

**Universal Periodic Review**  
**(19<sup>th</sup> session, May –June 2014)**  
**Contribution of UNESCO to Compilation of UN information**  
**(to Part I. A. and to Part III - F, J, K, and P)**

**Costa Rica**

**I. BACKGROUND AND FRAMEWORK**

**A. Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO**

I.1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education (1960)	Ratification 10/09/1963	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education. (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	23/08/1977 Ratification			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	23/02/2007 Ratification			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	15/03/2011 Ratification			Right to take part in cultural life

**II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P**

## Right to education

### Constitutional Framework:

2. Title VII of the Constitution of Costa Rica of 19491 is dedicated to “Education and Culture” (Articles 76 to 88). According to Article 77, “Public education shall be organized as a comprehensive process correlated in its various phases, from preschool to university education.” Article 78 stipulates: “(1) Preschool education and general basic education are compulsory. These levels and the diversified education level are, in the public system, free and supported by the Nation. (2) In state education, including higher education, the public expenditure will not be inferior to six percent (6%) of the gross domestic product, in accordance with the law without detriment to the provisions of Articles 84 and 85 of this Constitution; (3) The State shall facilitate the pursuit of higher studies by persons who lack monetary resources. The Ministry of Public Education, through the organization established by law, shall be in charge of awarding scholarships and assistance.”

3. Moreover, “Freedom of teaching is guaranteed. However, all private educational centres shall be under the supervision of the State” (Article 79); “Private initiative in educational matters shall be encouraged by the State, in such form as provided by law (Article 80). According to Article 82, “The State shall provide food and clothing for indigent pupils, in accordance with the law.” Article 76 stipulates: Spanish is the official language of the nation. Nonetheless, the State shall make sure Indigenous languages are preserved and promoted.” In addition, “The State shall organize and support adult education, designed to combat illiteracy and to provide cultural opportunities for those who wish to improve their intellectual, social, and economic position” (Article 83). Articles 84 to 88 are related to higher education.

### Legislative Framework:

4. The basic legislative framework for education in Costa Rica is made up of:

- The 1957 Fundamental Education Act (*Ley Fundamental de Educación*<sup>2</sup>)
- The 1996 Equal Opportunities Act (*Ley No. 7600 “Igualdad de Oportunidades para personas con Discapacidad”*<sup>3</sup>)
- The 1965 Act on the Ministry of public education (*Ley Orgánica del Ministerio de Educación Pública n° 3481*<sup>4</sup>)
- **Act n° 6541**, promulgated in 1980, regulates the creation and functioning of institutions of para university higher education. Decree N° 30431-MEP of 2001 regulates the application of this Act.

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<sup>1</sup> [http://www.costaricalaw.com/legalnet/constitutional\\_law/constitenglish.html](http://www.costaricalaw.com/legalnet/constitutional_law/constitenglish.html) (accessed 08/04/2013);

[http://www.asamblea.go.cr/Centro\\_de\\_Informacion/Documentos%20compartidos/Constitución%20Política%20de%20Costa%20Rica.pdf](http://www.asamblea.go.cr/Centro_de_Informacion/Documentos%20compartidos/Constitución%20Política%20de%20Costa%20Rica.pdf) (accessed 08/04/2013)

<sup>2</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/leyfundamental-285200810525.pdf> (accessed 08/04/2013)

<sup>3</sup> <http://www.inamu.go.cr/images/stories/ley7600.doc> (accessed 08/04/2013)

<sup>4</sup> [http://www.oei.es/quipu/costarica/Ley\\_3481.pdf](http://www.oei.es/quipu/costarica/Ley_3481.pdf) (accessed 08/04/2013)

- The **Act n° 6693** of 23 November 1981 created the Council of private higher education (*Consejo de Educación Superior Privada (CONESUP)*) whose mission is to authorize the creation and functioning of private universities.
- The regionalization of education was established by Executive **Decree n° 21169-MEP** (*Decreto Ejecutivo n° 21169-MEP*) of 17 March 1992.
- **Decree n° 34075-MEP** of 18 October 2007<sup>5</sup> regulates the administrative organization of regional department of the Ministry of Public Education.
- **Decree No. 2235** of 1972 regulates teachers' career.<sup>6</sup> It was modified in 2005 by **Decree No. 29572**<sup>7</sup>.
- **Decree n° 24017-MEP** of 27 February 1995 establishes rules to officialise, compare, certify and accredit studies done in private centres.
- 18 March 1997, the Council of higher education (*Consejo Superior de Educación*) accepted the creation of the National Centre of evaluation for education (*Centro Nacional de Evaluación para la Educación*).
- the Rule for the organization and functioning of the student government and the student electoral code (*Reglamento para la organización y funcionamiento del gobierno estudiantil y código electoral estudiantil*).

### **Policy Framework:**

5. In 2004, the Superior Council of Education adopted an educational policy towards the 21<sup>st</sup> Century (*Política Educativa Hacia el Siglo XX*)<sup>8</sup>. **The National Plan of Action of Education for All** was constituted from 2003-2015.

#### - **Inclusion**

6. In the Working Group on the Universal Periodic Review Ghana recommended Costa Rica “To take measures to ensure equitable access of indigenous children, migrant children and those living in rural areas to education and health services and improve their standard of living.”<sup>9</sup> The recommendation was accepted. In this regard, special attention is provided to indigenous people who do not enjoy the right to education. The creation of the **Department of Indigenous Education** has contributed to invigorating maternal language.

7. The Ministry of Education tries to implement “**a social policy in the classroom**” in order to improve school access for students in primary and secondary education, especially to weak and extremely gifted pupils. This policy includes several programs: a) to give basic education: it

<sup>5</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/Decreto%2035513-2011200981157.pdf> (accessed 08/04/2013)

<sup>6</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/reglamentocarreradocente-2852008102038.pdf> (accessed 08/04/2013)

<sup>7</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/mod-reglamentocarreradocente-2852008102140.pdf> (accessed 08/04/2013)

<sup>8</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/politicaeducativasigloXXI-226200914446.pdf>

<sup>9</sup> Working Group on the Universal Periodic Review, 4 January 2010, Recommendation 68, [http://www.upr-eu.com/files/152/A\\_HRC\\_1\\_1\\_CRI\\_E.pdf](http://www.upr-eu.com/files/152/A_HRC_1_1_CRI_E.pdf)

offers a subsidy in school materials that serves like complement to the family's income; b) program of student public health must guarantee access to health services to the whole student population younger than 18 years; c) program of student scholarship consists on an economic support for students from families presenting conditions of poverty; d) program for free transportation of students; e) program of feeding and nutrition of the scholar and the adolescent offers a complementary basic to students under conditions of poverty and of extreme poverty.<sup>10</sup>

- **Quality education**

8. In 2009, Costa Rica adopted a national policy on application of information and communication technologies to education.<sup>11</sup>

- **Literacy**

9. With a view to the elimination of illiteracy, a National Literacy Plan (**PLANALFA**), designed to halve the number of illiterates in the country, has been implemented in all regional education authorities. The 2011 census results and statistical data show that the goal is being currently achieved, but we shall continue to forge ahead without lowering our guard. The allocated budget therefore covers the payment of teachers who perform the above task. It must be noted that they are professionals with the requisite university qualifications to deliver quality education in an inclusive-education setting.

**Cooperation:**

10. Costa Rica is party to the 1960 UNESCO Convention against Discrimination in Education (CADE) since 1963, and reported for the Eighth Consultation on the measures taken for the implementation of the Convention against Discrimination in Education (covering the period 2006-2011). However, it did not report for the:

- Sixth Consultation of Member States (covering the period 1994-1999).
- Seventh Consultation of Member States (covering the period 2000-2005).

11. Costa Rica reported to UNESCO in 2009 within the framework of the Fourth Consultation of Member States on the measures taken for the implementation of the 1974 UNESCO's Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (covering the period 2005-2008). However, it has not yet reported within the framework of the Fifth Consultation of Member States the measures taken for the implementation of the 1974 Recommendation (covering the period 2009-2012).

12. Costa Rica reported within the framework of the Second Consultation (2011) on the measures taken for the implementation of the 1976 Recommendation on the Development of Adult Education. However, it did not report for the First Consultation (1993).

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<sup>10</sup> Ibid.

<sup>11</sup> <http://www.mep.go.cr/CentroDeInformacion/DOC/Politica%20Nacional%20aplicacion%20TICS-292009104731.pdf>

13. Costa Rica is not party to 1989 UNESCO's Convention on Technical and Vocational Education.

### **Cultural rights**

#### Freedom of creative activity, artistic freedoms, right to conduct cultural practices – cultural heritage practice

#### Normative Framework: constitutional and legislative frameworks

14. Article 89 of the Costa Rica Constitution of 1949 states that the cultural aims of the Republic include the protection of its natural beauty, the preservation and development of the historic and artistic wealth of the Nation, and the support to private initiative directed to scientific and artistic progress. The Article 95 of the Constitution also recognizes that the law shall regulate the exercise of suffrage in accordance with the principle of representation of minorities. However, the Constitution does not recognize the existence of indigenous peoples and their right to preserve their languages and cultural life.

#### Institutional framework:

15. The Ministry of Culture and Youth was created in 1971 and has the obligation to ensure the country's cultural development, access to culture by all and to promote civil participation in the development and implementation of its cultural policies. At local level, the Ministry has a network of Regional Offices which represent the State, monitor the implementation of adopted policies and promote the participation of all in cultural life, supported by the Network of Houses of Culture. The Ministry also counts on several specialized and autonomous institutions namely: the Centre for Cinematographic Production, the National Dance Company, the National Theater Company, the National Museum, the Centre of Contemporary Arts and Design and the Centre for the Conservation of Cultural Heritage. The Ministry itself, or through its specialized autonomous institutions, is in charge of ensuring the implementation of UNESCO's conventions in the field of culture.

#### Policy measures:

16. The First National Cultural Policy and Culture Law are under construction since 2010. It aims at defining the role of the State towards the cultural development of the country and the creation of conditions for a more dynamic cultural life. Costa Rica is undergoing a participatory process to define its First National Cultural Policy and Culture Law which will focus on state investment in culture and pursue the strengthening of the cultural sector. Culture has a major role to play in the country's development considering the country's cultural diversity and dynamic tourism sector. However, the capacities at local level to develop and implement cultural activities autonomously are limited.

#### Work with civil society:

17. The Regional Offices of the Ministry are in charge of the promotion of the participation of all in cultural life. They have a crucial role in the creation of the conditions for a dynamic cultural

life and the development of cultural associations in close cooperation with the Houses of Culture. Despite efforts and measures taken, the cultural sector is very atomized. In addition, artists and cultural managers are not organized in professional associations and lack recognition.

### **Freedom of opinion and expression**

#### Constitutional and Legislative Framework:

18. Freedom of expression is guaranteed under the Constitution of Costa Rica, particularly under Article 28 and Article 29.

19. Defamation and libel charges could previously be found in various articles under the Costa Rica legislation. In 2002, the Legislative Assembly eliminated Article 309 of the Criminal Code, under which insulting the dignity of the president and other public officials was considered a crime. The Printing Press Law (1902) included Article 7 which carried prison sentences of up to 120 days for defamation in print media. This article was revoked by the Supreme Court in 2010.

20. The Computer Crimes Act (*Ley de Delitos Informáticos*)<sup>12</sup> was introduced in July of 2012, under which anyone found publishing “secret political information”, which included “consulting internal e-mails from a government agency”, can be sentenced from four to eight years imprisonment. This provision was eliminated in April 2013. However, the provision under which revealing state secrets related to national security, defense of sovereignty and foreign relations, was unchanged and is punishable by one to six years in prison sentence<sup>13</sup>. The provision nonetheless allows for appeals.

21. Article 30 of the Constitution of Costa Rica states that: “The free access to administrative departments for the purposes of obtaining information on matters of public interest is guaranteed. State secrets are exempt from this provision.” The Constitutional Chamber of the Supreme Court reaffirmed the right of access to state-held information in a 2003 case concerning access to banking information of political parties held by the Central Bank<sup>14</sup>. The Constitutional Chamber of the Supreme Court of Costa Rica upheld the right of access to bank account information concerning a political party in a 2003 decision. The Board of Directors of the Bank of Costa Rica had denied the request for information presented by Representative José Humberto Arce Salas regarding irregularities in the private financing of political parties, on the grounds that such information was protected by bank secrecy and the right to privacy. The Court reasoned that “in case there is unequivocal evidence that a political party has transferred part of its private funds to

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[http://www.asamblea.go.cr/Centro\\_de\\_informacion/biblioteca/Centro\\_Dudas/Lists/Formule%20su%20pregunta/Attachments/335/PROYECTO%2017613%20DELITOS%20INFORMATICOS.pdf](http://www.asamblea.go.cr/Centro_de_informacion/biblioteca/Centro_Dudas/Lists/Formule%20su%20pregunta/Attachments/335/PROYECTO%2017613%20DELITOS%20INFORMATICOS.pdf)

<sup>13</sup> Same as above

<sup>14</sup> Appeal for constitutional protection presented by the Representative José Humberto Arce Salas against the Bank of Costa Rica. File: 02-009167-0007-CO, Res. 2003-03489.

a privately-owned company ... the information would cease to be of a private nature ... and become of public interest."<sup>15</sup>

22. However, a freedom of information law does not currently exist in Costa Rica.

#### Media Self-Regulation:

23. Media self-regulation mechanisms exist in the country such as through the Journalists' Union of Costa Rica (*Colegio de Periodistas de Costa Rica*).

#### Safety of Journalists:

24. UNESCO recorded no killing of journalists in Costa Rica between 2008 and 2012. Journalists work safely in the country.

### **III. RECOMMENDATIONS**

#### **Right to education**

25. Costa Rica could be encouraged to further elaborate provisions in their legislation and/or report on the justiciability of the right to education in order to increase the potential for the right to education to be respected, protected, fulfilled and monitored.

26. Costa Rica could be encouraged to strengthen measures that allow the indigenous communities to have access to education in order to ensure that the levels of poverty, illiteracy and unemployment of indigenous communities and Afro-descendants be reduced.

27. Costa Rica could be encouraged to continue to promote further the cultural development for the indigenous population, through the Department of Indigenous Education in the Ministry of Education, which has contributed to the revival of indigenous languages, as well as the reflection of indigenous culture in school curricula and the adoption of programs to promote bilingual education in the indigenous language and Spanish.

28. Costa Rica could be encouraged to incorporate ethics, aesthetics and civics, as well as human rights education, in school curricula.

#### **Cultural rights**

29. Costa Rica should be encouraged to concentrate on strengthening capacities to develop a stronger decentralized cultural sector, in conformity with the needs of its multicultural population. Special attention should be paid to local cultural needs, to the economic potential of the country's cultural assets particularly in combination with natural assets and to the cultural

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<sup>15</sup> Annual Report of the Special Rapporteur for Freedom of Expression 2003, Inter-American Commission on Human Rights, Chapter IV - Report on Access to Information in the Hemisphere, para. 108, at <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=229&IID=1>.

approach to prevent conflict, in particular violence against indigenous and afro descendant peoples.

### **Freedom of opinion and expression**

30. UNESCO welcomes progressive effort by Costa Rica in eliminating criminal defamation including the recent amendment to the Computer Crimes Act in April 2013 to eliminate imprisonment for publishing what is considered as secret political information.

31. Costa Rica is encouraged to adopt a freedom of information law that is in line with international standards.

### **Freedom of scientific research**

32. With regard to contribution of science and technology to development, Costa Rica is encouraged to report to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and a possible revision of the 1974 Recommendation on the Status of Scientific Researchers, in particular on the measures undertaken in the country to implement such principles of the Recommendation as the obligation of state authorities to ensure that scientific researchers have the responsibility and the right to work in a spirit of intellectual freedom; to participate in the determination of the aims, content and methods of research, which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; to creativity, occupational mobility, international cooperation for furtherance of international peace, cooperation and understanding, etc.