



**“Towards a global compact on refugees” UNHCR
Thematic discussion 1
Past and current burden-and-responsibility-sharing arrangements
Palais des Nations, Geneva, 10 July 2017
Costa Rica**

I. Background information on the Costa Rica legal and policy frameworks

1. The Government of Costa Rica is committed to protecting and integrating refugees, as well as to eradicating statelessness before 2024. Costa Rica acceded to the 1951 Convention and its 1967 Protocol in 1978, and ratified the 1954 Convention relating to Stateless Persons and acceded to the 1961 Convention on the Reduction of Statelessness in 1977. Costa Rica has progressively reviewed its legal and policy framework on the protection of refugees and stateless persons. The Migration Law (Law No.8764)¹ modified the RSD system. The Law incorporated “gender” as a specific persecution ground for refugee status; it includes the principle of *non-refoulement* and safeguards on illegal entry in line with the 1951 Convention. It also allows stateless persons and victims of human trafficking to be granted asylum on humanitarian reasons. The 2011 Refugee Regulations grants asylum-seekers the rights to education and health care, as well as the right to work after three months of filing their claim. The Migration Law and its Refugee Regulations include an age, gender and diversity approach and special safeguards for the protection of women and children in RSD processes; RSD procedures and eligibility criteria are consistent with international protection standards. In 2013 the Government adopted two key public policy documents relevant to the protection of refugees: the 2013-2023 Comprehensive Policy on Migration for Costa Rica and the Public Policy for Eliminating Racial Discrimination and Combating Xenophobia. In 2016 the Stateless Status Determination (Regulations) was enacted and entered into force.

2. Consistent with its human rights policy tradition, Costa Rica has honoured pledges made in different international *fora* in advancing refugee and stateless persons rights, including the realisation of commitments made during the Ministerial Intergovernmental Event on Refugees and Statelessness held in Geneva in 2011, the adoption of the 2014 Brazil Declaration and Plan of Action, which was further complemented by the San Jose Action Statement in July 2016 and the New York Declaration in September of same year.

II. The Brazil Plan of Action implementation in Costa Rica

3. Since the adoption of the Brazil Declaration and Plan of Action in 2014, the Government of Costa Rica has closely worked with UNHCR and other relevant stakeholders at national and regional levels, to maintain the highest standards of protection for refugees and to implement innovative solutions for their integration in Costa Rica, and to end the risk of statelessness in the country. The GoCR has also worked in close coordination with UNHCR and the UN System and civil society to ensure protection and a safe pathway of persons who are part of migratory

¹ Law 8764 – Available at: <http://www.migracion.go.cr/institucion/leyes%20migratorias/leyes/Ley%208764%20Migracion%20y%20Extranjeria.pdf>

movements in transit through Costa Rica in their journey to the North.

4. At policy level, the National Council on Migration², which is the body that recommends the Executive on migration policy, in its session of 26 October 2015³ unanimously agreed to incorporate the Brazil Plan of Action guidelines in order to follow up developments on the Comprehensive Policy on Migration FY2013-2023. The work of the GoCR in advancing the Brazil Plan of Action has been materialised through a series of Memoranda of Understanding and the implementation of joint work plans among different governmental bodies and UNHCR, civil society, Academia, and private sector to address relevant issues regarding protection and integration of refugees, asylum seekers, and persons in need of international protection, in the following four chapters of the Plan:

i. The international protection of refugees and asylum-seekers

8. Costa Rica has taken part in the **Quality Asylum Initiative (QAI)** that is facilitated by UNHCR in the region. Since its implementation in 2014, asylum seekers can register their claims at border migration post and get immediate access to RSD procedures by timely referral to the Refugee Unit in the capital. No cases of *refoulement* have been registered so far. Eligibility bodies have strengthened their RSD decision making capacity through a series of initiatives facilitated by UNHCR such as regular training and country of origin information and visits – which has also strengthened regional cooperation, resulting in fairer decisions in compliance with international standards, higher recognition rates, and waiting times reduced. The latter, confronted with an ever-increasing number of asylum applications⁴ (223% increase in the last two years) and governmental restrictions on staff-hiring, has been tackled with the support of UNHCR by providing additional adjudicators both for RSD first instance and the Administrative Migration Tribunal (in its Spanish acronym TAM), which is the only *quasi-judiciary* Tribunal dedicated to migration and refugee RSD in the Latin America and Caribbean regions. Since QAI implementation, the RSD system in Costa Rica has been greatly developed and can be considered as a model in the Americas region, where the establishment of TAM can also constitute a precedent. Within the framework of the Brazil Plan of Action and the burden-and-responsibility sharing arrangements in light of the forthcoming Global Compact on Refugees, Costa Rica see an opportunity to continue improving its RSD procedures to ensure a sound protection space in the region while further support to its eligibility institutions would be required to guarantee such a goal.

9. In line with the **Border of Solidarity and Safety Programme**, the GoCR following the influx of Cuban nationals heading North in late 2015, established two Centres for Migrants' Care (CATEM) with the support of the UN System - particularly IOM and UNHCR, in both Southern and Northern bordering areas to address the protection needs of persons in mixed-migratory movements. It is worth noting the positive coordination among the various sectors of the GoCR and other regional governments, civil society, and the support of the UN System both nationally and regionally, in the transfer of Cubans towards the USA ensuring their safe and legal pathway through the Central American countries. Since their establishment, CATEMs have not only been a sound alternative to administrative detention, but also a safe space for immediate assistance and timely referral to the competent governmental departments of persons in need of international protection from different countries such as Haiti, DRC, among others.

² Available at: <http://www.migracion.go.cr/institucion/politica/Politica%20Migratoria.pdf>

³ National Council on Migration, Minutes of the Ordinary Session 016-2015, 26 October 2015 - Available at:

[http://www.migracion.go.cr/institucion/actas/actas%20cnm/Acta%20Sesion%20Ordinaria%20No.%20016-2015%20\(26%20de%20octubre%202015\).pdf](http://www.migracion.go.cr/institucion/actas/actas%20cnm/Acta%20Sesion%20Ordinaria%20No.%20016-2015%20(26%20de%20octubre%202015).pdf)

⁴ Governmental available data indicates that at 31 May 2017 Costa Rica hosts 4,369 recognised refugees and approx. 4,300 asylum seekers. The number of asylum claims has drastically increased since the last two years: in 2016 there were 4,470 new applications, a 103% increase when compared with the 2,203 applications in 2015, and a 223% increase when compared with the 1,384 applications in 2014. So far during the first five months in 2017, a total of 2,582 claimants sought asylum in Costa Rica.

They have also ensured their access to social and community services and reinforced the presence in border areas of protection institutions.

ii. Comprehensive, Complementary and Sustainable Solutions

10. The **Local Integration Programme** has been the key prioritised solution for refugees in Costa Rica ensuring their integration from early stages upon arrival in the country in a sustained manner. This has been reflected in the law and policy of Costa Rica. According to national legislation refugees are entitled to economic, social and cultural rights at the same level as nationals. Refugees are entitled to work after three months of having filed their asylum application. Refugees and asylum seekers in Costa Rica living with HIV have full access to anti-retroviral medication and treatment⁵. Since 2014, two main UNHCR initiatives have been developed in coordination with the Government of Costa Rica, civil society, public and private sectors to promote access to labour market for refugees and to access livelihood projects for those refugees living in poverty. The first one is the “Living Integration” programme, a corporate social responsibility scheme that was created in partnership among the Migration Authority, the Chambers of Commerce, the Business Development Association, and UNHCR and partners. This strategic public-private sector alliance has benefitted almost 2,000 refugees and asylum claimants in livelihood, vocational training skills, coaching and job matching and placement schemes conducted with the private sector. The second initiative known as the Graduation Model has assisted hundreds of refugees and asylum seekers in becoming self-reliance through tailored livelihood programmes. The Graduation Model has been included in the National Development Plan FY2015-2018, which honours the Government’s commitment for the sustainability of refugee integration programmes. Since 2015 and by Executive Decree⁶, the 20 June has been declared as National Refugee Day in Costa Rica and integration programmes for refugees, of public interest. By Executive Decree⁷, an amendment of the applicable legislation to ensure refugees have access to benefits of the Social Development and Family Allowance Trust Fund was ordered. Numerous Memoranda of Understanding have been signed between UNHCR and key Ministerial lines and other relevant governmental bodies⁸ to ensure effective access for refugees to fundamental rights. A recent Memorandum of Understanding that was signed between the Ministry of Presidency and UNHCR, and supported by the National Presidential Social Council, ensures equal access for refugees and asylum seekers to the national social and development programmes.

iii. Solidarity with the Northern Triangle of Central America in Seeking and Implementing Durable Solutions

11. In recent year, El Salvador, Guatemala, and Honduras –a.k.a. Northern Central American countries or NCA, have suffered a drastic increase in the levels of violence and persecution by organised crime groups. Disappearance, homicide, forced recruitment into gangs, and sexual exploitation against girls, women, and members of the LGBTI community are part of the pattern of violence in the NCA. Many persons at heightened risk in the NCA find no other option but to resort to smugglers’ networks, which poses additional risks to refugees and migrants. Following the guiding principles of the Brazil Declaration and Plan of Action, and as an initiative to support regional efforts to create alternatives in response to the increased protection needs in the NCA, the GoCR, UNHCR and the International Organisation for Migration (IOM) signed a Memorandum of Understanding in July 2016, to establish a Protection Transfer

⁵ MoH Directive 037-S-2015, available at: http://www.imprentanacional.go.cr/pub/2015/12/01/comp_01_12_2015.pdf

⁶ Executive Decree No.39053-MP-MGP, available at: <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2015/10096.pdf?view=1>

⁷ Executive Decree No.39916-MTSS, available at: https://www.imprentanacional.go.cr/pub/2016/10/21/ALCA226_21_10_2016.pdf

⁸ MoU with the Ministry of Education (2014) ensuring validation of studies from country of origin in Costa Rica; MoU with the Nat’l Vocational Learning Institute (2016); MoU with the Judiciary to ensure effective access to Justice for refugees and asylum seekers; MoU with the Office of the Ombudsperson to ensure effective access to fundamental rights for refugees and asylum seekers; MoU with the Supreme Electoral Tribunal (2013) to ensure flexibilisation of evidence of proof in naturalisation procedures for refugees, among others.

Mechanism (PTA), by which Costa Rica serves as a transit country for persons fleeing violence in the NCA region who had been already identified for resettlement to a third country.

12. The PTA enables those persons a transfer out from their country to a safe location in Costa Rica for temporary stay and onward transfer to a resettlement country. Resettlement countries, such as the USA and currently Australia, are closely involved in accepting cases for resettlement in an expedited manner and supporting the PTA. Costa Rica has shown leadership in responding to the protection needs of NCA citizens and plays a key role as temporary host country. Costa Rican participation in the PTA not only is a demonstration of strong regional solidarity, but also brings additional economic benefit to the host community where the PTA is implemented. Additionally, the PTA is in line with not only with the Brazil Plan of Action under this chapter and the Solidarity Resettlement Programme, but also with the 2030 Agenda and relevant Sustainable Development Goals, which has been adopted by Costa Rica.

13. It is important to note that in line with the **“Dignified and Safe Transit” programme**, Costa Rica improved access to differentiated and quality RSD procedures for persons not only fleeing the NCA countries, but also provides solidarity in the protection and provision of a safe space for other vulnerable nationals such as Venezuelans and others who are also in need of International protection. All asylum claimants in Costa Rica have effective access to RSD procedures and are free from forced deportation and administrative detention.

iv. Statelessness

14. Costa Rica has made significant progress in the area of eliminating the risk of statelessness since the adoption of the Brazil Plan of Action in 2014. The Stateless Status Determination (Regulations) was enacted and entered into force in 2016, which reinforces the legal framework for the protection of stateless persons in Costa Rica and honours the Government’s commitments to eradicate statelessness after the adoption of the 2014 Brazil Declaration, the Global Action Plan to End Statelessness by 2024 and the President’s endorsement to the UNHCR Global Campaign #Ibelong in October 2015.

15. Many Ngöbe and Buglé indigenous children and youth born in Costa Rica to Panamanian parents (locally known as *Chiriticos*) have had difficulties in obtaining birth certificates, as they had not been registered at birth. Their nationality has been undetermined and in some cases they could be at risk of statelessness. Since 2014, the GoCR has implemented a series of activities together with UNHCR and other key stakeholders both at national and regional levels that have been aimed to improving birth registration rates among children born in Costa Rica to foreign indigenous people and transnational workers in the bordering areas. These actions have been materialised through a Memorandum of Understanding between the Supreme Electoral Tribunal and UNHCR and the joint work plan with the National Civil Registry Office that is to known as the *“Chiriticos’ Project”*, by which administrative procedures were revised to enable effective access to late-birth registration and nationality documentation procedures and harmonised process with the Panamanian Civil Registry Office counterpart. The *Chiriticos’ Project* has been implemented through mobile brigades to reach-out to indigenous population in the coffee-plantations where they live and work. Five bi-national registration and documentation brigades were carried out in Costa Rica together with the Panamanian Civil Registry Office. In a nutshell, almost 9,000 persons were assisted in their verification of nationality, late-birth registration, and nationality documentation procedures in Costa Rica⁹. This project has been considered as a model of regional coordination and that could be

⁹ According to available information from the Costa Rican National Civil Registry Office, since November 2014 to May 2017 some 8,886 persons were assisted in their registration and nationality documentation needs. Of those, 6689 were assisted in the verification of their nationality (3731 Costa Ricans, 2894 Panamanian and 64 still pending cases), and 699 were assisted in their determination of nationality through late-birth registration procedures (149 Costa Ricans, 378 Panamanians, and 172 pending results).

replicated in the region. Not only have both the Costa Rican and Panamanian National Civil Registry Offices simplified and harmonised their late-birth registration procedures in a bid to eliminate any risk of statelessness, but also the Panamanian counterpart has been able to further provide with double nationality to those born in Costa Rica and who were entitled to it, as well as for them to further replicate the Chiriticós' Project in their bordering areas with Colombia.