

COSTA RICA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	26 Jan 1990	21 Aug 1990	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography	7 Sep 2000	9 Apr 2002	
Protocol to Prevent, Suppress and Punish Trafficking in Persons	16 Mar 2001	9 Sept 2003	
UN Optional Protocol on the Involvement of Children in Armed Conflict	7 Sep 2000	24 Jan 2003	
International Convention for the Protection of All Persons from Enforced Disappearance	6 Feb 2007	16 Feb 2012	
Hague Convention on International Child Abduction		9 Nov 1998	1 Feb 1999

There are no specific laws in Costa Rica concerning missing children, except for the criminalization of abduction and kidnapping.¹ But even though there are no laws mandating the immediate search for missing children, it is a generally accepted procedure. In addition, Costa Rica has access to a national database of missing children (through the Judicial Investigation Organization or *Organismo de Investigación Judicial* - OIJ in Spanish) and the database for Missing Latin Americans. During the field visit, OIJ stated that all missing children cases that they intake are entered into both databases.

Granted authorization by families, the OIJ's Press Office distributes and displays photos of missing children on television and in the printed press, as well as issues radio notifications. Not every case is disseminated to the public via media outlets, and the decision to publicize the photos is at the discretion of the police investigator in charge. Interviews with the OIJ indicated a lack of clear criteria for determining which cases would qualify for widespread public notification.

It is important to note that while involving the public in the search for missing children (i.e. through photo dissemination) is recommended, agencies must establish standardized criteria under which case information and images may be released, in order to assist investigators in making the appropriate decision.

¹ El Código Penal de Costa Rica, Art. 184 (2002). [Criminal Code of Costa Rica] establishes the crime of abduction of minors. (on file with the International Centre for Missing & Exploited Children).

Although the term “child” is sufficiently defined in Costa Rica’s legislation,² there are no specific descriptions or definitions of a “missing child”, which has led to some misconceptions, especially concerning children who run away from home. Though statistically the majority of cases in the country refer to “fuga del hogar” (or runaways, in English), it seems to be generally believed that these cases are more a result of children rebelling against strict parents.

Interviews with the prosecutor for the Sex Crimes Court of the OIJ indicated discrepancies on the response procedures based on the child’s age. Specifically, the immediate search for missing children is only mandatory when the child is below the age of 12. Above that age, immediate investigations are only required if there are signs of foul play. A 72-hour waiting period is established otherwise. It appears that frequently runaways are not handled as missing cases, but it is not clear as to whether those cases refer only to adults or to children as well. From the interview with OIJ, it appears that there were several missing children cases where investigators failed to act immediately after the preliminary interview with the parents pointed to a “classic runaway case.” Though OIJ ensures that the investigation in these cases was eventually conducted, parents were instructed to carry out the preliminary investigation themselves – i.e., calling family and friends – and a formal search was initiated only if the child did not return voluntarily.

While it is understandable that OIJ’s resources are scarce and the demands are high, this practice leaves children who are missing without any immediate risk assessment, including investigating why they may have left home, even if seemingly voluntarily. This is particularly important considering the high levels of sexual abuse in the country, and the fact that Costa Rica is a source and destination country for sexual trafficking and child sex tourism.³ The National Institute for Children (PANI), an autonomous body responsible for ensuring child welfare throughout the country, for instance, assisted 2,533 children and adolescents, including 3,330 cases of physical abuse, 769 cases of intra-family sexual abuse, and 537 cases of extra-familial sexual abuse⁴ in 2009. Incest can be a push factor for why children leave home and may also be a precursor to sex trafficking and commercial sexual exploitation in the country.

OIJ did note the existence of an internal policy to guide the investigation of missing children, while admitting that the cooperation between different institutions and their roles in the process of locating missing and abducted children were unclear. The interviews showed that law enforcement did not receive specialized training related to missing children cases. The absence of delineated roles and responsibilities between institutions combined with the lack of specific training for police officers on missing children investigations further complicates investigative work.⁵

Parental abduction is a crime in Costa Rica, punishable with imprisonment of six months to two years.⁶ Interviews in the country revealed that the search for a child who has been abducted by a parent is

² El Código de la Niñez y la Adolescencia de Costa Rica, Art. 2 (1998). [Costa Rican Code of Childhood and Adolescence]. (on file with the International Centre for Missing & Exploited Children).

³ U.S. TIP Report 2011, *supra* note 25, page 134.

⁴ U.S. DOS Human Rights Report 2010 (Costa Rica), *supra* note 34, page 15.

⁵ A clear example of this was described during the in-country interview; the case of a child who went missing in Costa Rica and was recovered deceased. The girl was reported as missing to OIJ and because there was no suspicion of foul play, the case was not immediately registered and/or investigated. Parents were told to do the preliminary search for her at friends’ houses. By the time the case was formally investigated and sent to the Prosecutor of Sex Crimes (Fiscalía de Violencia Sexuales), even though there was no suspicion at the time that the child was a victim of sexual abuse, it was already too late. Formalities impeded the issuance of a search warrant in time to recover the child alive. Furthermore, the absence of a clear understanding of the roles and procedures of all involved parties on how to investigate the case led to lapses in the investigation delaying the recovery of the child. She was found buried at the neighbor’s house, a convicted sex offender, who was not questioned at the time of her disappearance. The absence of a sex offender registry in the country also posed a challenge to narrowing down possible suspects.

⁶ Criminal Code of Costa Rica, *supra* note 63.

immediate, to prevent the child from crossing the border and becoming an international abduction case. Additionally, Costa Rica has amended its Child and Adolescent Code to include more detailed language on the responsibility of the Directorate General of Immigration of the Ministry of Interior and Public Security in issuing permits for the exit of children from the country, and of PANI as the agency responsible for the welfare of children.⁷ The Ministry of Governance has also established a written policy on the requirements for approving exit permits for children called “*Regulations for the Approval of Exit Permits for Children*”.⁸ This policy offers detailed guidance on the requirements for issuing those permits, as well as the roles and duties of each organization in the country, while offering the definition of critical terms, such as *unaccompanied minors*, *separated children* (i.e., children separated by one or both parents), *refugee children*, and other terms that are essential for the proper implementation of these requirements.

⁷ Costa Rican Code of Childhood and Adolescence, *supra* note 64, Art. 16.

⁸ Reglamento para la Autorización de Permisos de Salida de la Persona Menor de Edad [Regulations for the Authorization of Exit Permits for Minors], enacted by President Laura Chinchilla on July 2011. Available at: <http://www.dhr.go.cr/foromig/documentos/Reglamento%20Personas%20Menores%20de%20Edad.pdf> (last visited January 31, 2012; on file with the International Centre for Missing & Exploited Children).