

# The Refugee Response Index

## Costa Rica Country Report

July 2021



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## 1. Introduction

The Refugee Response Index (RRI) is an endeavour led by DARA to assess countries' responses to refugees in a global, independent, and comprehensive manner. Its primary purpose is to be an assessment tool to support national and international action designed to protect refugees and create an enabling environment for refugees. It aims to provide reliable, independent information on the implementation of relevant international commitments in a comprehensive manner.

This report discusses the RRI for Costa Rica. After Ecuador, Brazil and recently Mexico, Costa Rica has the largest refugee population in Latin America.<sup>12</sup> Historically, Costa Rica has been a country of refuge mainly for people from Colombia, Central America, and Venezuela. However, the number of applications received has experienced an unprecedented increase in the last five years.<sup>3</sup> Starting with significant flows of Venezuelan people since 2016 and, later, following public uprising in Nicaragua during March through July 2018 and the Nicaraguan government's disproportionate use of force in response to public protests, and the ensuing persecution of leaders and protesters,<sup>4</sup> the number of refugee applications in Costa Rica grew exponentially<sup>5</sup>. Between March 2018 and March 2019, more than 55,000 Nicaraguans requested refugee status in Costa Rica.<sup>6</sup>

The State took extraordinary measures under the Refugee Regulation No. 36831-G and was supported by the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) to handle the more than 200 refugee applications per day between June and December 2018.<sup>7</sup>

To put this in context, before December 2016 Costa Rica had granted refugee status to a total of 4,416 persons. In December 2020, a cumulative total of 9,517 persons had been granted refugee status,<sup>8</sup> implying growth of more than 50% in four years. Of these approved applications, more than three thousand were from Nicaragua alone: 943 in 2019 and 2,408 in 2020.<sup>9</sup> For these reasons, despite the mentioned efforts and external support, Costa Rica has faced enormous difficulties in attending this unprecedented influx of refugees, and the DGME's institutional capacity to process the applications was overwhelmed, which resulted in waiting periods of up to 18 months for the initial two stages of the refugee application process.<sup>10</sup>

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<sup>1</sup> UNHCR. (2019). *II Informe Anual del Marco Integral Regional para la Protección y Soluciones (MIRPS)*. Available at: <https://www.refworld.org/es/pdfid/5dc5e6fa4.pdf>

<sup>2</sup> This refers to recognised refugees under UNHCR's mandate in 2020, as per [UNHCR Refugee Statistics Database](#). It does not include Venezuelans displaced abroad that have not received refugee status.

<sup>3</sup> Directorate of Immigration and Foreigners - DGME. (2021). *Personas Reconocidas Refugiadas – Dato Acumulado*. DGME. Statistics as of December 31, 2020.

<sup>4</sup> Fundación Arias para la Paz y el Progreso Humano. (2019). *De la represión al exilio: Nicaragüenses en Costa Rica, caracterización sociodemográfica, organizaciones y agenda de apoyo*. Available at: [https://arias.or.cr/wp-content/uploads/2019/05/1De\\_la\\_represion\\_a\\_exilio\\_vercompleta.pdf](https://arias.or.cr/wp-content/uploads/2019/05/1De_la_represion_a_exilio_vercompleta.pdf)

<sup>5</sup> Guilarte, J (2020) Contexto Institucional – Jurídico. Internal Use Document.

<sup>6</sup> DGME. (2021). *Personas Reconocidas Refugiadas – Dato Acumulado*.

<sup>7</sup> Nassar, C., and Benavides, C. (2019). *El refugio nicaragüense en Costa Rica, 2018-2019: Desafíos de su integración*. Facultad Latinoamericana De Ciencias Sociales, FLACSO. Available at: <https://flacso.or.cr/publicaciones/el-refugio-nicaraguense-en-costa-rica-2018-2019-desafios-de-su-integracion/>

<sup>8</sup> Percentages by nationality: Nicaragua (40.2%), Colombia (25.6%), Venezuela (13%), El Salvador (12.69%), Cuba (4.5%) and Honduras (1.66%) (DGME, 2021).

<sup>9</sup> DGME. (2021). *Personas Reconocidas Refugiadas – Dato Acumulado*.

<sup>10</sup> UNHCR (2020) Enhance Protection of Nicaraguan asylum-seekers and refugees in Costa Rica. Internal Use Document. Guilarte, J (2020) Contexto institucional-jurídico.

In this setting, the RRI provides an important analytical, communication, and collaborative tool, with the potential to support refugee-related decision-making and policy development in Costa Rica, at the national, regional, and global levels. It allows for a dynamic and multidimensional visualization of the country's current approach and response to refugee applications and will help strengthen national and international action designed to protect refugees and create an enabling environment for them to become self-reliant.

In what follows of this report, we briefly provide methodological context to the RRI, as well as to the current institutional context regarding refugee response in Costa Rica<sup>11</sup>. Then, the report looks separately at the six pillars that constitute the RRI and discusses the main bottlenecks in Costa Rica's response to refugee applications. The final sections conclude and provide recommendations.

## 2. Costa Rica: Institutional Context for Refugee Response

Costa Rica has signed several multilateral agreements relating to refugees.<sup>12</sup> In 1978, Costa Rica became a member state of the Convention Relating to the Status of Refugees of 1951 (also known as the 1951 Refugee Convention) and its 1967 Protocol on the Status of Refugees<sup>13</sup>. These have been the most important guidance for the country's national policy framework on refugees. Costa Rica also supported the adoption of the Statute of the Office of the United Nations High Commissioner for Refugees (UNHCR) by the UN General Assembly, an instrument that created the High Commissioner's Office and defines the organization's competencies regarding the care of refugee applicants, without geographical or temporal limitation.<sup>1415</sup>

In addition to the international legal instruments, Costa Rica has signed regional instruments such as the Treaty on International Criminal Law (Montevideo, 1889); the Agreement on Extradition, (Caracas, 1911); the Convention on Asylum (Havana, 1928); the Convention on Political Asylum (Montevideo, 1933); the Convention on Diplomatic Asylum (Caracas, 1954); and the Convention on Territorial Asylum (Caracas, 1954), thereby being among the countries in the world with the strongest recognition of refugee status, recently confirming its commitment by signing the Global Compact on Refugees (12/17/2019).<sup>16</sup>

In Costa Rica, there is a legal procedural difference between the grant of asylum and refugee status. Political asylum can be granted by the Executive Office of government directly<sup>17</sup> to individuals who suffer from

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<sup>11</sup> To support the study, a series of interviews were conducted with key representatives of Costa Rican public institutions, civil society organizations, and international and non-governmental organizations. See Annex 1.

<sup>12</sup> Federación Internacional de Derechos Humanos - FIDH. (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos en la Región de las Américas* [pdf] (3ra ed). Available at: <https://www.fidh.org/IMG/pdf/CostaRica517e.pdf>

<sup>13</sup> Costa Rica ratified both the Refugee Convention and its protocol in 1978. Since then, its adhesion to these international instruments has been framed at the national level. See: [Estados Partes de la Convención de 1951 sobre el Estatuto de los Refugiados y el Protocolo de 1967 \(acnur.org\)](#)

<sup>14</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>15</sup> United Nations High Commissioner for Refugees - UNHCR (2012). *Personas refugiadas hoy en Costa Rica: Sus voces, retos y oportunidades*. Available at: <http://www.acai.cr/sitioweb/sites/default/files/publicaciones/8985.pdf>

<sup>16</sup> FIDH (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos*. Available at: <https://www.fidh.org/IMG/pdf/CostaRica517e.pdf>

<sup>17</sup> The asylum request must be addressed to the President of the Republic or to the Ministry of Foreign Affairs and may be processed from abroad. It can also be requested to the Head of Mission of a foreign embassy, under the name Diplomatic Asylum. It is an act that is at the will of the Executive Power; the corresponding instances do not have to give any justification for denial, and there is no possibility of appeal.

political prosecution.<sup>18</sup> This, however, is very uncommon and may happen only in rare high-profile occasions.<sup>19</sup> The regular refugee status determination process applies to most applicants. In this report, we discuss primarily this regular refugee process<sup>20</sup>.

Refugee matters in Costa Rica are determined by General Migration Law No. 8764<sup>21</sup>, which entered into force on March 1, 2010, and regulated under Regulation Decree No. 36831-G of November 1, 2011.<sup>22</sup> This Regulation establishes the procedure for the recognition of refugee status. This procedure consists of five steps, as shown below:

1. A refugee application is presented before the General Directorate of Migration and Foreigners (DGME), specifically in its Refuge Unit, in its central offices located in the country's capital, San José. In the application, a motivation for the request refugee status in Costa Rica is demanded.
2. A form is filled with personal data, that of relatives, and a detailed description of why the applicant was forced to leave the country of origin.
3. The applicant receives a provisional document that accredits him or her as an applicant for refugee status. This document guarantees a temporary regular stay in the country (with no risk of deportation) while the authorities analyse the application.
4. The applicant presents required legal documents, including passport photographs, proof of fingerprinting, personal identification document, birth certificate, criminal record certificate from the country of origin, and a certificate of civil status from your country of origin. If original documents cannot be presented, a legal sworn statement can suffice.
5. An interview with the applicant is conducted by the Refugee Sub-Process (of the DGME).<sup>23</sup>

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<sup>18</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?* - ACNUR Costa Rica. Official website. Available at: <https://help.unhcr.org/costarica/>

<sup>19</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>20</sup> Of important note here, is that we refer to asylum seekers and refugee, as those people seeking refugee status through the regular process, or have this status approved, respectively. If we refer to the executive "asylum" process, we will use "political asylum" to make clear the distinction.

<sup>21</sup>Law N° 8764. Migration Law (Ley General de Migración y Extranjería). Diario Oficial La Gaceta N° 170, San José, Costa Rica, 01 de setiembre del 2009. Available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2009/7261.pdf>

<sup>22</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Poder Ejecutivo, Costa Rica, 1 de noviembre del 2011. Available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2011/8171.pdf>

<sup>23</sup> Directorate of Immigration and Foreigners (n.d.). Refugio. Dirección General de Migración y Extranjería. Available at: <https://www.migracion.go.cr/Paginas/Refugio.aspx>

### 3. Refugee Response Index: Costa Rica

The RRI is an index that monitors and measures countries' response to refugees in a global, independent, and comprehensive manner, without acting as a ranking tool. The RRI constitutes a baseline of country performance in support of the implementation of the Global Compact on Refugees and the commitments set forth 2016 New York Declaration. It consists of six pillars, which together cover the main components of the multi-dimensional refugee response, while at the same time comprising cross-cutting indicators on gender, age, and diversity, as well as conditions that enable a multi-stakeholder approach. In this section, we discuss our findings for Costa Rica and any specific issues concerning the methodology and research process for each pillar.

#### ***Pillar 1: Access to Asylum***

The process of asylum application, the respect of human rights, and issues surrounding detention are generally well legislated in Costa Rica,<sup>24</sup> although in practice, as it was stated in research interviews, there are challenges related to the training of staff, institutional capacity, and knowledge.<sup>25</sup>

Costa Rica's national legislation on asylum adheres to international guidelines, strictly adhering to the principle of non-refoulement<sup>26</sup>. The country provides asylum seekers access to its national territory<sup>27</sup>, reportedly never rejecting any person seeking asylum.<sup>28 29</sup> Its official borders are secure, however, there are known to be blind spots of entry, especially on the Northern border with Nicaragua.<sup>30</sup> However, irregular entry to the country is not used as a way of penalizing asylum seekers for refugee status determination (RSD) matters.<sup>31</sup>

Article 10 of the Refugee Regulations establishes that a differentiated approach will be given considering the individual characteristics and needs of the asylum seeker, giving specialized attention to unaccompanied minors and sexual minorities, which is recognized by law as a valid reason for refugee application, per UNHCR Guidelines.<sup>32</sup> However, social assistance, information, and access to legal advice at

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<sup>24</sup> FIDH (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos*.

<sup>25</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>26</sup> Even during the Covid-19 pandemic and the border closures by sanitary order, Costa Rica made the exception of allowing people entry into the country if a well-founded claim of for asylum in the country was made. Throughout the Covid-19 crisis, RSD procedures were upheld (interviews, 2021). However, the move to virtuality meant more time delays for the resolution of cases, for example, in-office consultations could only be made by appointment requested online.

<sup>27</sup> Normally, applications are made in the territory (at the border or in one of the Costa Rican provinces), refuge cannot be requested from outside the country. Political asylum can be requested at an embassy, but the process is complex and uncommon (see footnote 2).

<sup>28</sup> FIDH (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos*.

<sup>29</sup> UNHCR (2020) Enhance Protection of Nicaraguan asylum-seekers and refugees in Costa Rica.

<sup>30</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>31</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 137. "(...) no criminal or administrative sanctions shall be imposed on the applicant for refugee status on the grounds of irregular entry into the country (...)".

<sup>32</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 6. "(...) on the basis of ethnicity, origin, nationality, gender, age, language, religion, sexual orientation, political opinions, economic status or any other social or migratory condition. (...)".

the border are limited.<sup>33</sup> The State does not provide such assistance, but there are UNHCR and partner organizations programs that do.

According to representatives of UNHCR and other organizations interviewed, to access such assistance, asylum seekers must take the initiative to look for the organizations, and therefore knowledge about the existence of programs and their eligibility criteria is crucial.<sup>34</sup> In this regard, an important challenge is to improve the information process and clarify which assistance options are available to asylum seekers at the border posts.

Grounds for immigration detention are established in Chapter Eight of the Refugee Regulations, and generally, detention conditions are dignified.<sup>35</sup> Legally, it is established that asylum seekers can be detained for a maximum period of 24 hours, after which their case must be attended before a judge.<sup>36</sup> However, in practice it became apparent that this maximum detention time can easily be extended with sufficient reason and that procedures surrounding detention are not always adequate because personnel is often not well trained, there is a high rotation of staff, and a general lack of knowledge on the guidelines to detention procedures. Therefore, on multiple occasions, seeking judicial review has been necessary to correct erroneous procedures.<sup>37</sup>

### ***Pillar 2: Recognition as Refugees***

Costa Rican national legal frameworks and RSD procedures fully apply the guidelines referencing interpretations of the 1951 Refugee Convention<sup>38</sup>. Following this international instrument, and as one of few Latin American countries, Costa Rica 'gender' is recognized as a specific ground for applying for refugee status, which encompasses sexual minorities.<sup>39</sup> In the RSD process, neither discriminatory practices nor affirmative action was identified for special groups based on gender, age, or disability, or ethnic/religious minorities. However, in the assessment of the individual needs of the refugee applicant, such factors may be considered with respect to the specific needs of each applicant.<sup>40</sup>

The country's system relies on the Refugee Unit of the General Directorate of Migration and Foreigners (DGME) to carry out the RSD procedures<sup>41</sup>. When an application is positively endorsed, it is transferred to

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<sup>33</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>34</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>35</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>36</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 43 "(...) precautionary apprehension shall only be applicable for a maximum of twenty-four hours for the purpose of verifying their immigration status. This period may be extended in special situations (...)".

<sup>37</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>38</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 5. "(...) The provisions of these Regulations shall be interpreted in accordance with the principles and norms contained in the Universal Declaration of Human Rights, the American Convention on Human Rights, the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (...)".

<sup>39</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 6. "(...) on the basis of ethnicity, origin, nationality, gender, age, language, religion, sexual orientation, political opinions, economic status or any other social or migratory condition. (...)".

<sup>40</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>41</sup> For the management of this procedure, the State cooperates closely with UNHCR. As a result of the exponential increase in requests in 2018, which exceeded institutional capacity, UNHCR's work has been key to responding to the growing demand. The Refugee Unit itself has approximately five staff members, who could not cope with the number of requests. UNHCR's



the National Commission for Restricted Visas and Refugees (CCVR), which is the body that gives final approval.<sup>42</sup> In case of rejection, an appeal can be made in the first instance to the CCVR, which must review and decide on the appeal. In case the CCVR confirms its initial rejection, a second appeal can be made to the Administrative Migration Tribunal (TAM), an independent and autonomous court specifically tailored to administrative immigration and refugee matters. The TAM is a benchmark in Latin America, as only a few countries in the world have a superior judicial body to independently rule on administrative immigration matters. The TAM hears appeals on refugee matters, based on the criteria determined by the CCVR, and has the power to order a new review of the procedure in its decisions.<sup>43</sup>

Parallel to the standard RSD procedure, Costa Rica can create special migratory categories<sup>44</sup> (Art. 93, General Law of Migration).<sup>45</sup> Until very recently, these complementary categories had never been enacted, and strict procedures in line with the 1951 Convention were adhered to. However, in December of 2020, Resolution No. DJUR-0190-12-2020-JM was approved, creating a temporary, special migratory category, which allows for complementary protection for Venezuelan, Nicaraguan and Cuban nationals whose refugee applications have been denied.<sup>46</sup> This Resolution, in part, was a reaction to the surge of applications in the aftermath of the 2018-2020 conflict in Nicaragua, when the limitations to Costa Rica's institutional capacity to deal with the sudden pressure on its RSD infrastructure became apparent.<sup>47</sup>

During the RSD procedure, asylum seekers have the right to move freely within the national territory, to practice their religion, and to choose where they want to live.<sup>48</sup> Competent legal assistance is generally available and is mostly free of charge although not publicly provided. Rather it comes subsidized by international organizations and local NGOs.<sup>49</sup> <sup>50</sup> Complete information on the asylum process and asylum seekers' rights is made available, in the most common languages used among asylum seekers. If asylum seekers do not understand one of the languages in which information is provided, access to interpreters is ensured, especially by NGOs.<sup>51</sup> However, previous research has suggested that there are still gaps in information and access to clear instructions for some asylum seekers and that there is no constant accompaniment throughout the procedure.<sup>52</sup>

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support even led to a new building being set up for this purpose, providing at the time about 40 staff members to expedite the processes (Nassar and Benavides, 2019).

<sup>42</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>43</sup> National Commission for the Improvement of the Administration of Justice - CONAMAJ. (2017). *El estatuto de la persona refugiada*.

<sup>44</sup> Complementary special categories, but prima facie admissions are not permitted or provided under the national law.

<sup>45</sup> Law N° 8764. Migration Law (Ley General de Migración y Extranjería).

<sup>46</sup> Directorate of Immigration and Foreigners. (2020). Resolución N° DJUR-0164-10-2020-JM. Dirección General de Migración y Extranjería. Available at: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=92921&nValor3=123178&strTipM=T](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=92921&nValor3=123178&strTipM=T)

<sup>47</sup> Nassar, C., and Benavides, C. (2019). *El refugio nicaragüense en Costa Rica*,

<sup>48</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?* - ACNUR Costa Rica.

<sup>49</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>50</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>51</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>52</sup> Rodríguez, J. (2017). Banca, salud y estímulo del empleo: servicios públicos desde la óptica de los refugiados y solicitantes en Costa Rica. *Revista de Ciencias Sociales (Cr)*, 1(155),111-129. Available at: <https://www.redalyc.org/articulo.oa?id=153/15352346007>

As was shared during research interviews, in terms of access to social assistance programs and services Costa Rica makes no distinction between asylum seekers and refugees, granting them the same rights.<sup>53</sup> UNHCR and partner organizations coordinate with institutional authorities if any case requires special attention. While coordination is generally considered to be effective, UNHCR is leading initiatives to strengthen inter-institutional cooperation and mutual agreements with additional institutions are being drafted and signed.<sup>54</sup> It is noteworthy that despite such cooperation, institutional programs often have limited capacity and coverage, mainly due to resource constraints. Also, there are reported cases of discrimination and exclusion of the refugee population from the benefits of social programs, as a result of institutional barriers, denial of access by counter clerks, or the applicants' lack of knowledge about which requisites must be presented to gain access.<sup>5556</sup>

Both asylum seekers and recognized refugees have access to special food support programs, which are almost exclusively provided by UNHCR and local partner organizations, with only minor support from the State.<sup>57</sup> There are also similar programs of provision of hygiene items and cleaning kits and other non-food items. During the Covid-19 crisis, these programs have stepped up their efforts to meet the needs of refugees,<sup>58</sup> but coverage is not universal and many asylum seekers and refugees de facto are left on their own to resolve their needs.<sup>59</sup>

Access to Water, Sanitation, and Hygiene is of a high standard in almost the entire country, with a drinking water coverage of 90 percent, although foreigners (refugee and non-refugee alike) tend to be overrepresented in the 10% with inferior access to drinking water.<sup>6061</sup>

The State has no specific housing policy for refugees or asylum seekers but allows them access to its standard social housing policies. There are sporadic UNHCR housing policies,<sup>62</sup> but overall migrants and refugees are known to live in impoverished conditions. While Costa Rica is generally considered safe and secure compared to other countries in the region, and refugees' security and physical integrity is generally guaranteed, there are known to be security problems in some urban areas where foreigners (refugee and non-refugee) disproportionately reside.<sup>6364</sup>

The documentation provided to asylum seekers and recognized refugees allows them to access the public social security system which grants access to the country's health system,<sup>65</sup> which is internationally

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<sup>53</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>54</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>55</sup> UNHCR (2012). *Personas refugiadas hoy en Costa Rica: Sus voces, retos y oportunidades*.

<sup>56</sup> Rodríguez, J. (2017). Banca, salud y estímulo del empleo.

<sup>57</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>58</sup> UNHCR (2020, August). *Rapid Needs Assessments infographics*.

<sup>59</sup> TECHO. (2018). *Informe Censo de migrantes nicaragüenses en Asentamientos Populares en San José, Costa Rica, a raíz de la crisis sociopolítica en Nicaragua*. Available at: [https://issuu.com/techo\\_org/docs/nicaragua\\_-\\_informefinal\\_digital](https://issuu.com/techo_org/docs/nicaragua_-_informefinal_digital)

<sup>60</sup> UNHCR (2020, August). *Rapid Needs Assessments infographics*.

<sup>61</sup> Autoridad Reguladora de los Servicios Públicos. (2020). *Calidad de los Servicios de Acueducto y Alcantarillado*.

<sup>62</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>63</sup> UNHCR (2020, August). *Rapid Needs Assessments infographics*.

<sup>64</sup> TECHO. (2018). *Informe Censo de migrantes nicaragüenses*.

<sup>65</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*. Dirección General de Migración y Extranjería.

recognized for its universal coverage and high-quality healthcare.<sup>66</sup> However, in practice, barriers to such access are multiple, especially related to costs and bureaucratic obstacles<sup>67</sup> and there is ample qualitative evidence of discriminatory treatment towards the foreign population.<sup>68,69</sup> Until now, few concrete institutional actions have been taken to overcome these barriers, as was confirmed during research interviews.<sup>70</sup>

Finally, refugees can own property in not less-favourable conditions than non-refugee foreigners<sup>71</sup>, but both refugees and non-refugee foreigners face obstacles in accessing banking services, and therefore have less favourable terms of access to credit than nationals. Such problems arise during credit application procedures, due to discrimination or ignorance regarding the validity of their refugee documentation.<sup>72</sup>

### ***Pillar 3: Refugees Enjoy their Rights***

Overall, refugees in Costa Rica enjoy access to rights consistent with international Convention obligations.<sup>73,74</sup> The Costa Rican State provides refugees and asylum seekers (applicants) with (temporary) identity documents which ensures a denizen status: a regular migratory status with all economic, social, political and civil rights associated with citizenship, except for the right to vote and to occupy political positions.<sup>75,76</sup> The right to family reunification is also respected, which permits an application with documentation to establish family ties and prove the refugee status in Costa Rica of the person interested in applying for reunification.<sup>77</sup> Access to the country's courts and the legal system is guaranteed and generally free of charge (mainly because NGOs step in to subsidize the costs), and refugees have the right to participate in non-political civil associations, although not at a directive level.<sup>78</sup> Refugees and asylum seekers can travel freely from and to Costa Rica with their passport emitted by their country of origin and their valid refugee documentation. The only impossibility is to travel to the country of origin without prior authorization from the Costa Rican authorities. If the person does not have a passport, he or she can be granted a temporary travel document issued by the DGME.<sup>79</sup>

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<sup>66</sup> Organización Panamericana de la Salud - OPS. (2019). *Perfil del Sistema y Servicios de Salud de Costa Rica*. Available at: <https://iris.paho.org/handle/10665.2/38590>

<sup>67</sup> Voorend, K. (2019). *¿Un imán de bienestar en el sur? Migración y política social en Costa Rica* (1st ed.). Universidad de Costa Rica. Available at: <http://www.editorial.ucr.ac.cr/ciencias-sociales/>

<sup>68</sup> Rodríguez, J. (2017). Banca, salud y estímulo del empleo.

<sup>69</sup> OPS. (2019). *Perfil del Sistema y Servicios de Salud de Costa Rica*.

<sup>70</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>71</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>72</sup> Rodríguez, J. (2017). Banca, salud y estímulo del empleo.

<sup>73</sup> FIDH (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos*.

<sup>74</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>75</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*.

<sup>76</sup> UNHCR (2012). *Personas refugiadas hoy en Costa Rica: Sus voces, retos y oportunidades*.

<sup>77</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 63. "(...) the status of refugee will be recognized for the primary family nucleus and other dependent family members and relatives within the first order of consanguinity or affinity (...)"

<sup>78</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>79</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 60. "(...) Refugees who wish to travel outside the national territory to a third country and do not have their passport or the possibility of acquiring it through the Optional Protocol ratified by their country of origin and the Costa Rican State, may apply to the Subprocess of Refugees for a travel document. The Refugee Subprocess will authorize the issuance of such document to the Migration Management, who will

Concerning access to healthcare and education, the identity document ensures equal rights of access.<sup>80</sup> Both asylum seekers and recognized refugees have equal access to primary and secondary education<sup>81</sup> as nationals<sup>82</sup>. Of special note is the Alternative Mechanism of Corroboration of Knowledge of Diversified Education for Refugees, which is a mechanism for formal education recognition in situations in which a refugee cannot provide the formal title or documentation to confirm the completed studies. It implies a test to assess knowledge and a statement in which the person declares, under oath, to have reached that level of education.<sup>83</sup> The recognition of tertiary education is more tedious, as such a mechanism does not exist, and copies of the acquired degrees are required. The formal process for the recognition of prior studies, experience, certifications, or licenses abroad can be expensive, complex, bureaucratic, and time-consuming in Costa Rica, which results in most foreigners not accessing the validation process.<sup>8485</sup>

Asylum seekers and refugees both have the 'right to work' in Costa Rica.<sup>86</sup> However, asylum seekers are only eligible for this permit after a three-month waiting period starting from the day they filed their refugee application with the relevant authority, the Refugee Unit.<sup>87</sup> In practice, however, waiting periods are much longer because the Refugee Unit has not been able to process the applications on time.<sup>88</sup> No adjustments were made to this three-month waiting period during the Covid-19 pandemic.<sup>89</sup>

The work permit issued to asylum seekers and approved refugees, together with the identity document, provides a person the right to work in any type of salaried or independent job, consistent with national labour laws.<sup>9091</sup> There are national laws in place that protect against discrimination in the workplace<sup>92</sup> even though discriminatory and xenophobic attitudes continue to be a challenge in the country.<sup>9394</sup>

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issue it." Article 61. "The cost of issuing the travel document will be covered by the person concerned, giving him/her the right to use it, but not its ownership."

<sup>80</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>81</sup> Refugee access to Spanish classes in Costa Rica is mostly a service that can be accessed privately, through organizations. It should be noted that UNHCR has had Spanish classes in the past or volunteer programs to teach this population. However, at the state level there has not been a consistent language education program. Due to the profile of refugees in the country, it also becomes a rare need since most of them come from Latin American countries that speak Spanish.

<sup>82</sup> Mata, E. (2018). *Población Refugiada en el Sistema Educativo Costarricense*. [pdf] (1era ed.). Ministerio de Educación Pública; Departamento de Educación Intercultural; Dirección de Desarrollo Curricular.

<sup>83</sup> Ministry of Public Education - MEP, Ministry of the Interior and Police, and UNHCR. (2013). *La educación un derecho de todos y todas: Compendio de normas acerca del derecho a la Educación de la población migrante y refugiada*.

<sup>84</sup> Voorend, K; Oviedo, L and Alvarado, D (study in press) Future Demand for Migrant Labor in Costa Rica. KNOMAD.

<sup>85</sup> International Labour Organization. (2014). Estudio de casos sobre reconocimiento de título y aprovechamiento de las destrezas de las personas trabajadoras migrantes. Casos: Costa Rica, Panamá y República Dominicana.

<sup>86</sup> Asylum Access. (2018). *El Derecho al Trabajo de las Personas Solicitantes de Asilo y Refugiadas en América Latina y el Caribe*. Available at: <https://asylumaccess.org/wp-content/uploads/2018/06/Derechos-Laborales-Refugiadas-en-America-Latina-y-el-Caribe-final-ESP.pdf>.

<sup>87</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*.

<sup>88</sup> Nassar, C., and Benavides, C. (2019). *El refugio nicaragüense en Costa Rica*.

<sup>89</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>90</sup> Asylum Access. (2018). *El Derecho al Trabajo de las Personas Solicitantes de Asilo y Refugiadas*.

<sup>91</sup> Refugee Work Rights. (n.d). *The Global Refugee Work Rights Scorecard*. Available at: <https://refugeeworkrights.org/scorecard/costa-rica/>

<sup>92</sup> Law N° 2694. Ley sobre la prohibición de discriminación del trabajo. San José, Costa Rica, 22 de noviembre de 1960.

<sup>93</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>94</sup> El País.cr. (24 de octubre de 2018). ONU lanza en Costa Rica una campaña contra la discriminación de migrantes.

In principle, asylum seekers and refugees have equal access to employment assistance programs in the country. Under existing state programs any foreigner with regular migratory status is eligible.<sup>9596</sup> Often, these programs are supported by international organizations such as UNHCR or IOM.<sup>97</sup> Employment assistance programs specifically aimed at the refugee population are mainly financed by international organizations, in collaboration with NGOs and the State, the latter only providing administrative support.<sup>98</sup>

Currently, the "Integrate to Employment" policy is in its second iteration, with the participation of UNHCR, the Ministry of Labor and Social Security (MTSS), and the UN Women's Foundation.<sup>99100</sup> The initiative seeks to promote the employability of refugees and asylum seekers in the country, linking them with companies interested in acquiring their services<sup>101</sup>, the set-up of labour intermediation offices, and incentives for private companies to hire refugees. However, statistics show high rates of unemployment and informal employment among asylum-seekers and refugees indicating that there are gaps.<sup>102103</sup>

In all, refugees access residence rights in Costa Rica, contingent on their identity document, which provides them a regular migratory status.<sup>104</sup> There is however a significant barrier related to the costs involved with the issuance of this document. It has a cost of US\$ 98 (plus one-time costs related to producing the actual card) which must be renewed every two years, at the cost of another US\$ 98. Also, for renewal, proof of affiliation to the social security system is required, which is another additional cost that could deter informal and low-income workers from renewing documentation.<sup>105</sup>

#### ***Pillar 4: Refugees can Become Self-Reliant***

Costa Rica hosts several, albeit limited, initiatives aimed at facilitating the integration of refugees into the larger society. Firstly, there are references to the refugee population and the objective of addressing their needs in the National Development Plan 2019-2022.<sup>106</sup> However specific references are scarce and in

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<sup>95</sup> CENDEROS. (n.d). *Centro de Derechos Sociales del Inmigrante CENDEROS*.

<sup>96</sup> HIAS (2020) *Estudio sobre el mercado laboral para personas refugiadas y solicitantes de refugio en el Valle Central (San José, Alajuela, Heredia y Cartago), Upala y Los Chiles, Costa Rica*. Researchers Petra Petry and Carlos Salas. Available at: <https://r4v.info/es/documents/download/74589>

<sup>97</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>98</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>99</sup> Rojas, S. (1 de octubre, 2020). "Intégrate al empleo": la plataforma laboral para personas refugiadas y empresas impactadas por la COVID-19. *DELFINO*.

<sup>100</sup> UNHCR. (2020). *Intégrate al Empleo - UNHCR*. [Integratealemplo.com](http://Integratealemplo.com).

<sup>101</sup> The goal is to prevent employers from hiring migrant labor outside the country and bring them to Costa Rica, and instead take advantage of the labor of asylum seekers and refugees already residing in the country. This goal still requires attention to achieve a better articulation of the needs of companies and the occupational profiles of the target population (interview, 2021).

<sup>102</sup> Fundación Arias para la Paz y el Progreso Humano. (2019). *De la represión al exilio*.

<sup>103</sup> Organization for Economic Co-operation and Development - OECD. (2018). *Cómo los inmigrantes contribuyen a la economía de Costa Rica*. OECD Publishing, Paris. Available at: <https://doi.org/10.1787/9789264303867-es>.

<sup>104</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*.

<sup>105</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*.

<sup>106</sup> Ministry of National Planning and Economic Policy - MIDEPLAN. (2019). *Plan Nacional de Desarrollo y de Inversión Pública del Bicentenario*.

practice, gaps remain in attending to their needs. Previous research<sup>107</sup> highlights the need to mainstream the needs of refugees in integral economic and development plans of the country. There is currently a lack of State resources to allocate to actions for this purpose.<sup>108</sup>

Secondly, there is a significant presence of governmental actors, NGOs, and international organizations that provide support aimed at facilitating cultural familiarization.<sup>109</sup><sup>110</sup> Especially UNHCR, with partner organizations such as HIAS, RET International, and the Center for the Social Rights of Migrants (CENDEROS), are all active in this regard, often in collaboration with the State through local governments at the municipal level.<sup>111</sup><sup>112</sup> Examples of these initiatives are cultural festivals and other activities (like local markets).<sup>113</sup> Most of these initiatives are isolated and there is no sustained, coordinated and centralized effort.

There seems to be slightly more continuity in anti-discrimination campaigns, which are constantly being promoted by NGOs or international organizations such as UNHCR or IOM, in collaboration with the State.<sup>114</sup> The most recent campaigns were called "Being a refugee is like being a Tico" (2015)<sup>115</sup> and "Países Hermanos" (2018).<sup>116</sup> Also, Costa Rica has a "National Policy for a Society Free of Racism, Racial Discrimination and Xenophobia" which is in force from 2014 to 2025. Likewise, there are communiqués and diverse institutional actions to confront the voices of xenophobia and discrimination which in Costa Rica are frequently heard. However, despite more continuity, such actions are often in reaction to a particular event (for example, an anti-migrant protest), and their effectiveness is not clear.<sup>117</sup>

Thirdly, there are articles in the Costa Rican Penal Code<sup>118</sup> and in national laws that enable the possibility to take legal action against discrimination. While this article is used for this purpose it does not explicitly mention hate crimes and refers mostly to the possibility of sanctioning these acts if they occur in a work environment.<sup>119</sup> This leaves a legal gap in the country concerning hate crimes more broadly<sup>120</sup>. Despite ratification and approval of international instruments that commit to the punishment of hate crimes and discriminatory actions, there is currently no national law or regulation to enforce it.<sup>121</sup>

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<sup>107</sup> Fundación Arias para la Paz y el Progreso Humano. (2019). *De la represión al exilio*; TECHO. (2018). *Informe Censo de migrantes nicaragüenses en Asentamientos Populares*; UNHCR (2012). *Personas refugiadas hoy en Costa Rica: Sus voces, retos y oportunidades*.

<sup>108</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>109</sup> Azofeifa, S., and Chacón, F. (2018). *Proceso de Integración Laboral de las personas refugiadas colombianas en Costa Rica en sus dimensiones institucional, legal, económica, subjetiva y sociocultural*. (Tesis de Licenciatura).

<sup>110</sup> UNHCR (2012). *Personas refugiadas hoy en Costa Rica: Sus voces, retos y oportunidades*.

<sup>111</sup> UNHCR. (n.d). *¿Cómo solicitar la condición de refugio?*

<sup>112</sup> Nassar, C., and Benavides, C. (2019). *El refugio nicaragüense en Costa Rica*.

<sup>113</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>114</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>115</sup> UNHCR (2015). *Costa Rica: lanzamiento de la campaña "Ser refugiado es como ser tico"*.

<sup>116</sup> El País.cr. (24 de octubre de 2018). *ONU lanza en Costa Rica una campaña contra la discriminación de migrantes*.

<sup>117</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>118</sup> Penal Code. (1970). Costa Rica. Article 380. The person, manager or director of an official or private institution, (...) who applies any prejudicial discriminatory measure, based on racial considerations, sex, age, religion, marital status, public opinion, social origin or economic situation, shall be sanctioned with twenty to sixty days fine.

<sup>119</sup> Miranda, S. (2019). *Análisis de los delitos de odio, tanto en el marco jurídico nacional como internacional*. (Tesis de Licenciatura). Universidad de Costa Rica.

<sup>120</sup> Since 2014 there is a bill for a law (No. 20174) under the full name "Framework Law to prevent and punish all forms of discrimination, racism and intolerance". It has, however, not yet advanced in the legislative agenda.

<sup>121</sup> Chinchilla, R. (2019). *Crímenes de Odio*.

Finally, there are some sporadic projects<sup>122</sup> carried out to facilitate integration between the refugee population and the host communities, where attention is focused on improving the integral conditions of the entire community.<sup>123</sup> For example, a local market in Upala in North Costa Rica called "Mercadito Upaleño" is set up for the benefit of the refugee population, who come there to sell their products, but which also stimulates the participation of nationals and non-refugee foreigners to buy and sell in the market.<sup>124</sup> Notably such initiatives are supported by the municipalities, showing local governments' interest in promoting activities to strengthen the integration of refugees in the host communities.<sup>125</sup>

Other than these sporadic projects, there are no State-facilitated programs to take advantage of the economic benefits that refugees bring with them. UNHCR and HIAS indicated that this is an issue on which they are currently working<sup>126</sup> and they are providing support to streamline the mechanisms in preliminary programs to foster socio-economic links between refugees and host communities.

### ***Pillar 5: Towards Durable Solutions***

Costa Rica does not encourage or carry out premature or involuntary returns or repatriation of refugees, following the principles of non-refoulement and non-expulsion advocated by UNHCR. Voluntary returns are legally stipulated, applying the cessation of their refugee status in the country.<sup>127</sup> In such cases, there is no censorship or prohibition for them to access information about their country of origin for possible returns<sup>128</sup>. There is also no specific program to provide such information.<sup>129</sup> Occasional visits to the country of origin may be approved in exceptional circumstances, but government authorities are naturally often wary of granting this permission.<sup>130</sup>

The country does not have a system in place to review refugee status once it has been granted.<sup>131</sup> However, if an unsolicited change in refugee status should occur the Administrative Immigration Court (TAM) has the authority to resolve appeals filed against the final resolutions issued by the Restricted Visas and Refugee Commission.<sup>132</sup>

Costa Rica does not have a repatriation or resettlement program.<sup>133</sup> Resettlement is considered only in exceptional cases, for example, if the person needs medical treatment that is not available in the country,

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<sup>122</sup> Several questions do not apply as they asked about refugee camps and Costa Rica does not have these camps. What it does have are Temporary Migrant Attention Centers (CATEM). But these places serve as a very temporary place of care (and not for residence) for applicants and only if they have a specific vulnerability. In other words, they do not function as a refugee camp.

<sup>123</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>124</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>125</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>126</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>127</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Poder Ejecutivo, Costa Rica, 1 de noviembre del 2011. Article 27. "In accordance with the Convention, a person shall cease to be a refugee in the following cases: (...) If he/she has voluntarily resettled in the country he/she had left, outside of which he/she had remained for fear of persecution."

<sup>128</sup> In interviews with UNHCR representatives in Costa Rica, it was shared that the country does not have programs, agreements or develop any type of effort to influence the improvement of structural conditions in the countries of origin (interview, 2021).

<sup>129</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>130</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>131</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>132</sup> National Commission for the Improvement of the Administration of Justice - CONAMAJ. (2017). *El estatuto de la persona refugiada*. Available at: <http://www.conamaj.go.cr/images/libros/pdf/059.pdf>

<sup>133</sup> Interviews conducted by RRI Costa Rica team (March 2021).

and therefore must seek such attention in another country. In such cases, Costa Rica cooperates in the process of upholding the person's already approved refugee status.<sup>134</sup>

In contrast with non-refugee foreigners, Costa Rica has several beneficial conditions for their formal integration in the country. Information on processes of naturalization and acquiring a permanent residence permit are generally clear.<sup>135</sup> Recognized refugees may opt for permanent residence in Costa Rica, even with the provision that this would not imply the loss of refugee status unless so desired. Further, refugees are exempted from the fees for the change of migration category and, several exceptions in migration law enable refugees to pass bureaucratic steps with temporary documentation or an affidavit if the person is unable to access certain documentation.<sup>136</sup> However such provisions can cause delays in the process.<sup>137</sup>

In contrast, national laws provide no specific reference to refugees in the naturalization process, which appears to be only softly promoted as an option for refugees.<sup>138</sup> Finally, naturalization does not appear to be the preferred option among refugees as the administrative to pursue the process are much higher compared to maintaining their refugee status,<sup>139</sup> or opting for temporary or permanent residence.<sup>140</sup>

### ***Pillar 6: Making the International Refugee System Work***

Nationally, the Costa Rican State is active in enabling a multi-stakeholder approach and shows substantial openness to collaboration with international organizations and local NGOs. Such collaboration happens at the policy level through the participation of civil society in national bodies such as the National Migration Council, as well as in projects tailored to the attention required by refugees (for example during the determination process), in respecting their rights, promoting employment and other facets of refugee response, such as monitoring deportations and complementary support programs. Generally, the State shows openness<sup>141</sup>. This openness could be explained, in part, by the fact that the State has limited capacity to deal with a large number of refugee applications and ensure its full attention to the situation of refugees. Therefore, the State welcomes this multi-stakeholder approach because it provides support and solutions, if only temporarily, to the gaps the State cannot fill.

Internationally, Costa Rica is engaged in global, regional, and to a lesser extent, bilateral cooperation<sup>142</sup> regarding refugee issues.<sup>143</sup> The country is an active participant in international forums and efforts organized by UNHCR. In 2017, Costa Rica signed the Declaration of San Pedro Sula, supporting the establishment of the Comprehensive Refugee Response Framework (MIRPS in Spanish) for a comprehensive approach to forced displacement in the region.<sup>144</sup> To comply with the commitments made, the "Framework for the Protection and Solutions in Response to the Situation of Refugees in Costa Rica"

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<sup>134</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>135</sup> Directorate of Immigration and Foreigners (n.d.). *Refugio*.

<sup>136</sup> Refugee Regulations (Reglamento de Personas Refugiadas) N° 36831-G. Article 84. "(...) shall be exempt from the payment for the concept of change of migratory category and guarantee deposit, only those who maintain the status of refugee person."

<sup>137</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>138</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>139</sup> The research team was unable to obtain data in this regard despite being requested in interviews and through other channels.

<sup>140</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>141</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>142</sup> However, Costa Rica does not have bilateral and multilateral overseas development assistance (ODA) programmes.

<sup>143</sup> FIDH. (2019). *Costa Rica: Políticas Migratorias y Derechos Humanos en la Región de las Américas*.

<sup>144</sup> UNHCR. (2019). *II Informe Anual del Marco Integral Regional para la Protección y Soluciones (MIRPS)*.



(MINARE) was developed to assist forcibly displaced persons.<sup>145</sup> This is one of the main instruments currently in place to govern refugee matters and is aligned with regional and global agreements.<sup>146</sup> Costa Rica is open to receiving independent organizations to conduct research and monitoring missions on the refugee system and publicly discloses the findings in such reports. In interviews, it was mentioned that organizations such as UNHCR or the OAS have carried out this type of mission in the country without any difficulties.<sup>147</sup>

The country participates in working groups of the Regional Conference on Migration (RCM)<sup>148</sup> which promotes the exchange of good practices of migration governance, including the issue of refugees' data, and the provision of technical support and information among the countries of the organization.<sup>149</sup> Costa Rica offers its data and experiences openly with interested parties, although following the large number of asylum applications since 2018, the Refugee Unit's institutional capacity was compromised, which meant difficulties in keeping track of statistics. To this end, a digitalization process is considered necessary to improve data capturing.<sup>150</sup>

#### 4. Conclusion and Recommendations

Costa Rica is a politically stable country with a long trajectory of granting refuge to people from the region, especially from Colombia, Venezuela, and other Central American countries. As such, the country has had a leadership position in the region on many issues related to refugees and international protection. In 2018 and 2019, an unprecedented number of asylum seekers from Nicaragua arrived in the country. This seriously compromised Costa Rica's capacity to respond effectively to refugees. The Covid-19 crisis and the closing of the borders have complicated matters further.

Notwithstanding, Costa Rica has maintained its commitment to an open policy to asylum seekers; it respects the principle of nonrefoulement and non-rejection at the border; and in general, its adherence to international standards and conventions is well recognized. Its institutional system, by design, is exemplary: The Refugee Unit is a processing institution that conducts the RSD procedure, and the Restricted Visa and Refugee Commission that decides on refugee applications based on the Unit's advice. Finally, the existence of the Administrative Migration Tribunal as an independent second-level court of review is a significant legal protection. This institutional design creates the possibility for asylum seekers to appeal decisions taken in the RSD process to two independent bodies, one being a court of law. At the same time, the country stands out for the recognition of gender (including sexual minorities) as a reason for granting asylum and refugee status and for granting documentation to all refugee applicants, allowing them to access employment, social services, and assistance programs.

While the institutional design and legal recognition of refugee matters may be considered above and beyond international guidelines and treaty obligations, in practice there are many bottlenecks that limit the country's capacity to respond effectively, and promptly, to refugee matters. These mainly entail

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<sup>145</sup> UNHCR (2020) *Enhance Protection of Nicaraguan asylum-seekers and refugees in Costa Rica*.

<sup>146</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>147</sup> Interviews conducted by RRI Costa Rica team (March 2021).

<sup>148</sup> Participating RCM countries: Belize, Canada, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and United States.

<sup>149</sup> International Organization for Migration - IOM. (2019). *Características del proceso de recolección y uso de los registros administrativos sobre migración en Centroamérica, México y el Caribe*

<sup>150</sup> Interviews conducted by RRI Costa Rica team (March 2021).

limitations in terms of institutional capacity to guarantee a rapid and efficient RSD procedure and to ensure that applicants enjoy living conditions conducive to their successful integration into Costa Rican society.

Concerning institutional capacity, there is a shortage of personnel in the State institutions charged with managing and conducting the RSD process. The Refugee Unit, before receiving support from UNHCR, had only five people to process all the applications, which was grossly insufficient to process the large number of asylum applications. At the same time, staff rotation in the institutions is high and training is limited, which means that the learning curve for staff members is often steep and must be repeated.

Limited capacity also becomes visible in the number of resources invested in refugee matters. Asylum seeker and refugee protection is significantly supported by UNHCR, its partner organizations, and other civil society organizations, although the State permits and promotes collaboration with these entities. Importantly, the Costa Rican government also permits the overall generous policy approach to continue. Despite the many positive aspects, socio-cultural and formal economic integration of asylum seekers and refugees remains a challenge.

Based on the above findings and analysis in this report, and the data collected in the Refugee Response Index, which is annexed, we wish to highlight several challenges and recommendations regarding the country's capacity to respond to refugee issues:

- At the border posts, there is a need to improve the information system available to foreigners. Currently, many people do not know that they qualify for asylum, and little information is accessible on the RSD procedure.
- Ideally, border State personnel should be trained to identify potential asylum seekers, as well as their specific vulnerabilities, so that information is available, and the special needs of asylum seekers are identified early in the process.
- Currently, the RSD procedure has a long duration which leaves asylum seekers vulnerable. The procedure should take three months or less, but currently takes anywhere between nine months and two years. With the Covid-19 crisis, waiting times are likely to be even higher. To this end institutional capacity continues to need to be strengthened on a structural basis, which should go above and beyond the support provided by UNHCR and other entities.
- The 3-month waiting time, from the moment after formally having submitted the refugee application, before being allowed to work is a serious limitation. With the institutions attending to asylum applications flooded with work, delays can be as high as several years before a formal recognition to work is provided. These delays are a barrier to asylum seekers' successful integration in the country, and push them into the informal labour market, in suboptimal and vulnerable conditions. Costa Rica should consider eliminating the 3-month waiting time for asylum seekers and provide them with a formal work permit earlier on in the RSD process to permit earlier access to the legal labour market.
- Another important consideration is to design the RSD process in such a way that no administrative payments are required from the asylum applicant. Currently, payments are required for the extension of documentation, as well as for its renewal, and even the telephone line provided for

consultations and to carry out procedures can be prohibitively expensive<sup>151</sup>. Many refugees in vulnerable situations have few economic resources, especially if they are not allowed to work. It is recommended the RSD process be completely free of charge to the applicant.

- There are various social assistance, employment, humanitarian aid, legal advice, and other types of programs in the country, mostly developed by international or civil society organizations in collaboration with, but not led by the State. However, these programs' capacities are limited. The high number of applicants has overwhelmed these programs and while there is a need to sustain existing programs, a better design may allow broader access and coverage. To achieve this, institutional coordination mechanisms between the State and other organizations are indispensable and a proper contingency plan providing a comprehensive approach to asylum seekers and refugees is necessary.
- It is impossible to rule out a new substantial influx of asylum seekers (especially when land borders are reopened). The country's migration and refugee system must adapt to sustain these high migratory flows of asylum seekers. The Refugee Response Index provides important elements to consider implementing, strengthening, or adjusting to ensure this adaptation is as efficient as possible. These include, for example, developing a contingency plan for future massive migratory flows to be able to respond more effectively to situations such as the one in 2018.
- Also, Costa Rica should implement more complementary categories of protection, for which the country's Migration law has created the legislative mechanisms. In 2020, this complementary protection category was first applied for Venezuelan, Colombian, and Nicaraguan asylum seekers, and its functioning should be monitored and evaluated.
- Finally, Costa Rica should also continue to engage in multilateral agreements and intensify its efforts for more bilateral agreements to work with the countries of origin of the main refugee producing populations, to seek to comprehensively address the reasons for their refugee claims. It should also incorporate the possibility of seeking third country agreements for special cases in which Costa Rica cannot provide refuge.

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<sup>151</sup> The cost of the call is \$3 for four minutes of service (Contreras, 2018). In research interviews it was shared that this was not ideal because 1) the call times are sometimes quite extensive and 2) the process should be free of charge so as not to imply barriers to access.

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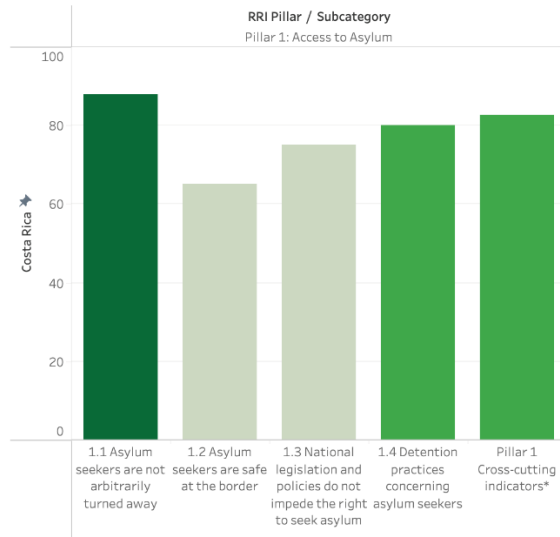
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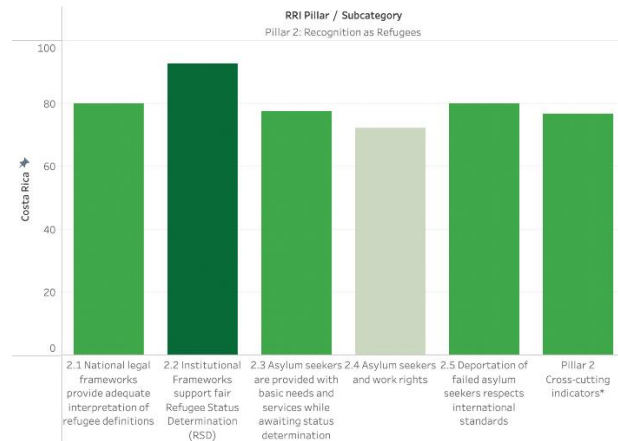
## 6. Annex 1: Unweighted Scoring by Pillar

The below bar charts illustrate the unweighted average score for each component within the 6 pillars. This scoring is indicative only, given that the indicators and components have not been weighted, and should not be used for comparison purposes.

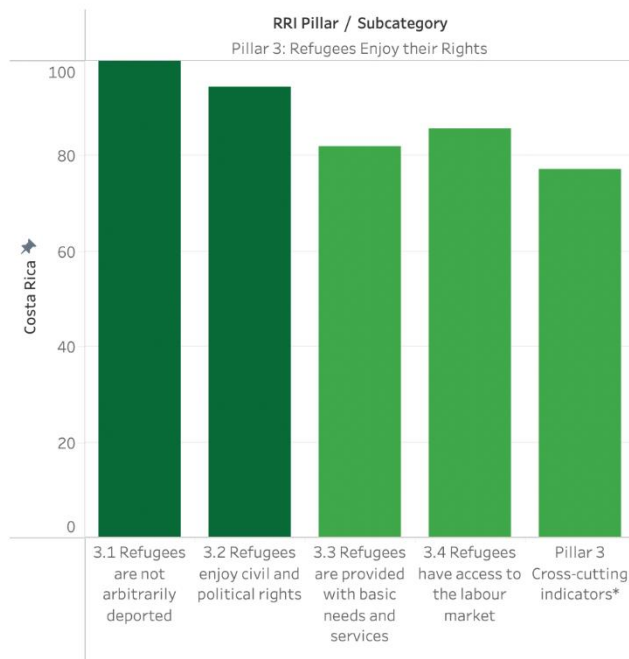
Pillar 1 - Costa Rica



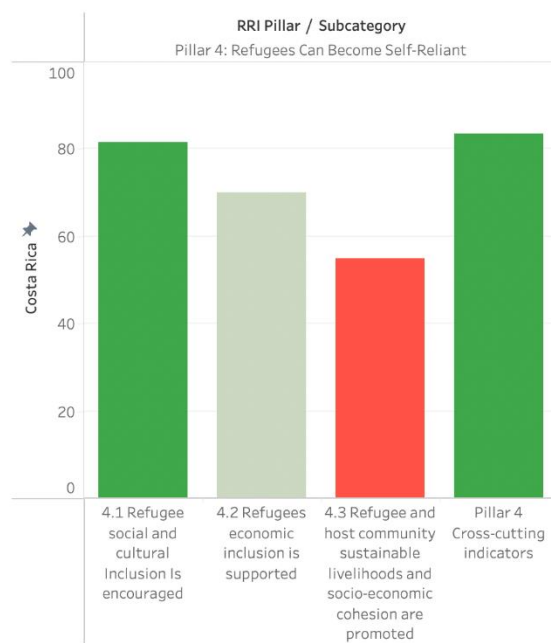
Pillar 2 - Costa Rica



Pillar 3 - Costa Rica

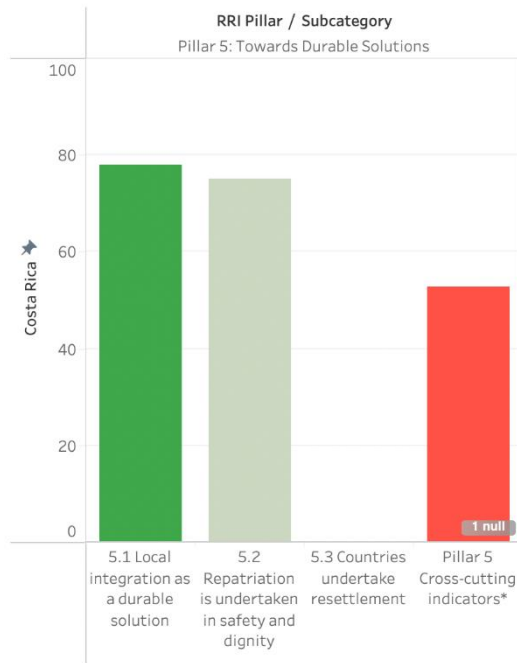


Pillar 4 - Costa Rica

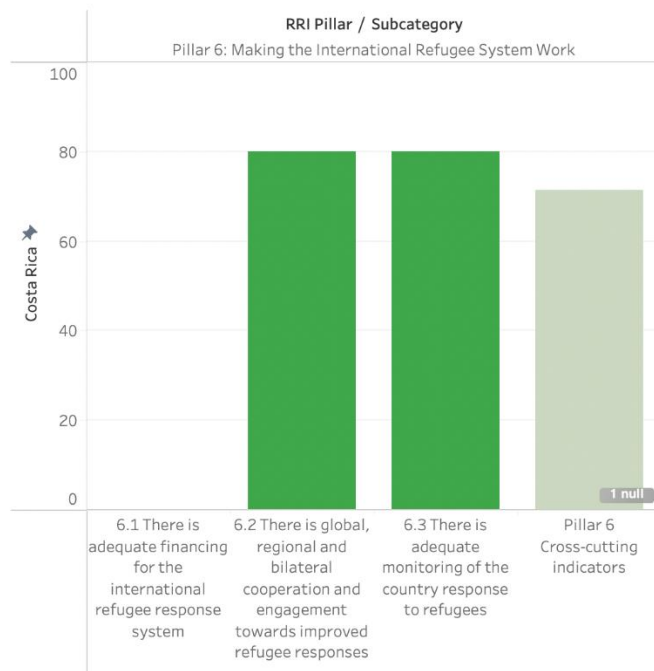




Pillar 5 - Costa Rica



Pillar 6 - Costa Rica



## 7. Annex 2: Stakeholders Interviewed

Interviews were carried out with representatives from:

- Administrative Migration Court (TAM)
- Commission on Restricted Visas and Refugee Status (CVRR)
- Center for Immigrant Social Rights (CENDEROS)
- Center for Labor Rights without Borders of Costa Rica
- European Union Delegation in Costa Rica
- Farmers' Movement at Upala
- HIAS Costa Rica
- International Labor Organization (ILO)
- IRCA CASABIERTA
- Ministry of Labor and Social Security (MTSS)
- RET International Costa Rica
- United Nations High Commissioner for Refugees (UNHCR)