



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Comments of Costa Rica on the recommendations
and observations addressed to it in connection
with the Subcommittee visit undertaken from
3 to 14 March 2019^{*, **}**

[Date received: 1 December 2020]

* The present document is being issued without formal editing.
** On 1 December 2020, the State party requested the Subcommittee to publish its replies, in accordance with article 16 (2) of the Optional Protocol.



Introduction

1. The Government of Costa Rica takes careful note of all the recommendations and observations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, established pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which were published in its report entitled “Visit to Costa Rica undertaken from 3 to 14 March 2019: recommendations and observations addressed to the State party” (CAT/OP/CRI/ROSP/R.1). The Government of Costa Rica takes this opportunity to make the following comments.

Recommendations

I. Introduction (paras. 5 and 7)

2. In accordance with the recommendation contained in paragraph 5, the Ministry of Foreign Affairs wishes to inform the Subcommittee that the report on its visit to Costa Rica from 3 to 14 March 2019 has been brought to the attention of the institutions that participated in the visit.

3. The Government is willing for the Subcommittee to publish the visit report in accordance with article 16 (2) of the Optional Protocol and would be grateful if it were published together with the present report containing the Government’s response. This report will also be disseminated via the SIMORE Plus recommendations monitoring system on the website of the Ministry of Foreign Affairs.

II. National preventive mechanism (para. 12)

4. The authorities have respected the mechanism’s functional independence and independence of judgment, so that it has been able to fulfil its mandate in accordance with the Optional Protocol and Act No. 9204 establishing the National Mechanism for the Prevention of Torture and its regulations.

5. The size of the mechanism’s staff is not proportional to the number of places of detention that must be monitored. Although the mechanism currently has a need for a psychologist, for budgetary reasons it has refrained from requesting the creation of such a position. Costa Rica has been experiencing a strong economic depression and deterioration in public finances, resulting in a hiring freeze of public sector workers – a situation that now has been aggravated by the coronavirus disease (COVID-19) pandemic. It is envisaged that a duly reasoned request to create the post will be submitted to the relevant authorities once the economic situation has stabilized.

6. On the budgetary side, the State has met the mechanism’s basic operating needs, covering travel expenses, office space, office equipment, administrative and logistical support and wages. While there is a need for the mechanism to have its own vehicle for the purpose of travelling to inspections, it currently uses the vehicles and drivers of the Ombudsman’s Office for this purpose.

7. With regard to the recommendation to give more visibility to the mechanism’s reports and recommendations, the Government wishes to stress that the mechanism operates using persuasion, with an emphasis on dialogue with the relevant authorities, in accordance with article 22 of Act No. 8459 approving the Optional Protocol and article 13 of the Act establishing the National Mechanism for the Prevention of Torture. Thus, the mechanism’s reports are studied in dialogue forums with a view to the effective implementation of its recommendations, with the exception of those reports that are communicated to the press.

8. A press conference is usually – but not always – held to publicize the mechanism’s annual report, which is transmitted to the relevant authorities. Given its independent mandate, the mechanism does not believe that it is necessary for government officials to attend the

presentation of its reports. Under article 23 of the Act approving the Optional Protocol and article 12 of the Act establishing the National Mechanism for the Prevention of Torture, the Government undertakes to publish and disseminate the mechanism's annual reports.

III. Legal and institutional framework for the prevention of torture and ill-treatment

A. Classification of torture as an offence and obstacles to investigating cases of torture (paras. 15, 21, 22 and 23)

9. Legislative Assembly. Bill No. 22171 establishing hate crimes, racial discrimination and other human rights violations as separate offences is currently before the Legislative Assembly. Its aim is to bring the crime of torture into line with the definition set out in international treaties, through the following provision:

Torture

Article 386 bis.- Anyone who inflicts pain or physical or mental suffering on another person, or intimidates or coerces another person in connection with an act they have committed or are suspected of committing, in order to obtain information or a confession from them or from a third party, or on grounds of skin colour, physical characteristics, race, ethnicity, sex, religion, disability, nationality, sexual orientation, gender identity, political views, social origin, economic status or health condition, shall be punished by 3 to 10 years' imprisonment.

If such acts are committed by a public official, the penalty shall be 5 to 12 years' imprisonment and 2 to 8 years' disqualification from office.

10. The Public Prosecution Service has stated its willingness to work with the Legislative Assembly on introducing a new criminal offence of torture, which would be in line with the definition established in international treaties, in order to properly characterize unlawful acts inflicted by or at the instigation of or with the consent or acquiescence of a public official, upon persons deprived of their liberty.

11. Since the adoption of Act No. 8189 of 18 December 2001, which added an article 123 bis to the Criminal Code, the offence of torture has been set forth under the "Injury" section of the title "Offences against life" of the Code.

12. Article 123 bis represents a significant advance in the fulfilment of the Convention insofar as it incorporates a definition of the offence that is closely aligned with the one contained in article 1 of the Convention.

13. The definition of this offence has reinforced other guarantees contained in the Code of Criminal Procedure (Act No. 7594 of 10 April 1996). For example, article 96 states that under no circumstances may accused persons be subjected to any form of coercion or threat; nor may any means be used to oblige, induce or cause them to make statements against their will; nor may any charges or counterclaims be laid against them with a view to obtaining a confession.

14. Costa Rica takes the view that tackling the problem of torture requires the State to provide victims with assistance and protection and to safeguard their rights, including the means of obtaining redress and rehabilitation and the right to fair and adequate compensation.

15. The Public Defence Service, which is attached to the judicial branch, participates in the following commissions that address the issue of deprivation of liberty, as well as torture and ill-treatment:

- The Criminal Affairs Commission
- The Access to Justice Commission for persons deprived of their liberty

- The Judiciary-Ministry of Justice and Peace Liaison Commission and the standing committee on the functioning of the Rehabilitation Centre for Persons with Mental Illness in Conflict with the Law.

16. The Public Defence Service has also worked together with the Office of the Deputy Prosecutor for Probity and Misconduct in Public Office to help persons who claim to have suffered some kind of institutional abuse or violence.

17. Moreover, pursuant to the international cooperation strategy promoted by the Regional Programme for social cohesion in Latin America (EUROSOCIAL) and the Inter-American Association of Public Defenders, the Public Defence Service is helping to introduce a System of Registration, Communication and Comprehensive Care for Victims of Institutional Prison Violence, which will enable the reporting and monitoring of cases of such violence, the identification and care of victims, and the support of victims' families and relatives.

18. On 24 July 2020, in compliance with the Subcommittee's recommendation, the Attorney General of the Republic, Emilia Navas Aparicio, issued Administrative Circular No. 16-ADM-2020 on the registration and prioritization of cases in which the victim is a person deprived of liberty. This circular emphasizes that representatives of the Public Prosecution Service should prioritize the handling and processing of such cases and remove any barriers that might prevent this vulnerable population from actively participating in criminal proceedings and from exercising their rights as victims.

19. Similarly, representatives of the Public Prosecution Service have been issued with instructions to make regular visits to prisons and detention facilities and meet with persons deprived of their liberty in order to detect possible cases of torture and other cruel, inhuman or degrading treatment or punishment, abuse of authority, injury or other offences committed during or as a result of imprisonment, and to proceed with informal investigations where necessary.

20. Regarding the judiciary, the Public Defence Service offers a workshop on human rights monitoring in prisons and a yearly course on tools for ensuring that persons deprived of their liberty have access to justice.

21. Furthermore, actions have been carried out in conjunction with the Inter-American Court of Human Rights to train public defence personnel on topics related to the Court's case law and its links with the subject of torture, and training has been provided on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

22. The Public Prosecution Service provides various courses on subjects such as the importance of sentences and their effective enforcement, the investigation of offences against life, and the functions of the Crime Victim Support and Protection Office, in addition to the programmes of the Judicial Training College, the training programme for specialists in forensic medicine and the Public Defence Service training plan.

23. The Judicial Investigation Agency, which is in charge of criminal investigations, including investigations into cases of torture, ill-treatment and other cruel, inhuman or degrading punishment, reports that its forensic physicians are familiar with the Istanbul Protocol and are willing and committed to applying it, if necessary. However, such practices are extremely unusual in Costa Rica. If a person deprived of liberty believes that his or her rights have been violated, he or she may file the corresponding complaint, which is brought to the attention of the Public Prosecution Service.

24. The Judicial Investigation Agency conducts training on human rights issues, focusing on the application of the Istanbul Protocol and the Minnesota Protocol on the Investigation of Potentially Unlawful Death for the forensic documentation of suspected cases of torture. Training is also provided on the recommendations produced by the Colombian authorities on forensic procedures in cases where torture or other cruel, inhuman or degrading treatment or punishment is under investigation or where there is evidence of its having been committed; and on the International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in Cases of Enforced Disappearance or Arbitrary or Extrajudicial Execution.

25. Signs of torture in living or deceased persons are detected through an interdisciplinary procedure carried out by a forensic physician.

26. In line with the Subcommittee's recommendation, the Judicial Investigation Agency has taken steps to enable organizations such as the Inter-American Institute of Human Rights, the Inter-American Court of Human Rights and the Office of the United Nations High Commissioner for Human Rights to promote and strengthen the continuous training of the Agency's staff at all levels.

27. The Ministry of Justice and Peace, in conjunction with relevant public institutions and with support from the Ministry of Foreign Affairs, has commenced work on an inter-institutional reporting protocol whereby possible acts of torture or other cruel, inhuman or degrading treatment or punishment committed against persons deprived of their liberty must be reported to the Public Prosecution Service.

B. Use of pretrial detention (para. 25)

28. Regarding the training of judges, the Judicial Training College, a body of the judiciary, has organized various academic activities in 2020 related to the application and interpretation of alternatives to detention, focusing mainly on restorative justice and alternative mechanisms for the settlement of disputes. These activities are listed in the annex provided.

29. The annual training plan of the Knowledge Management Unit of the Public Defence Service covers the following subjects:

- Precautionary measures
- Strategic litigation for the human rights of prisoners
- Remedies of habeas corpus and *amparo*
- International human rights instruments.

30. These subjects have been incorporated into the curriculum in a cross-cutting manner that is geared towards professional, technical and auxiliary personnel.

31. The Public Prosecution Service has organized two training activities in 2020. One was related to torture in the Costa Rican prison system and the other was a talk on the expedited procedure for cases of flagrante delicto.

32. With the adoption of Act No. 9525 of 7 March 2018, an amendment was introduced in article 56 bis of the Criminal Code to afford judges greater latitude to make use of community service as an alternative to pretrial detention and custodial sentences. This Act was supplemented by regulations on the enforcement of community service sentences (Decree No. 41419 of 14 September 2009).

33. The Public Prosecution Service has taken a number of measures to reduce the duration of deprivation of liberty. One example is the issuance of General Instruction No. 01/2018, which contains several binding guidelines that prosecutors must immediately apply.

C. Enforcement by committal for failure to pay alimony or child support (para. 28)

34. The Government takes note of the Subcommittee's recommendation to prioritize the use of other effective means of obtaining payment of alimony and child support over enforcement by committal under the Alimony and Child Support Act. The Act does not give judges the power to decide whether or not to apply enforcement by committal; this would require a change in the law. Several bills have been introduced to regulate this issue, for example, by allowing the use of electronic monitoring as an alternative to enforcement by committal.

D. Prisoner privileges (para. 30)

35. The drafting of a sentence enforcement law involves the participation of several institutions, including the Ministry of Justice and Peace. Bill No. 21800, introduced by the deputy Carolina Hidalgo, has thus been drawn up jointly by various actors. An inter-institutional working group, composed of representatives of the three branches of government, has been established with a view to advancing the legislative process, ultimately to achieve a law that will serve as a tool for the protection of fundamental rights and settle a historical debt owed to persons deprived of their liberty.

36. The professional assistance provided by the prison system to persons deprived of their liberty is centred on individual and group support processes (or rehabilitation programmes, the term used by the Subcommittee), whose purpose is to equip prisoners with the necessary tools for their social reintegration. This approach is reflected in the enforcement bill, which establishes the obligation of prison authorities to provide technical assistance. The bill also contains measures to improve the complaints procedure, which is currently overseen by the sentence enforcement judge, in cases where the prisoner believes that his or her access to technical assistance is being obstructed in an irregular manner.

37. The Public Prosecution Service has consented to work with the Legislative Assembly on the drafting of an enforcement law with a view to reducing the scope for discretion of the prison authorities in granting prisoner privileges. The Public Defence Service will continue to promote the speedy adoption of a special law on this subject.

E. Transparency and access to information (para. 32)

38. The Ministry of Justice and Peace has indicated its willingness to address this recommendation. Its information technology department will apply a strategy of keeping information up to date and accessible to the population.

IV. Situation of persons deprived of their liberty

A. Criminal investigation police and security forces (paras. 34, 36, 38 and 40)

39. The Subcommittee's observation that in some situations persons were kept in police holding cells in excess of the six-hour maximum, especially on weekends and when arrests took place at night, has been duly noted and the necessary steps will be taken to ensure that such situations do not arise in the future.

40. State responsibility is triggered when the maximum period of detention is arbitrarily exceeded; in such cases, an application for the remedy of *amparo* may be submitted to the constitutional authority. In this connection, the Public Defence Service has brought legal action before the Constitutional Chamber of the Supreme Court on behalf of persons who have been kept in holding cells beyond the maximum period of detention. The Public Prosecution Service establishes working hours throughout the country in such a way as to ensure that staff are on hand to process all measures relating to deprivation of liberty efficiently.

41. On 22 April 2019, following up on the Subcommittee's recommendation in accordance with its remit, the Ministry of Public Security issued Directive No. MSP-DM-DVURFP-DGFP-02-2019, updating its Protocol for the Processing, Transport and Treatment of Persons in Police Custody. The Protocol establishes the maximum number of hours that a detainee may be held in a police cell before he or she must be brought before the competent authority.

42. Article 91 of the Code of Criminal Procedure of Costa Rica (Act No. 7594) provides that an official of the Public Prosecution Service must take a statement from the accused

within 24 hours of his or her arrest, except when the latter requires additional time in order to seek the assistance of a defence lawyer of his or her choosing.

43. Pursuant to articles 11 and 37 of the Constitution of Costa Rica and articles 235, 237, 283 and 284 of the Code of Criminal Procedure, the police may apprehend any person caught in the act of committing an offence or a contravention and must inform the prosecutor of the arrest within six hours, so that the latter may take control of the investigation and order the necessary preliminary measures to promptly gather or safeguard evidence and prevent suspects from fleeing or going into hiding.

44. In strict compliance with the aforementioned constitutional and procedural rules, the Protocol for the Processing, Transport and Treatment of Persons in Police Custody – in section 7 on police custody procedure, paragraph 1 – provides that persons in custody must be brought before the competent judicial authority within six hours, and – in paragraph 13 of the same section – that the maximum period of detention in a holding cell is six hours, unless the authority in charge of the case requests an extension, in which case the reason for the extension must be recorded in the detention register.

45. These measures are in place to prevent periods of custody in excess of six hours. It is important to note, however, that if the prosecutor orders the detention of a person in custody pursuant to article 237 of the Code of Criminal Procedure, he or she has 24 hours to determine that person's legal status.

46. All persons deprived of liberty have the same rights and responsibilities, including the right to receive medical care and treatment as required. Medical attention is provided to persons deprived of liberty whenever necessary, including when the person in question requires assistance for injuries linked to the circumstances of his or her arrest or requires special treatment for a specific illness and needs to undergo a medical examination.

47. If a person deprived of liberty is injured or falls ill, the competent court or the Public Prosecution Service must request the competent health-care provider to issue a medical report.

48. In the light of the health emergency caused by the COVID-19 pandemic, a new intervention and custody protocol was developed for the police forces under the authority of the Directorate General of the Police containing guidelines on the treatment and care of persons deprived of liberty who have been infected with the virus. The protocol determines the procedure to be followed in such cases to protect police officers and persons deprived of liberty and defines the conditions in which infected persons in custody should be held to ensure that they do not come into contact with others, while making the best use of resources and keeping the risk of infection to a minimum.

49. Any person deprived of liberty who appears or claims to be the victim of ill-treatment or physical abuse is examined by a physician in the place of detention or in one of the hospitals attached to the Costa Rican Social Insurance Fund. A complaint must be filed immediately if the physician discovers signs of ill-treatment or physical abuse or at the request of the person concerned. All complaints are assigned a complaint number and a unique tracing number to facilitate processing. They are submitted to the Public Prosecution Service, which handles the next steps and applies the appropriate procedure.

50. The Judicial Investigation Agency performs medical examinations according to an established documented procedure on all persons deprived of liberty who claim to have been assaulted if they show signs of physical assault upon entering custody and agree to receive medical assistance. For budgetary reasons, it is not currently possible to examine every person taken into custody by the Judicial Investigation Agency throughout the country.

51. The Public Defence Service monitors compliance with the obligation to provide medical assistance to persons in police custody during its visits to places of custody. In accordance with Circular No. 16-ADM-2020, the Public Prosecution Service tasks prosecutors with making regular visits to prisons and detention facilities to interview persons deprived of liberty in order to identify possible cases of torture and other cruel, inhuman or degrading treatment or punishment, abuse of authority, assault or other offences committed during or in relation to detention, which, if discovered, are subject to criminal prosecution.

52. The Ministry of Public Security's Protocol for the Processing, Transport and Treatment of Persons in Police Custody – section (d) on the principles governing police conduct during the processing and transport of persons apprehended and placed in police custody, paragraph 4 – establishes a standard covering the rights of persons in custody, including the right to be informed of the reason for one's arrest, the right not to be compelled to incriminate oneself, the right to appoint a lawyer of one's choosing, the right to communicate with a person of one's choosing by telephone, the right to the protection of one's physical and psychological integrity and the right to medical assistance.

53. As a means of monitoring compliance with the aforementioned protocol, police legal advisers conduct visits to police stations and carry out checks on all activities carried out by the officers, including activities related to the treatment of persons in custody.

54. In this connection, the Judicial Investigation Agency has a manual on detainee restraint and transport procedures, a detainee reception and release procedure and a special directive (No. 119-DG-2014).

55. There are various police forces in Costa Rica, the main ones being the national police force, the transport police, the border guard, the criminal investigation police and the prison police. Other specialized and municipal police forces also exist. Each police force keeps its own records; the prison police keeps both manual and systematized digital records.

56. The Ministry of Justice and Peace is fully prepared to participate in the establishment of a central detention register. The need for such a tool should be assessed, however, since it could be detrimental rather than beneficial to persons in custody, insofar as it could lead to the stigmatization of persons currently or formerly deprived of liberty, and even of their families, by giving a large number of police officers access to the background information and sensitive data collected in relation to every detention.

57. Ever since safeguards for persons deprived of liberty were successfully introduced, the trend in Costa Rica has been not to keep permanent records of detentions and for access to such records to be limited to that which is strictly necessary. For example, pursuant to the 2016 amendment of the Judicial Records and Archives Act, the time limits applicable to the deletion of entries from personal criminal records were changed to prevent stigmatization and to remove obstacles to access to the labour market for persons with a criminal record.

58. Establishing such a system would require the support and advice of the National Mechanism for the Prevention of Torture, whose extensive experience would help to ensure a prudent approach to the Subcommittee's recommendation based on the lessons learned from the successful introduction of similar uniform registers in other countries.

59. The Ministry of Public Security ensures that all persons deprived of liberty are duly registered through instruments establishing mandatory checks on persons in custody. In this regard, section 19 of the Protocol for the Processing, Transport and Treatment of Persons in Police Custody provides that it is mandatory to keep a logbook of arrests and to fill in an arrest registration form, a template of which is included in the annexes.

60. Guidelines have been issued on the registration of information in databases managed by the Directorate General of the Police. Circular No. MSP-DM-DVURFP-109-2020 of 25 May 2020 requires, inter alia, strict respect for the protection of images of minors and the registration of all police activity in the Arrest and Seizure System, making it possible to monitor all activities carried out by police officers in respect of persons in custody.

61. The Judicial Investigation Agency uses a computerized registration and database management system, the Central Criminal Register, which contains records pertaining to the reception and release of every person taken into custody by the Judicial Investigation Agency, his or her personal details, any belongings confiscated, any injuries detected, and any medical attention provided. Currently, in view of the COVID-19 situation, the Agency has taken measures to reinforce sanitary measures and handle potential infections appropriately, in order to protect the health of its staff and the persons in its custody.

B. Prisons

Allegations of torture and ill-treatment (para. 44)

62. The Ministry of Public Security provides various means for citizens to report cruel treatment: reports can be submitted through the “9-1-1 Emergency” platform; by telephone at 2586-4399 and 2227-6824; by email at contralo@seguridadpublica.go.cr; through the reports and complaints form on the Ministry’s website, on the web page of the Office of the Comptroller of Services (<https://www.seguridadpublica.go.cr/contraloria/denuncia.aspx>); or in person. The Office of the Comptroller is staffed by legal and administrative professionals who are independent of the law enforcement authorities.

63. Police officers receive training on the prosecution and punishment of cruel treatment as part of their initial training programme. They are also expected to familiarize themselves with instruments compliance with which is mandatory, such as circular No. 145-2017-DGFP-A of 2 November 2017, which prohibits all forms of cruel treatment and establishes a commitment in this regard.

64. In accordance with the Subcommittee’s recommendations, the Ministry of Public Security has taken various measures with regard to its mechanisms for reporting possible acts of torture or ill-treatment against persons deprived of their liberty. Some of the measures taken are described in the following documents, which are included in the annexes:

- Directive No. MSP-DM-DVURFP-DGFP-02-2019, update to the Protocol for the Processing, Transport and Treatment of Persons in Police Custody
- Circular No. MSP-DM-DVURFP-DGFP-109-2020, general guidelines for the registration of information in databases managed by the Directorate General of the Police
- Circular No. 145-2017-DGFP-A, legal grounds for arrest, searches, use of balaclavas and use of official vehicles
- Circular No. MSP-DM-DVURFP-DGFP-DO-PYO-0046-2020, intervention and custody protocol for the police forces of the Directorate General of the Police in the context of the national COVID-19 emergency

Overcrowding (paras. 47 and 51)

65. The Ministry of Justice and Peace agrees that reducing overcrowding will require much more than the construction of new prisons. Crime is a social phenomenon that reflects the deep-rooted structural realities of our region, and unfortunately imprisonment rates are on the increase. For so long as new offences carrying custodial sentences continue to be established while no substantial progress is made in addressing the root causes of crime, it will continue to be very difficult to reduce the levels of prison overcrowding in Costa Rica.

66. It has been recognized that there is a need to establish a high-level national commission involving the three branches of State and representatives of specialized agencies, academia and civil society for the purpose of defining public policies on criminal justice capable of paving a coherent path forward.

67. While the Ministry of Justice and Peace has continued to build new prisons, it remains committed to the idea of establishing such a commission in order to draw up medium- and long-term policies that can bring about a reduction in crime rates, recidivism and prison overcrowding.

68. A methodology to determine the capacity of prisons has already been established and is being applied throughout the prison system. It was developed by the Department of Architecture, in view of the need for a prison infrastructure model that meets the basic accommodation and security needs of prisoners and staff.

69. The Department of Architecture, which is part of the Ministry of Justice and Peace, carried out a comprehensive assessment of all available prison space and used this assessment to establish a methodology for designing and assessing prisoner accommodation. The process was carried out in accordance with national legislation, in particular the Building Regulations

and the Manual of General Technical Provisions on Human Security and Fire Safety, which has a chapter on prisons. Due consideration also was paid to international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the recommendations of the Conference of Ministers of Justice of the Ibero-American Countries, the International Committee of the Red Cross guidance on water, sanitation, hygiene and habitat in prisons and the United Nations Office for Project Services Technical Guidelines for Prison Planning, as well as other current design standards.

70. The methodology comprises technical guidelines based on scientific and mathematical criteria developed by the architects and engineers at the Department of Architecture. The process for identifying accommodation spaces was certified by the Federal Association of Engineers and Architects of Costa Rica and the methodology was presented to and approved by the International Committee of the Red Cross during a visit that took place in February 2019.

71. The amount of floor space per prisoner and the number of bunk beds that can be installed in an accommodation space depend not only on the internal measurements of the space but also on engineering criteria such as wheelchair turning radiuses and the tangent used to calculate the distance between emergency exits, which must be determined using computer modelling.

72. Thanks to this work, the Ministry now has exact information on the real capacity of each prison and, using the same methodology, has determined that 12,828 places are available in other facilities in the closed system, including the comprehensive care centres, the comprehensive rehabilitation units and the Zurquí prison training centre. For more details regarding the space available in each facility, see letter No. ARQ-0634 of 20 July 2020, which is attached to the present report.

73. According to projections made by the Research and Statistics Unit of the Ministry of Justice and Peace, significant increases in imprisonment rates, and therefore overcrowding, are expected. The prison administration is therefore working hard to gradually improve the existing infrastructure in addition to starting new construction projects.

74. The required planning will be achieved through the Central Infrastructure Plan, which is currently in the final stage of development and is expected to be completed this year. This Plan covers the main improvements planned over the next 10 years. Human security will be one of the key indicators. As an example of the above, negotiations are currently under way with the Central American Bank for Economic Integration for a loan to cover 17 infrastructure projects, including plans to purchase six electrical power hook-up systems and install them in prison buildings.

75. As part of the Central Infrastructure Plan, the prison administration will:

- Gather detailed information about the current state of all buildings and infrastructure under its control and establish a list of priority projects
- Establish an estimate of the amount of new spaces that will be required in the medium term (10 years)
- Identify and prioritize the infrastructure projects needed to develop the various types of support provided to persons subject to custodial and non-custodial measures
- Move forward with projects currently in planning or under way to meet maintenance and construction needs
- Establish new projects and measures to meet the infrastructure needs of the national prison system
- Establish medium-term budgetary and operational plans for projects to meet the infrastructure needs of the national prison system
- Register projects in the Public Project Bank of the Ministry of Planning and Economic Policy and thus incorporate them into the Ministry's operational plans, which will facilitate their implementation

Food and physical conditions in prisons (paras. 53, 55, 57 and 59)

76. As mentioned above, the Ministry of Justice and Peace is in the process of finalizing a strategic action plan – the Central Infrastructure Plan – to alleviate infrastructure problems. Since the Subcommittee’s visit, many improvements have already been made to the existing facilities, including numerous improvements with regard to access to drinking water, lighting and ventilation and the maintenance of sanitary facilities.

77. The Directorate General for Social Rehabilitation has two units whose work touches on the issue of prison infrastructure, pursuant to its establishing act, namely the Board for Construction, Installation and Property Acquisition and the Department of Architecture.

78. Between January 2019 and 15 October 2020, the Board for Construction, Installation and Property Acquisition invested a total of 3,347,167,437.62 million colones (approximately US\$ 6 million) in existing infrastructure to cover the costs of the maintenance and construction of electrical power hook-ups, classrooms, bathrooms, multipurpose rooms, recreation spaces, water storage tanks and new accommodation blocks. It also invested 17,105,235,412.24 colones (approximately \$28.5 million) in projects currently under way and 873,475,793.70 colones (approximately \$1.5 million) in projects currently in the procurement phase. (For more information, see Official Letter No. D.E PCIAB-407-2020.)

79. The Department of Architecture also has a portfolio of projects: Between 2019 and the time of writing, the Department invested 4,972,426,551.87 colones (approximately \$8.3 million), using funds provided by the Board for Construction, Installation and Property Acquisition, and 13,186,736,404.57 colones (approximately \$22 million), using funds from the national budget, in projects designed to improve the state of infrastructure.

80. The above measures reflect the strong commitment of the Ministry of Justice and Peace to improving prison infrastructure. As the Subcommittee has noted, however, the efforts made to date are insufficient to reduce overcrowding, an objective which will require the involvement and commitment of many State agencies and social actors.

81. The competent authorities are committed to ensuring that all persons deprived of liberty are provided with a mattress in good condition, which is their right and a means of ensuring the minimum decent conditions needed for rest and good mental and physical health. The Department of Institutional Supplies reports that it has placed three orders for mattresses since the Subcommittee’s visit, one in September 2019, one in February 2020 and one in October 2020, purchasing a total of 31,080 mattresses for a total cost of \$345,567.

82. The Ministry of Justice and Peace allocates an annual budget for the acquisition of necessary goods and the maintenance and construction of prison infrastructure. However, two factors make it harder for the prison administration to fulfil its obligations: firstly, public spending has been reduced in response to the current fiscal crisis in Costa Rica, and secondly, the mattresses supplied are consistently vandalized by the prison population, which substantially shortens their lifespan.

83. With regard to the preparation and distribution of food, there is indeed room for substantial improvement within the Directorate General for Social Rehabilitation. To support the cleaning and disinfection operations of kitchen staff, in 2019 the National Nutrition Coordination Office and the prison catering services developed a workplace cleaning protocol for the Ministry of Justice and Peace.

84. The protocol must be adapted to the facilities and conditions of the workplace and teams in each prison and must be brought to the attention of all persons working in the catering services. Its application is compulsory and a copy must be readily available to kitchen staff so that it can be consulted and applied at all times.

85. All kitchen staff have been trained in how to handle food, as have most of the persons deprived of liberty who provide help in the kitchens. The prison administration plans to identify all persons who have not yet received such training and will work with the National Training Institute to provide it.

86. There is currently no standardized procedure for handling, preparing and transporting food, since conditions vary from one facility to another. However, pursuant to the Subcommittee’s recommendation, an initial proposal has been sent to the Technological

Institute of Costa Rica, within the framework of the cooperation agreement in place between the two institutions, regarding the establishment of a methodology or standardized procedure to ensure that food reaches persons deprived of liberty in optimal conditions in terms of hygiene and temperature.

87. The Ministry of Justice and Peace is aware of the importance of monitoring prisoners' diets to ensure that their nutritional needs are met. In this regard, it should be noted that the prisoners eat the same food as the prison staff.

88. The Ministry of Justice and Peace employs a nutritionist in its central offices whose job is to help prison management staff to establish balanced and healthy diets and to develop special diets for detainees with particular health needs. To support this work, an N1 health assistant with a degree in nutrition was hired in early 2019.

89. The Department of Human Resources of the Ministry of Justice and Peace is in the process of appointing the nutritionist from the Ministry's central offices to the post of National Nutrition Coordinator, which will underpin efforts to invent and implement strategies to develop and monitor balanced and varied diets that cover the nutritional needs of the entire prison population.

90. There is a cycle of four weekly menus based on the food supplies currently available; these menus are regularly reviewed and improved. In November 2019, the Deputy Minister for Strategic Management requested a proposal for improvements to the menus on offer for 2020. This request has been received by the relevant professionals but has not yet been fulfilled because of delays caused by the COVID-19 pandemic. All of the measures described above will be implemented as soon as possible.

91. Pursuant to the Subcommittee's recommendations, in the near future the Ministry of Justice and Peace plans to launch a project to develop a standard procedure to ensure that food is always served to detainees in optimal conditions in terms of temperature. To this end, it will collaborate with the Catering Services Unit on an inter-institutional study to try to resolve the issue from an engineering perspective.

92. An investigation into this issue revealed that in some prisons the executive board of detainees had requested permission to purchase microwave ovens to heat food provided by external sources, i.e. food sent by detainees' relatives. The board of detainees charged 200 colones for the use of these microwave ovens. Pursuant to the Subcommittee's recommendation, this practice has been abolished.

Health care (paras. 62, 64 and 67)

93. The Ministry of Justice and Peace keeps records and carries out strict checks on the follow-up provided to persons deprived of liberty with chronic illnesses. With regard to outpatient care, currently non-standardized records are kept of the requests for medical care submitted by persons deprived of liberty and the care effectively provided.

94. Pursuant to the Subcommittee's recommendation, the Directorate of Health Services and the Directorate of the Prison Police are working together to set up a commission tasked with establishing a standardized procedure for recording the requests for medical care submitted by persons deprived of liberty and the care effectively provided. The procedure will be adapted to the specific features of each prison. The resulting register will include the name of the requester, the date and time of the consultation and the date and time of the medical service, which will make it possible to monitor waiting times for the purpose of ensuring timely assistance. The National Mechanism for the Prevention of Torture will be asked to provide advice and assistance in this regard.

95. Persons deprived of liberty who have chronic illnesses receive rigorous follow-up. In such cases, the relevant clinic organizes follow-up appointments, supplies medicines and performs health check-ups.

96. In emergency situations and in the event of acute illness, persons deprived of liberty receive immediate assistance, which is recorded in the health logs. With regard to outpatient care, the institution is currently working on a system for recording requests for medical care

and care effectively provided, pursuant to the Subcommittee's recommendation, as outlined above.

97. In addition to the institutional health services provided in every prison, specialized care, emergency services and care in the event of acute illness may be provided in external health facilities, pursuant to an agreement with the Costa Rican Social Security Fund. To that end, prison officers regularly take detainees to and from external health facilities at the request of medical staff.

98. Most medical personnel receive continuous in-service and refresher training on the human rights of persons deprived of liberty.

99. It is of the utmost importance for the Ministry of Justice and Peace and the Costa Rican State to ensure that the medical assistance provided to persons deprived of liberty complies with the minimum conditions required in prisons with respect to confidentiality, lighting, comfort and security. In this regard, most of the medical clinics under the Ministry's authority meet the minimum requirements established by the Ministry of Health. Those clinics that have not yet been certified by the Ministry of Health are currently engaged in the certification process.

100. In the prison context, it is important to strike the right balance between the confidentiality of medical care and the safety of medical personnel in cases where the patient has a history of violence. For this reason, a procedure has been established for assessing patients' behaviour against the criteria of dangerousness, level of violence exhibited, reason for the consultation, and emotional state at the time of the intervention. In consultation with prison security staff, medical staff use these criteria to determine whether it is appropriate and feasible for care to be provided in a space allowing for total privacy.

101. All medical services must include a review of the detainee's medical history and a physical examination, during which any unusual injuries or pain detected must be recorded in the detainee's file. Medical personnel must record any injuries resulting from physical assault in a report and submit this report to the competent authorities.

102. The Ministry of Justice and Peace is committed to raising awareness among and reminding prison staff of the importance of the process outlined above and of the importance of affording persons deprived of liberty due discretion where possible and warranted by the reason for the consultation. It is also committed to ensuring that all medical clinics under its authority are certified by the Ministry of Health as a matter of priority.

Management of high-risk persons deprived of their liberty (para. 71)

103. Persons held in the National Special Detention Centre are subject to the regulations of the national prison system. Persons serving sentences in the Centre are permitted to exercise in their cells, which most do on a daily basis, and every two weeks they are allowed out in the yard for an hour of outdoor exercise, in accordance with the regulations. Some detainees are held together in group cells that can house up to four persons. Such cells respect the spatial requirements and measures prescribed in the regulations and allow detainees to communicate with one another at all times.

104. Persons held in the National Special Detention Centre have televisions and radios in their cells, giving them immediate access to information from the outside world, are provided with national newspapers and can make two telephone calls a week. In view of the COVID-19 pandemic, the inmates are currently allowed to make a third telephone call on weekends. The Centre does not have solitary confinement cells, only individual and group cells that respect the spatial requirements and measures prescribed in the prison regulations.

105. According to the statistics available in the medical registers consulted, patients from the San Rafael National Special Detention Centre represent the highest proportion of prisoners requiring medical assistance. However, pursuant to the Subcommittee's recommendation, a system for recording medical consultations and medical care effectively provided is currently being developed, which will make it possible to detect and address long waiting times.

106. The National Special Detention Centre employs a full-time clinical psychologist (Monday to Friday, 8 a.m. to 4 p.m.). Medical care, including consultations for patients with chronic illnesses and outpatient and emergency care, is provided by the medical centre in the west wing. Specialist assistance, including psychiatric assistance, is currently provided by nearby hospitals.

107. Persons requiring psychiatric care receive assistance by virtue of an agreement with the Costa Rican Social Security Fund. In view of the COVID-19 pandemic, a remote consultation system has been established for persons deprived of liberty who have been placed in quarantine.

108. Pursuant to the Subcommittee's recommendation, a joint initiative is under way to develop an effective complaints procedure to facilitate the prompt investigation of potential crimes.

109. The administration is required to process all complaints expeditiously and effectively. As mentioned above, work is under way on an inter-institutional complaints protocol to facilitate the complaints procedure.

Disciplinary practices (paras. 73 and 76)

110. The prison regulations of the Ministry of Justice and Peace prohibit all forms of collective punishment.

111. The Ministry of Justice and Peace provides water wells to ensure that detainees have access to potable water, in keeping with their rights to health and personal hygiene.

112. However, these wells are operated by a pumping system powered by an electromechanical mechanism, which often has to be repaired as a result of external factors (for example, leaks and power cuts) and which requires preventive and corrective maintenance.

113. Whenever preventive or corrective maintenance has to be performed on these systems, prior planning and coordination is undertaken in conjunction with the directors of the prisons concerned so that they can take the necessary steps to ensure that all prisoners affected continue to have access to potable water.

114. Every space in the prisons of the Ministry of Justice and Peace complies with the Costa Rican Building Regulations and the Manual of General Technical Provisions on Human Security and Fire Safety, which has a chapter on prisons. Due consideration is also paid to international minimum standards, such as the Nelson Mandela Rules, the recommendations of the Conference of Ministers of Justice of the Ibero-American Countries, the International Committee of the Red Cross guidance on water, sanitation, hygiene and habitat in prisons, and the United Nations Office for Project Services Technical Guidelines for Prison Planning, as well as other current design standards.

115. Solitary confinement is duly regulated. It may be ordered for two reasons:

(1) As a precautionary measure when a person's life is in danger or for reasons of prison security: In such cases, in accordance with established procedure, a request for authorization must be submitted to the sentence enforcement court, detailing the circumstances and conditions of the confinement and explaining why it is necessary to protect the life of the person in question or to ensure prison security.

(2) For health reasons, for example, in the event of an outbreak of tuberculosis, hepatitis or another infectious disease, or in the form of preventive isolation based on medical advice, for example, in the context of the COVID-19 pandemic, in response to which persons deprived of liberty may be placed in isolation for a period not exceeding 14 days on medical advice and subsequently reintegrated into the prison population following a medical examination.

116. Nonetheless, pursuant to the Subcommittee's recommendation, a reminder will be sent out to prison staff and prison directors reiterating the rules described above.

Search and inspection procedures (para. 78)

117. The legal provisions governing personal search and inspection procedures are set out clearly in the Criminal Code and the national prison system regulations. These procedures are applied to persons visiting prisons, persons deprived of liberty and personnel working in prisons. Goods and items brought into prisons are also subject to inspection. Search and inspection procedures play a fundamental role in maintaining order and institutional security in prisons.

118. Personal searches are preventive in nature and are intended to ensure personal safety and compliance with the regulations in force. They involve the inspection of clothing, which may require the loosening of certain items of clothing or the removal of outer garments, and are performed on visitors, persons deprived of liberty and prison staff. A pat-down is performed on the covered parts of the person's body in order to make sure that he or she is not carrying anything that could put prison security at risk.

119. Personal searches must be carried out with full respect for the person's dignity. In no event may the person be required to undergo a search of his or her private parts or to undress.

120. Inspections, on the other hand, are punitive in nature and are performed on an exceptional basis in order to detect prohibited items. Prison officers are authorized to perform personal inspections if there are sufficient grounds to believe that a person is hiding belongings in his or her clothing or has unauthorized items attached to his or her body.

121. According to the Code of Criminal Procedure, inspections must be carried out in individual cubicles designed for that purpose, men and women may not be searched in the same space, and inspections must be performed by an official of the same sex as the person being searched. A witness must be designated before the inspection is carried out and, in the presence of that witness, the person subject to the inspection must be informed that he or she is about to be searched.

122. An inspection report reflecting the above must be drawn up. Any objects found during the search must be confiscated and a record of the confiscation and a report must be filed. If nothing is found during the search, the details of the case are recorded in an inspection report, which is subsequently kept on file at police headquarters.

123. The use of violence during search and inspection procedures is illegal and may constitute an offence. Any person who believes that his or her rights were infringed during a search or inspection procedure may take appropriate action before the competent authorities. As mentioned earlier in the present report, there are plans to develop a protocol to allow persons deprived of liberty to file complaints with the courts without undue procedural delays.

124. Searches and inspections are performed by qualified police personnel who have been duly trained to carry out their duties with full respect for the physical and emotional integrity of the person subject to the procedure.

125. As a result of the effective implementation of technological resources, some prisons are now equipped with devices capable of detecting prohibited objects and substances. These devices include X-ray machines, body scanners and handheld metal detectors, as well as video surveillance systems that can be used to detect activities that may jeopardize prison security. Thanks to their advanced technology, these devices are less physically invasive for visitors and detainees. Securing institutional resources and external donations in order to acquire more such devices has therefore been made a priority.

Rehabilitation programmes (para. 81)

126. The comprehensive rehabilitation unit model is a new system being applied in Costa Rican prisons that makes use of improved facilities and employs substantially different technical and professional techniques in the treatment of prisoners. The units operate according to a regime which successfully incorporates educational, cultural, sporting and leisure activities and which, over time, has established itself within the prison system as an effective reintegration mechanism. Work is currently under way on a mechanism to measure the results achieved by the comprehensive rehabilitation units in order to try to replicate those

results in other prisons on the basis of the data collected. This project has been given the green light by the Directorate General for Social Rehabilitation.

127. The current administration's governance plan provides for the roll-out of the "Building Opportunities" project, a multidisciplinary initiative led by the competent ministerial office. The project consists of employment programmes, including, for example, a programme aimed at placing prisoners' products on the market. Foremost among the legal advances made this year was the drafting of updated prison system regulations, which are currently under review. Progress in other areas includes the launch of an initiative to create new employment opportunities through public-public and public-private partnerships and to strengthen ongoing projects designed to provide technical and professional training to promote the development of the necessary skills for social reintegration. (See Official Letter No. DNASI-113-2020, attached.)

128. Entrepreneurial small-scale production in prisons has been given a boost thanks to coordination between the Ministry of Justice and Peace, the Ministry of Economic Affairs, Industry and Trade, the National Training Institute and the Costa Rican Tourism Board. The "Opportunities for Self-Employment in Small-Scale Production" programme explores alternative strategies and mechanisms for improving and optimizing the production of handmade goods in prisons to allow persons deprived of liberty and their families to sell their own products on the national market.

129. One of the most significant steps taken in this area has been the registration of the "Second Chance" brand of prisoner-made products, which has brought national recognition to products made by persons deprived of liberty. The certification of prisoner-made products with the national brand of Costa Rica and the artisan seal of authenticity recognized by the competent institutions is under way. In 2018 and 2019, around 15 different craft fairs were held to demonstrate the craft skills of the prison population, including, for example, the "Give Yourself a Second Chance" fair held in a shopping centre in the city of Alajuela. These experiences give persons deprived of liberty a chance to enjoy time outside of the prison walls and contribute to changing the punitive and repressive attitudes that are widespread in society. In keeping with the principle of shared responsibility, the community has also been given opportunities to create spaces for social reintegration, with the support of local governments in municipalities such as Liberia, San Carlos, Limón, Alajuela, and Nicoya, which have promoted the sale of handicrafts in local markets.

130. The opening up of new opportunities in the area of education and its benefits has been a long-standing project for the Ministry of Justice and Peace, which is why social reintegration is a fundamental aspect of the prisoner support model. It requires a rethink of how prisons are run, with a view to counteracting the effects of prisonization, including its knock-on effects on the family, recidivism and overcrowding. All convicted prisoners and pretrial detainees are entitled to enrol in literacy programmes, levels 1, 2 and 3 of the modular education programme for young people and adults, open education programmes, programmes run by the State Distance University and free courses.

131. One of the goals of the academic process must be to ensure that persons deprived of liberty devote part of their free time to study towards predetermined objectives. In this regard, informal education, especially the developmental education courses designed by the Ministry of Education, has become a fundamental tool. The availability of these courses depends on student demand, the specificities of the prison population and sociocultural context of each prison.

132. With regard to sport, indoor and outdoor football, chess, volleyball, and baseball tournaments have all been organized in the past, as have athletic games (with and without relay races) and weightlifting competitions. Various traditional games have also been held to celebrate different events.

133. By virtue of a comprehensive approach encompassing education, training, sports, culture, spirituality and work, as well as individual and group activities led by professionals including psychologists, social workers, counsellors, lawyers, occupational therapists, nutritionists, doctors and nurses, persons deprived of liberty are encouraged to coexist peacefully and to adhere to social norms, which in turn facilitates their reintegration into society and the world of work.

134. Article 165 of the national prison system regulations establishes a series of basic principles to which professionals providing services and support must adhere:

- Support plans must be based on scientific studies
- A direct relationship must be established with the person deprived of liberty
- Services and support must be tailored to the individual on the basis of professional studies that take into account personal, social and environmental factors, as well as prison conditions, legal status and capacity to live with others
- Services and support must be interdisciplinary, utilizing various methods of professional, individual and group treatment, with respect for the fundamental rights of participants
- Services and support must be continuous, constant, and dynamic and must be able to adapt to the development and responses of the person deprived of liberty

135. Article 166 of the regulations establishes that decisions regarding the professional support provided to each inmate are taken by the Council for the Provision of Professional Services in Comprehensive Rehabilitation Units on the basis of the inmate's personal characteristics, his or her personal and social vulnerability, the type of crime committed, victimological aspects, the penalty imposed, his or her capacity for coexisting with others and the level of containment that he or she requires. The details of all services provided must be recorded.

136. In comprehensive rehabilitation units, evaluation must be continuous and systematic and services provided by the professionals of the centre or unit must be monitored and assessed in accordance with the relevant support plan.

137. Unfortunately, in view of the grave situation facing the country as a result of the permanent overcrowding of prisons, the Ministry of Justice and Peace has had to allocate additional space for the detention of persons deprived of liberty. All available resources must be used to their maximum capacity in order to apply the law, meaning that space within the comprehensive rehabilitation units has been requisitioned for this purpose. This does not entail a change in the support model, however, since all persons detained in the comprehensive rehabilitation units benefit from the services provided there.

Treatment of women deprived of their liberty (paras. 83 and 85)

138. The regionalization project of the Ministry of Justice and Peace is an institutional initiative to bring women convicts closer to their external support networks (family members, children, acquaintances, partners, etc.) while they serve their sentences. Women with children aged 3 or under may live together with those children in the mother-and-child unit.

139. Work is under way on three new women's prison facilities outside the Greater Metropolitan Area (the current women's prison is located in the capital), in Pérez Zeledón, Pococí and Puntarenas. Each facility will have the capacity to house 36 women (4 in the mother-and-child units and 32 in the dormitories). Work on the Pérez Zeledón facility has been already completed and the Pococí facility was officially finished in November. These two facilities represent an investment of approximately 992,465,360.86 million colones (approximately \$1.6 million). The facilities are expected to open in late 2020 or early 2021, and will operate according to a prison regime based on social reintegration and gender mainstreaming in all support processes. The location of these new facilities will allow women convicts from nearby areas to serve their sentences closer to their families and communities. The Puntarenas facility is expected to open in 2021 or 2022; the project is currently in the procurement stage.

140. The application of non-custodial measures in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) falls within the jurisdiction of the courts, in accordance with the principle of judicial autonomy and independence. Nonetheless, in order to clarify the situation with regard to the application of non-custodial measures, a study was conducted into the number of women in respect of whom Act No. 9271 on the Use of Electronic Monitoring Devices in Criminal Justice (one of the non-custodial measures provided for in the Criminal Code) had

been applied. According to reports issued by the Research and Statistics Unit, in the first two years after the adoption of the Act, the number of women subject to this particular custody and surveillance measure increased from 71 as of December 2017, to 142 as of December 2018, to 201 as of December 2019 and then to 208 as of July 2020.

141. The Costa Rican State is respectful of the individual guarantees of all inhabitants of the Republic, including persons deprived of liberty. Health care is a human right that cannot be denied; the State therefore strives to provide health care to all persons deprived of liberty who require it, in accordance with available means and resources. Catering services are provided in accordance with the needs of the prison population by qualified professionals, with the help and participation of persons deprived of liberty. Persons who require a special diet for health reasons are accommodated. With regard to personal hygiene products, the current global situation has forced public institutions to redouble their efforts to ensure a healthy environment in order to combat COVID-19. This situation has not spared the prison system, which has provided detainees with the necessary products to disinfect their living areas and maintain a healthy environment. In addition, donations are often received from civil society and private businesses.

C. Centres for adolescents and young adults in conflict with the law (para. 94)

142. The power to amend existing laws lies with the Legislative Assembly, but the executive branch can make recommendations in that regard. The State would be grateful if the Subcommittee could point out those aspects of its juvenile criminal legislation that are contrary to the international instruments to which Costa Rica has acceded, so that it can follow up on the Subcommittee's recommendation. The Ministry of Justice and Peace stands ready to participate in a process of legislative reform in order to better protect the human rights of the juvenile prison population; it must be borne in mind, however, that the legislative process falls outside its remit by virtue of the principle of the division of powers. There is currently one specialized centre for juvenile offenders in the prison system. For budgetary reasons, allowing juvenile detainees to remain close to their local communities represents a considerable challenge for the system. Nonetheless, the state of juvenile prison infrastructure has been assessed and taken into account in the aforementioned Central Infrastructure Plan.

143. The law that governs due process in juvenile criminal matters is Act No. 8460. Disciplinary procedure is covered in chapter IV of the Act, specifically articles 108 to 110. Other laws, such as the Criminal Code and the Code of Criminal Procedure, may also be applied to address any gaps in due process. All disciplinary measures constituting cruel, inhuman or degrading treatment are strictly prohibited, including corporal punishment, solitary confinement as a punishment and any other punishment that may compromise the physical or mental health of the person concerned.

144. With regard to the prevention of self-harm among the prison population, the activities organized at the Zurquí Juvenile Training Centre are designed to promote the personal development of young people and mitigate the adverse effects of imprisonment and punishment. These activities, which include sport, recreation, art, culture, group and individual support sessions, education and volunteering, not only allow young people to build their skills and competencies but are also key to alleviating the stress of confinement and thus to preventing self-harm and other forms of self-destructive behaviour, such as violent conduct and psychoactive substance abuse.

145. In the event of self-harm, professional psychologists apply a protocol developed by the National Institute of Criminology. Professional psychologists developed a specific psychotherapeutic procedure for residents of the Zurquí Juvenile Training Centre, given the frequency and patterns of self-harm there. It was observed that some young people were self-harming because of the influence of their peers. This finding inspired a group approach to the problem, which yielded significant results that helped to reduce and prevent self-harm. With regard to the provision of medical assistance in the Juvenile Training Centre, cases of self-harm are handled by a professional staff nurse, who, where necessary, can refer patients

to a health centre. One of this nurse's duties is to report signs of psychological distress to the psychology specialists.

Psychiatric centres (paras. 96, 98 and 100)

146. As part of the initiatives described in paragraphs 27 and 154 of the present report, the Public Prosecution Service is working on an inter-institutional protocol for receiving and processing complaints and investigating criminal cases involving acts of torture or ill-treatment against persons deprived of their liberty in the Centre for the Care of Persons with Mental Illness in Conflict with the Law. The protocol will provide for regular visits by the authorities during which persons deprived of liberty will be able to file complaints with all the proper safeguards to ensure that possible crimes are investigated promptly.

147. The Costa Rican Social Security Fund is currently implementing a project to construct a revamped Centre for the Care of Persons with Mental Illness in Conflict with the Law on the grounds of the National Psychiatric Hospital. As part of this project, four pavilions will be made available for the treatment of persons with mental illness in conflict with the law, whose location will depend on profiles determined in accordance with medical and safety criteria. The project is intended to improve the state of the infrastructure and equipment used in the care and treatment of such persons.

148. The new centre was 40 per cent complete as of October 2020. According to the original timeline, the project was due to be completed by January 2021. However, the construction company requested an extension of the deadline until February, which was granted by the Directorate for Institutional Maintenance. Accounting for the additional time needed for the final inspection and any final changes, the project should be finished by April 2021.

149. The Centre's structured occupational therapy rehabilitation programme is designed around six basic categories of programmed activities, which are intended to help participants to develop the competencies needed for daily life and the necessary adaptive skills for optimal development. These categories are:

- Adaptive skills
- Use of free time
- Education
- Occupation
- Physical activity
- Cognitive stimulation

150. The move to the new facilities will not only represent an improvement in the conditions of detention for persons with mental illness in conflict with the law, but will also mean better professional care, since the new buildings will be located in a hospital centre specialized in psychiatric disorders.

V. Training and labour conditions for prison personnel (para. 105)

151. As the Subcommittee rightly states in its recommendations, the continuous and efficient training of prison staff in respect for human rights is essential to ensure that the deprivation of liberty is not counterproductive and that, as part of their subsequent reintegration into society, prisoners are able to coexist normally with others.

152. Since 2012, in coordination with the national preventive mechanism of the Ombudsman's Office, the Training School for Prison Officers has offered human rights courses in the prison system. The courses are designed for groups of 20 participants and course activities are endorsed by the Costa Rican Civil Service. In addition to these courses, lectures are frequently given on international human rights instruments and on the Constitution, with the prevention and prohibition of torture as a cross-cutting theme.

153. Any and all cooperation in the area of training for prison staff is clearly extremely valuable. Therefore, contact will be made with the Latin American Institute for the Prevention of Crime and the Treatment of Offenders to explore the possibility of expanding the courses offered at the Training School for Prison Officers, for increased and improved human rights training.

154. In line with what has already been indicated in paragraphs 27 and 146, the Ministry of Justice and Peace is spearheading the creation of an inter-institutional reporting protocol, with a view to addressing recommendations 5, 6, 7, 12, 15, 25 and 34. On Thursday, 12 November 2020, the Ministry of Justice and Peace, together with the Ministry of Foreign Affairs, held a meeting with all the institutions concerned, with a view to analysing each of the Subcommittee's comments on this issue.

155. Representatives of the following institutions participated in the meeting: the Ministry of Justice and Peace, the Ministry of Foreign Affairs, the Ministry of Public Security, the Public Prosecution Service, the Public Defence Service and the national mechanism for the prevention of torture. Significant progress was made by listening to and discussing each institution's position, the progress made and each institution's projects aimed at preventing institutional violence against prisoners.

156. A consensus was reached as to the need to welcome the Subcommittee's recommendations and to jointly create the aforementioned protocol, with a view to resolving the issues identified and achieving the following objectives:

- Instruct, train and raise the awareness of the staff of the participating institutions.
- Encourage the informal reporting of acts that could constitute torture or cruel, inhuman or degrading treatment or punishment.
- Ensure greater involvement of the Public Prosecution Service in taking complaints and more efficient investigations, in order to prevent impunity.
- Ensure timely and good-quality medical evaluations, in line with the Istanbul Protocol.
- Ensure confidential, direct and reprisal-free reporting for prisoners
- Afford special protection to those suffering from mental illness and residents of the National Special Detention Centre.

157. Given the complexity of the task ahead, significant coordination and organization will be required. It may also be necessary to involve other major actors, such as the Directorate General for Migration and the Costa Rican Social Insurance Fund. Finalizing the draft protocol will assuredly be a major step forward in protecting the human rights of the prison population, and it will contribute significantly to the further consolidation of the Costa Rican social rule of law.

VI. Next steps (paras. 106–110)

158. The Ministry of Foreign Affairs, through the Department of International Law and Human Rights of the Directorate General for Foreign Policy, will hold internal meetings with the participation of representatives of the Ministry of Justice and Peace, as well as with the national preventive mechanism, to continue the constructive dialogue with the Subcommittee, with a view to evaluating the implementation of the recommendations arising from the report.