duties properly;

(f) They must undergo the tests and examinations required by this law and the regulations issued under it;

(g) They must be selected from lists established under the procedures laid down by this law and the regulations issued under it;

(h) They must have completed the third cycle of basic general education;

(i) They must have satisfactorily completed the probation period stipulated in this law;

(j) They must comply with any other requirement laid down by this law, the regulations issued under it and any other applicable provisions.

33. Costa Rica is not suffering from any hostilities or armed conflicts which would necessitate the regular or exceptional calling up of armed forces for the reasons specified in the Constitution. On the contrary, the great moral strength of our country resides in the fact that it has not had an army for more than 50 years and that it, unlike other countries in the region, has channelled a large part of its national budget into health and education for its inhabitants.

34. The notion of “direct participation”, mentioned in the first subparagraph of the reporting guidelines on article 1, is not expressly defined in our law. By tradition, Costa Rica is a neutral nation devoted to respect of international law.

35. Costa Rica’s attachment to neutrality is not an isolated fact. In practice, Costa Rica has been a neutral State since its independence. Four heads of State and 11 Presidents have resorted to a variety of measures in order to safeguard peace behind the shield of neutrality; presidential proclamations and reports, diplomatic notes and documents, international treaties and agreements, legislative codes and regulations all demonstrate Costa Rica’s historic attachment to this noble legal institution.

36. In 1880, the Government of President Tomás Guardia explicitly incorporated several provisions on neutrality in the Criminal Code. In 1924, the Government of Julio Acosta García reaffirmed the rules on neutrality in the Criminal Code of the same year. In 1948, the standing army was disbanded by means of a constitutional provision.

37. On 17 November 1983, the then President, Luis Alberto Monge, declared that “Costa Rica maintains active, perpetual and unarmed neutrality.” This democratic principle was confirmed in the Executive Decree of 11 November 1997 by President José María Figueres. In addition, emphasis must be placed on the active part played by the country in having 1986 declared the International Year of Peace by the United Nations.

38. Foreign policy, especially over the last 50 years, has been guided by the country’s accession to various international legal instruments in order to give effect to the principle of collective defence and Costa Rica’s unconditional commitment to respect for international law and the upholding of national sovereignty. In the 1980s, Costa Rica participated actively in the regional initiative of the Contadora Group to bring peace to Central America through a negotiated solution, in recognition of which the then President Oscar Arias Sánchez was awarded the Nobel Peace Prize.

39. It should be noted that the Legislative Assembly is currently considering a private members’ bill tabled by a large number of members of Congress. The aim of the bill is to have the Declaration of Neutrality, the legacy of a long historic tradition, which is currently embodied in a decree, also reflected in a law. This bill, which has been given the file number 15,180, is now being examined by the Legal Affairs Committee of Congress.

40. With regard to the second subparagraph of the reporting guidelines on article 1, we repeat that our country does not have an army or any kind of armed forces deployed outside our borders, which is carrying out ultra vires functions. As stated above, the General Law on the Police stipulates that the minimum age for joining the police force is 18.

41. As for the third subparagraph of the reporting guidelines on article 1, no member of our national police forces is involved in internal or international hostilities or conflicts.

## **2. Article 2: Minimum age for compulsory recruitment into the armed forces**

### **Measures taken including of a legislative, administrative or other nature, to ensure that persons who have not attained the age of 18 years are not compulsorily recruited into the armed forces**

42. No administrative, legislative or constitutional measure covers compulsory recruitment because no army exists. The police forces are recruited through an entirely civilian process.

43. With regard to the second subparagraph of the reporting guidelines on article 2, Costa Rica maintains a Civil Register in which the vital statistics of all persons are recorded. The laws related to the creation of the Civil Register were passed at the beginning of the 1880s and on 1 December 1881 Decree No. LI provided that the Register would consist of four sections: births, marriages, deaths and identity cards.

44. The Law on the Marital Status Register was passed on 30 December 1887, the date on which the decree setting up and regulating the institution of the Civil Register was signed. The Law organizing and regulating the Marital Status Register was enacted.

45. On 9 December 1949, the Supreme Electoral Court agreed to combine the Marital Status Register and the Electoral Register in one body called the Civil Register, the name under which it is now known and to which reference is made in article 104 of the Constitution, but to split it into two sections: the Civil Section and the Electoral Section, each of which is headed by a Chief Clerk.

46. As from 7 April 1947, this institution has been responsible for issuing identity cards, the document used for electoral and identification purposes, which is very useful and much appreciated by the citizens of the country.

47. The coordination of the Civil Register’s various functions enables citizens to pursue their lives as citizens and electors, since the correct recording of births and deaths is essential for a properly compiled National Electoral Roll, the depository of the country’s electoral resolve.

48. The Law on the Identity of Young Persons between the Ages of 12 and 18 was promulgated through Law No. 7688, published in *La Gaceta* No. 172 of 8 September 1997. This law brought in the *Tarjeta de Identificación de Menores* (Juvenile Identification Card), known by its abbreviation TIM.

49. It is not a real identity card, but it brings together all the secure data required by young people in the 12 to 18 age group when they have to prove their identity to a public or private institution. This document contains the following data and characteristics: family name, first name, photograph, date and place of birth, parents' particulars, residence, sex and a bar code containing the above-mentioned data and a fingerprint. Lastly, it has safety features for checking its authenticity.

50. The TIM must be presented when completing all educational, employment, legal, financial or recreational formalities. A person who has not attained the age of legal majority must be accompanied by a close relative (a parent, an uncle or aunt, or an older sibling who has attained the age of legal majority, who must duly prove their identity). All young people between 12 and 18 years of age must have such a card.

### **3. Article 3: Minimum age for voluntary recruitment**

51. By law, only duly accredited members of the security forces are authorized to bear arms.

52. Costa Rica submitted a report on small arms and light weapons in response to a questionnaire from the Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons of the Sub-Commission on the Promotion and Protection of Human Rights, as provided for in Commission on Human Rights decision 2004/124 entitled "The prevention of human rights violations caused by the availability and misuse of small arms and light weapons".

53. Private security agencies are permitted to bear arms by way of exception under article 103 (a), "Duties and obligations", of the General Law on the Police, which expressly states: "It is the duty and obligation of natural or juridical persons in charge of private security services and the agents thereof: (a) To use authorized weapons in accordance with the respective rules."

54. Under article 20 of the Regulation issued under Law No. 7530 on Arms and Explosives, private security agencies may use only guns, revolvers, carbines, rifles and shotguns having barrels with a bore of between 5.6 mm (calibre 22) and 18.5 mm (calibre 12), which do not fire more than one projectile in a burst or successively, which do not have a fire selector allowing automatic fire and which cannot be fitted with devices for launching explosives of any kind.

55. It must be made plain that these private security agencies have limited functions, generally those of protecting property or persons in areas where their services have been hired, but they are prohibited from detaining, searching or depriving a person of liberty in any manner whatsoever, save when that person is caught in the act of committing an offence, in which case they are assisting the civilian security forces.

56. The Constitutional Chamber has reaffirmed that, before someone can engage in such activities, certain conditions must be met, such as being registered with the Ministry of Public Security, being in possession of a firearms licence, passing a psychological test, completing a basic police course, having third-party injury insurance to cover accidents and having nine years of basic general education.

57. The process of recruiting law enforcement personnel is completely civilian in nature, in keeping with the provisions of the above-mentioned article 59 of the General Law on the Police. The minimum age for joining any of the police forces is 18. The competent Government agencies demand, among other things, the birth certificate issued by the Civil Register as proof that the person has reached the minimum age for recruitment.

58. There are no military schools in Costa Rica and the law enforcement personnel are trained in civilian training centres. The National Police Academy was established through Law No. 7410 published on 30 May 1994 in Supplement No. 16 to *La Gaceta* No. 103.

59. The Francisco J. Orlich National Police Academy has a large number of courses taught by a staff including lawyers, psychologists and security experts. Anyone wishing to join the Civil Guard must have completed at least the sixth grade of primary education. There is a growing tendency, however, towards recruiting police officers who are required to have completed at least three certified years of secondary schooling.

60. Training courses include extensive instruction in values and respect for human rights. Courses on these subjects are, in turn, provided on an occasional basis for officials who have already graduated. The basic police course may be run by higher education establishments, technical training colleges or private schools, subject to the authorization of the Ministry of Public Security.

61. In accordance with article 88 of the General Law on the Police, police training and instruction is based on three criteria: it must be continuous and vocational; it must be accredited by the Ministry of Education; it must be of a civilian and not of a military nature and its thrust must therefore be towards the upholding of civil law, democracy and human rights.

62. Full details regarding the training of the various police forces can be found in the initial report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, submitted by Costa Rica in 2000 and considered by the Committee against Torture in 2002 (CAT/C/24/Add.7, paras. 418-452).

63. In Costa Rica, reliance is placed on education for peace, which is defined as "a process furthering the knowledge, skills, attitudes and values needed to produce changes in conduct which make it possible for children, young people and adults to prevent conflicts and violence, settle disputes peacefully and create conditions conducive to peace between persons and groups".

64. What is advocated is the promotion of education which helps children and young people to acquire ethical and social values and to become skilled in the prevention and peaceful settlement of disputes. This makes for high-quality learning environments based on

respect for rights, gender differences, health and health protection and the positive contribution of each pupil to his or her education.

65. High-quality, peace-oriented education enables children and young people to have a hand in initiating constructive change at the local and world levels.

66. The foregoing considerations underpin the provisions of article 1 of the Law on Alternative Means of Settling Disputes and Promoting Social Peace, which states that "Every person has the right to an appropriate education on peace in schools and colleges, which have the duty of inculcating in pupils an understanding of the nature of and prerequisites for the constant building of peace."

67. Furthermore, the Higher Education Council has given priority to the inclusion in the official curricula of elements encouraging the use of dialogue, negotiation, mediation, conciliation and other similar mechanisms, as suitable methods of dispute settlement.

68. Moreover, chapter III of the Children and Adolescents Code lays down the conciliation and mediation procedures to be followed in dealings with children and young people.

69. The general principles of the Convention on the Rights of the Child - non-discrimination, the best interests of the child, the right to life, survival, development and respect for the child's views - are secured in a peaceful, democratic culture designed to promote human development.

#### **4. Article 4: Armed groups**

70. In Costa Rica there are no armed groups operating on the margins of the law, nor are there any conflicts or hostilities. The national territory is not used for military activities elsewhere or for aggression against a neighbouring State. Any attempt to use the national territory for such purposes is expressly prohibited by law and the security forces have express orders to detain persons responsible for such activities and to hand them over for trial to the competent courts.

#### **5. Article 5: Applicability of international instruments and international humanitarian law in Costa Rica**

##### **Provisions of Costa Rican and international law and of international humanitarian law which are more conducive to the exercise of children's rights; ratification status of the main international instruments concerning children in armed conflict and other commitments undertaken**

71. We have an extensive set of standard-setting provisions in national legislation guaranteeing children's and young people's rights. In this connection, please see paragraphs 82 et seq. of the third periodic report submitted by Costa Rica to the Committee on the Rights of the Child, document CRC/C/125/Add.4 of 13 October 2004.

72. Costa Rica has ratified many regional and international instruments aimed at establishing a broad framework for promoting and protecting human rights.

73. At the regional level, Costa Rica has signed the American Declaration on the Rights and Duties of Man, adopted at the Ninth International Conference of American States, held in Bogotá, Colombia, in 1948.

74. Costa Rica also signed the American Convention on Human Rights (known as the Pact of San José, Costa Rica) on 22 November 1969. The text was approved by the Legislative Assembly through Law No. 4534 of 23 February 1970, published in *La Gaceta* No. 62 on 14 March 1970 and ratified on 2 March 1970. Costa Rica deposited its instrument of ratification on 8 April 1970.

75. In Decree No. 7060-RE, published in *La Gaceta* No. 114 of 16 June 1977, Costa Rica declared that it unconditionally recognizes the competence of the Inter-American Commission on Human Rights and the jurisdiction of the Inter-American Court of Human Rights throughout the period in which the American Convention on Human Rights remains in force. This declaration was presented at the General Secretariat of the Organization of American States on 2 July 1980.

76. The country ratified the Inter-American Convention on Forced Disappearance of Persons, signed in Belém do Pará, Brazil, on 9 June 1994, by means of Law No. 7573 of 1 February 1996, published in *La Gaceta* No. 36 on 20 February of the same year.

77. The Protocol to the American Convention on Human Rights to Abolish the Death Penalty was likewise approved through Law No. 7747, adopted on 23 February 1998 and published in *La Gaceta* No. 53 on 17 March of the same year.

78. On 9 June 1994, the country signed the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) during the seventh plenary session of the General Assembly of the Organization of American States. This instrument was embodied in Law No. 7499, approved by the Legislative Assembly on 18 April 1995 and published in *La Gaceta* No. 123 on 28 June 1995.

79. Similarly, the Inter-American Convention on the International Return of Children entered into force in Costa Rica on 10 November 2000, when Law No. 8032 of 19 October 2000 in which it was approved was published in *La Gaceta*.

80. Lastly, the country has ratified the Inter-American Convention to Prevent and Punish Torture, adopted in Cartagena de Indias, Colombia, on 9 December 1985 and which entered into force on 28 February 1987. This Convention was signed by Costa Rica on 31 July 1986 and ratified by the Legislative Assembly through Law No. 7934, which was published in *La Gaceta* No. 219 on 11 November 1999.

81. At the international level, Costa Rica has signed the Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

82. Other international instruments signed and ratified by the country are the International Covenants on Human Rights adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which were approved through Law No. 4229 of 11 December 1968 and published in *La Gaceta* No. 288 of 17 December 1968.

83. Additional human rights instruments approved by Costa Rica include the Convention on the Prevention and Punishment of the Crime of Genocide, which was ratified by means of Law No. 1205 of 4 October 1950, published in *La Gaceta* No. 226 of 7 October 1950. Law No. 3844 approving the International Convention on the Elimination of All Forms of Racial Discrimination was passed on 5 January 1967 and published in *La Gaceta* No. 5 on 7 January 1967. Law No. 6968 approving the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations on 18 December 1979, was passed on 2 October 1984 and published in *La Gaceta* No. 8 of 11 January 1985.

84. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Costa Rica signed in New York on 4 February 1985, was ratified through Law No. 7351 of 11 November 1993. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which seeks to introduce a system of preventive visits, is being examined by the International Affairs Committee of the Congress of the Republic and it is hoped that it will soon be approved. Costa Rica chaired the working group which paved the way for its adoption by the Commission on Human Rights.

85. Costa Rica ratified the Convention on the Rights of the Child by means of Law No. 7184 which was passed on 12 July 1990 and published in *La Gaceta* No. 149 of 9 August 1990. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was, as we explained earlier, approved by the Legislative Assembly through Law No. 8247 of 22 April 2002 and ratified by the Executive in Executive Decree No. 30,657 of 10 June 2002, while the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was approved by the Legislative Assembly through Law No. 8172 of 7 December 2001 and ratified by the Executive in Executive Decree No. 30,180 of 12 February 2002.

86. The country approved the Rome Statute of the International Criminal Court through Law No. 8083 of 7 February 2001, which was published in *La Gaceta* No. 56 of 20 March 2001. It was ratified by Executive Decree No. 29,525 of 9 May 2001.

87. In the field of private international law, the country has ratified the (Hague) Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded on 29 May 1993. The Convention was approved through Law No. 7517 of 22 June 1995, published in *La Gaceta* No. 135 of 17 July 1995, and it has been in force in Costa Rica since that date. Costa Rica also acceded to the Convention on the Civil Aspects of International Child Abduction concluded on 25 October 1980 through Law No. 7746 of 23 February 1998, published in *La Gaceta* No. 53 of 17 March 1998, which has been in force in Costa Rica ever since that date.

88. The country ratified the United Nations Convention against Transnational Organized Crime (Palermo Convention) and two of its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Air and Sea, through Law No. 8315 of 26 September 2002, published in *La Gaceta* No. 212 of 4 November 2002.

## **6. Article 6: Implementation and enforcement**

89. An international instrument becomes part of Costa Rican law once it is fully ratified by Congress and approved by the Executive.

90. The Constitution, as amended by Law No. 4123 of 31 May 1968, provides that international treaties and agreements duly approved by the Legislative Assembly shall have higher authority than the laws upon their enactment or from the date that they designate.

91. At its extraordinary sitting on 22 May 1986, the full Court determined with respect to the scope of the constitutional article in question that "... when comparing a treaty and a law, it is of no relevance to decide which came first and which came later, because the treaty will always take precedence, since it has 'higher authority than the laws'." Clearly it is easier to solve the issue when the treaty post-dates the law, on the basis of the principle contained in article 129, paragraph 5, of the Constitution, that a subsequent law revokes its predecessor. But the truth is that the solution is the same even when the ordinary law comes after the treaty with which it conflicts, because the treaty takes precedence over it by virtue of its higher authority, as is confirmed by the above-mentioned recent amendment of article 2 of the Civil Code to the effect that "provisions which contradict another provision of a higher status shall lack validity".

92. The terms of reference and the powers of the National Children's Trust make it the lead agency in matters of children's and young people's rights at the national level and it heads up processes to promote, defend, guarantee, attend to and protect the rights of children and young people which are established in the Convention on the Rights of the Child. These constitutional rights are put into effect by means of comprehensive schemes which are coordinated with other public and private institutions and with civil society.

93. In addition there is a grouping called the National System for Comprehensive Protection, consisting of the National Children and Adolescents Council, government institutions and civil society organizations represented on the Children and Adolescents Council, the Children and Adolescents Protection Boards and the Committees to Safeguard the Rights of the Child. This system has been set up in order to secure full protection under public policies and the execution of preventive programmes to uphold the rights of the child.



94.The text of the Protocol can be accessed on official websites.

95.Dissemination of the Protocol is targeted at the whole of the civilian population since there is no army or armed conflict. The manner in which it is approached and studied is more oriented towards people who work professionally in the field of human rights.

96.Our country is deeply committed to the work of the treaty-monitoring bodies and considers that dialogue with the experts is one of the principal tools for identifying best practices with regard to the dissemination of instruments. Our country repeats that, since it has no army and is not involved in any internal armed conflicts, the dissemination of the Protocol and monitoring of its implementation are confined to certain professional circles.

97.As the official language of the country is Spanish, the Protocol is accessible on the websites of national institutions in this language.

98.As for paragraph 3, since we have no internal conflicts, armed conflict or armed forces, measures concerning the disarmament, demobilization or social reintegration of child soldiers are not relevant.

## **7. Article 7: International cooperation**

**Information on cooperation in the implementation of the Optional Protocol, including through technical cooperation and financial assistance; extent of the technical cooperation or financial assistance which the State party has requested or offered. Please indicate, if the State party is in a position to provide financial assistance, the existing multilateral, bilateral or other programmes that have been undertaken for that assistance**

99.With reference to the provisions of this article, Costa Rica is a developing country with a high level of public spending in the social sector. Our country does not have the capacity to offer financial assistance. In the past, however, it has carried out some programmes entailing technical cooperation with and assistance for members of the civilian forces of certain countries in the region, especially Haiti. As already mentioned, Costa Rica has a civilian Police Academy where respect for the law and human rights principles forms an essential part of the training and where, as has been explained throughout this report, persons under the age of 18 are not accepted.

100.Costa Rica has promoted the subject of human rights education in various multilateral forums and we are sure that our country can continue to give further impetus to such processes, which will make it possible, particularly in nations contending with internal conflicts where the active combatants include many children and young people, to inculcate tolerance, respect and dignity, values which are essential if normal, peaceful human relations are to be restored.

## **Annexes**

Constitution

Children and Adolescents Code

Opinion No. 1319-97 of the Constitutional Chamber

General Law on the Police

Law on the Identity of Young Persons between the Ages of 12 and 18

Law on the Strengthening of the Civilian Police

Regulation issued under the Law on Arms and Explosives

Draft law on "Proclamation of the neutrality of Costa Rica", file No. 15,180.

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