



Targeted Surveys on application of core labour standards Costa Rica

**Written by Ergon Associates
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Ergon



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion
Directorate D — Labour Mobility
Unit D.3 — International Issues

E-mail: empl-d3-unit@ec.europa.eu

European Commission
B-1049 Brussels

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Targeted Surveys on application of core labour standards, Costa Rica

This report has been developed to provide a picture of the application of core labour standards in Costa Rica. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

Progress

- Protections against anti-union discrimination, including effective access to remedy
- Updated legal definition of trafficking
- Enforcement / victim support for forced labour
- Strengthening the labour inspectorate
- Long-term lower incidence of child labour
- Multifaceted policies / strategies for addressing gender discrimination

Challenges

- Low unionisation rates and trade union presence in key industries, especially in the private sector
- Limited collective bargaining and bi-/tripartite dialogue, especially in public sector
- Parallel, non-union worker representative bodies and direct employer-worker agreements undermine trade unions
- Anti-union discrimination persists
- Government use of judicial challenges to limit strikes and collective bargaining in public sector

Key context

The combination of long-term political stability, a strong social compact, and steady economic growth over recent decades has helped Costa Rica achieve one of the lowest poverty rates in Latin America and the Caribbean, as well as strong human development indicators. Overall, these political, social, and economic factors provide a context that is broadly conducive to the application of core labour standards.

However, despite long-term growth, Costa Rica's deteriorating fiscal situation and persistent levels of inequality have been noted as broad development concerns with implications for core labour standards. For example, Costa Rica's budget deficit has led the current government to propose a range of austerity measures, including cuts to wages and benefits in the public sector. In this context, stakeholders have expressed concern about draft budget laws that may restrict the scope of collective bargaining agreements (CBAs) in the public sector. More generally, there are concerns that the government's austerity measures may have medium and long-term negative effects on household incomes, the effectiveness of government social programmes, and the resources and capacity of state agencies responsible for labour law enforcement.

A series of labour market challenges have emerged in recent years with implications for the application of core labour standards. Rising unemployment (currently at 10%), combined with persistent poverty among disadvantaged groups, increases families' economic vulnerability and heightens the risk of possible labour exploitation, including the use of forced and child labour. Workers in the growing informal economy face barriers in practice to the exercise of core labour rights, while wider enforcement of

labour laws is also especially problematic in the informal sector. Finally, the continued underrepresentation of certain social groups across the labour market indicate the presence of structural and/or direct discrimination affecting employment opportunities for women, young people, and migrants in particular.

Costa Rica's legal framework generally provides broad protections for core labour standards. Recent legislation has strengthened protections against forced labour, anti-union practices, and employment discrimination in particular. Most stakeholders also recognise the government's ongoing efforts to improve the application of core labour standards in practice, noting the development and implementation of National Action Plans in key areas, the creation of specialist agencies, as well as more practical initiatives to improve on-the-ground services – for example, training for officials, data collection, funding for victim shelters, and other social programmes.

Nevertheless, there remain concerns about current law and practice in specific areas, such as collective bargaining, as well as enforcement limitations more generally (including weaknesses in the labour inspectorate). Limited policy coherence and the lack of an integrated approach to implementation, together with poor inter-agency coordination, are additional factors to constrain the application of core labour standards.

Freedom of association and collective bargaining

Costa Rica's legal framework provides adequate protection for freedom of association and collective bargaining, although there remain concerns about their application in practice. Trade unions report that low unionisation rates, especially in the private sector (2-3%), constrain the capacity for workers to organise and restrict the effectiveness of strikes and collective bargaining initiatives. According to some stakeholders, a broad anti-union sentiment across sectors of Costa Rican society, politics, and business both contributes to and is exacerbated by declining unionisation rates, as well as the depreciation of the trade union movement's credibility more generally. More specifically, a range of other factors impede unionisation, including employers' increasing use of 'flexible' and fixed-term contracts, the presence of parallel worker representative bodies in many enterprises (e.g., 'solidarity associations'), and various forms of anti-union discrimination (e.g., intimidation, dismissal, and blacklisting of union officials). There are particular concerns about trade union rights in export agriculture, although employers in the sector maintain that core labour standards are broadly respected.

In the public sector, trade unions claim that the government has increasingly sought legislative and judicial means to restrict the right to strike and limit collective bargaining. Unions note the government's use of unconstitutionality claims to challenge judicially provisions of active CBAs; recourse to judicial injunctions to prevent or end strikes; and provisions in draft legislation that would restrict the scope of collective bargaining with respect to wages and benefits. However, the government maintains that legal strikes meeting legal requirements are duly respected, while some limits to the scope of collective bargaining are necessary given Costa Rica's current fiscal crisis.

Child labour

Costa Rica's laws prohibit work by children under the age of 15 years without exceptions, while they also establish specific conditions for the employment of persons under 18 years. Overall, the government has made significant progress both in terms of prevention and enforcement efforts concerning child labour. However, there remain some concerns

about a lack of resources for key state agencies (e.g., the labour inspectorate), which constrains effective enforcement and victim protection activities, especially in rural areas.

In practice, child labour occurs primarily in the informal economy, especially in the agricultural sector and, to a lesser extent, the commercial, industrial, and service sectors (including domestic work). More specifically, the government recognises the existence of child labour among the seasonal workforce on coffee farms, and on citrus, pineapple, banana, and sugarcane plantations. There are particular concerns about children from migrant families in seasonal work on plantations, and both migrant and indigenous families in coffee production. Children often work alongside their families in these sectors. Forced child labour is also reported in some sectors, including construction, fishing, street vending, and domestic service. There are concerns about the forced commercial sexual exploitation of children, especially in relation to tourism.

Forced labour

The law prohibits forced or compulsory labour and establishes criminal penalties for offences. Recent reforms to the Penal Code bring provisions on human trafficking into line with international standards. However, there have been few prosecutions under forced labour and trafficking laws to date, while funding for enforcement and victim support services is inadequate in some areas. The government has taken steps to improve enforcement and victim support activities, including training law enforcement officials, funding victim shelters, and social programmes for vulnerable communities.

In practice, forced labour continues to occur in Costa Rica, primarily in the informal economy. Reports indicate that men, women, and children – including a disproportionate number of migrants from other Central American countries – may be subject to forced labour in Costa Rica in sectors such as agriculture, construction, fishing, and small-scale retail activities. Debt bondage is reported in the agricultural sector, with migrant and indigenous workers especially at risk. Referral mechanisms for trafficking victims are not always implemented in a timely and effective manner, while official discretion in such referrals lead to uneven levels of protection.

Discrimination

The legal framework concerning discrimination in employment is adequate. The recent adoption of the RPL significantly strengthened legal protections, including the expansion of expressly prohibited grounds of discrimination; stipulating equal treatment (including pay) for workers engaged in similar work; improving access to remedy (e.g., through prompt reinstatement); and other protections for victims of discrimination. Additionally, the government is implementing a wide range of policies and programmes to address discrimination in employment, including a National Policy on Gender Equality and gender equality unit within MTSS; awareness-raising campaigns aimed at challenging gender stereotypes; initiatives to address discrimination against indigenous and Afro-Costa Ricans; and employment promotion plans for persons with disabilities.

However, discrimination in employment continues to exist in practice across the labour market, affecting in particular women, indigenous communities, people with disabilities, LGBTI persons, and migrant workers. Stakeholders draw attention to women's low labour force participation rate and a persistent gender wage gap (approx. 20 per cent), which they attribute in part to women's horizontal and vertical segregation in the workforce.

Labour market segregation is, in turn, derived from both long-term gender norms and stereotypes, and direct discrimination in employers' hiring and promotion decisions.

There are also reports of discrimination against indigenous and migrant workers in terms of pay and working conditions, often due to workers' lack of official documentation that leaves them vulnerable to exploitation. Additionally, stakeholders report broad discrimination against people with disabilities, as well as affecting LGBTBI persons.

Status of ratification and reporting

Costa Rica has ratified all ILO fundamental (core) and governance (priority) conventions. The ILO's Committee of Experts (ILO-CEACR) has not raised any concerns about Costa Rica's reporting obligations, with no out-of-cycle requests in recent years.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2017): Welcomed a reduction in the minimum representativeness threshold required by trade unions to decide on strikes, as well as proposed amendments to remove prohibitions on foreign nationals holding union leadership positions (previous ILO-CEACR concerns). However, it requests the government establish in law a fixed period for authorities to register trade unions and remove prohibitions on strikes by transport and dock workers.
	C98	(2017): Welcomed adoption of the Procedural Labour Reform (RPL) law that strengthens protections against anti-union discrimination. However, it also encourages the government to adopt measures to strengthen collective bargaining in the public and private sectors, citing authorities' use of legal proceedings to repeal provisions in public sector CBAs; and the prevalence of direct worker-employer agreements in the private sector (which may undermine union-backed collective bargaining).
Forced Labour	C29	<i>No recent comments</i>
	C105	<i>No recent comments</i>
Child labour	C138	(2018): Recognised significant government efforts to address child labour, while noting the continued existence of child labour in practice, especially in the informal economy. It requests the government intensify efforts to eliminate hazardous child labour.
	C182	(2018): Noted progress towards eliminating the worst forms of child labour, but it requests the government intensify efforts to ensure robust investigations and prosecutions in trafficking cases and improve programmes to address school drop-outs. Recognised government programmes to prevent child labour and support victims, while noting how limited resources and inter-agency coordination constrain implementation in some cases. It requests the government ensures legislation on hazardous work is enforced, especially for domestic workers, citing reports of the comparatively high incidence of child domestic labour.

Discrimination	C100	<p>(2017): Repeated requests that the government amend legislation to give full expression to the principle of 'equal pay for work of equal value', noting that current laws establish only the more limited principle of 'equal wages for equal/similar work'.</p> <p>Requested the government adopt urgent measures to address gender-based vertical and horizontal segregation in the labour market, including by addressing the constraining impact of gender stereotypes on women's employment opportunities.</p>
	C111	<p>(2017): Recognised progress in addressing discrimination against women overall, including implementation of a National Plan on Gender Equality (2016-2020). However, it requests the government amend legislation to include express prohibitions of discrimination based on colour (currently omitted from pertinent legal provisions), as well as adopt measures to ensure foreign migrant workers are protected in practice from discrimination in employment.</p>

References

ILO CEACR, [Observations and Direct Requests for Costa Rica](#)