

Republic of Costa Rica

(República de Costa Rica)



Capital: San José

Inhabitants: 4.400.000 (2006)

Area: 51.100 km²

1. Introduction



Costa Rica has a surface area of 51.100 square kilometers. The national territory sits between the Caribbean Sea, the Pacific Ocean and the Republics of Nicaragua and Panama. The country has approximately 4.4 million inhabitants, with an average population density of 74 inhabitants per square kilometer. According to the 1949 Political Constitution, Costa Rica is a free, independent and democratic Republic. The nation holds exclusive sovereignty. The Government of the Republic is popular, representative, alternative and responsible. Three different and independent Powers share the exercise of rule over it: Legislative, Executive and Judicial. None of these powers may delegate the exercise of the functions that belong to it.

Costa Rica is a Unitary State, bar the transitory experience of the Federal Republic of Central America (1824-1838). Its government is divided into the classic triad of Executive, Legislative (which is

single chamber) and Judicial Powers. There are two¹ instruments in the constitutional realm: the Supreme Tribunal of Elections and the National Finance and Accounts Office.

The origins of local government and its key stages of development can be traced back to independence in 1821, through until 1838, when the municipalities constituted the institutions around which the political life of Costa Rica revolved, and which were responsible for the people in terms of education, health, construction, the maintenance of public works and the keeping of civic order. The regional powers settled in the town councils of the four main cities, situated in the central valley area: San José, Alajuela, Heredia and Cartago. A radical change took place under the dictatorial regime of Braulio Carrillo from 1838: municipalities were abolished and, instead, a political head was named by the executive power, which became the main authority of the region. From that time on, the process of State centralization continued unhindered, rendering the municipalities irreversibly powerless during the 19th century and the whole of the 20th century, even into the first decade of the

¹ Between 1949 and 2002, 52 partial reforms were made to the constitution.



21st century, when attempts to recuperate the role of the municipality as local government started again. What they all had in common was "the growing subordination of the municipalities to the central power", to such an extent and in line with the thoughts of authors who have written on the subject, "the municipalities have not been able to fulfill the role of effective local government".

The concepts most frequently used are the municipality and the canton, which in other countries are better known as county councils.

2. Territorial Organization

For the purposes of public administration, Costa Rica's territory is divided into provinces, the provinces into cantons and the cantons into districts. The law may establish special distributions of land.

The country has a realm of nationwide government where the power to make decisions, areas of jurisdiction and resources are concentrated. It also has, although somewhat weak, a certain level of municipal government. National government administration is territorially quite decentralized, via autonomous institutions, which in general have a national jurisdiction and undertake their responsibilities directly in the district communities, without coordinating this work with the municipalities.

At present, the country has seven provinces, 81 cantons (county councils) and 463 districts.

Reference to the provinces in the Constitution is minimal.¹

The Legislative Assembly may decree, observing the procedures of partial reform to this Constitution, the creation of new provinces, always with the provision that the respective

As for the canton (or county council), it "promotes and administrates its own interests via municipal government". District Municipal Councils represent the different districts within the municipality. Costa Rica has 81 cantons, and therefore, there are 81 municipalities. The cantons are subdivided into 463 districts.

ARTICLE 1.- The county (municipio) is made up of local residents that promote and administrate their own interests through the municipal government.

ARTICLE 2.- The municipality is a corporate body of the state with its own patrimony and personality and full legal capacity to carry out all kinds of deeds and contracts necessary to accomplish its goals.

ARTICLE 3.- The territorial jurisdiction of the municipality is the respective canton, whose head is the seat of the municipal government.

The government and administration of the interests and services of the cantons are the responsibility of municipal government.

The word "autonomy" appears only once in the short article referring to municipal corporations. "Municipal corporations are autonomous" reads article 70 of the Constitution. This is in contrast to another section of the constitution that has specific notes dedicated to the description of the characteristics of (decentralized) autonomous institutions.

The concept of Local Government is put forth in the Political Constitution in the following way: Article 169 establishes that "The administration of the interests and

project has been previously approved in a plebiscite that the Assembly orders to be held in the province or provinces that support its division. Article 168 of the Constitution.



local services of each canton will be the responsibility of the Municipal Government, made up of a think tank, with municipal councilors incorporated by popular vote and an executive civil servant who will designate the law" (Article 169 of the Constitution). Thus it establishes that "the municipal town councilors will be elected for four years and will be required by obligation to fulfill their posts". Since 1962 municipal town councilors have been elected for terms of four years². The constitutional reform of 1971 established that the municipalities would take effect from the first of May of the corresponding year.³

The new municipal code that came into force in 1998 established the popular election of the municipal executive, the so-called mayor. Article 17 of the Municipal Code assigns the mayor the following functions, among others:

a) To exercise the functions inherent to the nature of general administrator and head of the municipal departments. b) To attend, with a voice but with no vote, all the sessions of the Municipal Council, assemblies, meetings and other events that the municipality carries out. Local democracy in Costa Rica turns out to be the weakest in the region. The councilors are not elected from specific lists, there is no election of the mayor, but rather of the municipal executive, the procedures are held on different schedules and the municipalities operate with very limited resources. According to Rivera, Costa Rica has grown up in an environment where local democracy has occurred with low intensity, even though Costa Rican democracy itself has been well recognized. (Rivera, Roy, 2001: 137).

b) Financial Indicators

i) Local public spending has been steady at around 32 US dollars per inhabitant;

ii) Total local public spending has held at around \$1,081 per inhabitant, estimated in 2005, the highest in the region.

iii) Municipal public spending represents 1.5% of GDP⁴.

iv) The proportion of local public spending over total public spending, as stated, is somewhere between 3% and 5%.

v) The proportion of local public spending on investment to total public spending on civil investment. This figure is 3.1%, which is due for the large part to the fact that municipal governments do not rely on tax transfers to make investments as they do in other countries.

c) The capital has no specific rule, except in matters of planning, according to the Law of urban planning, number 4240.

d) Metropolitan areas with specific statutes of Government do not exist.

e) Perhaps because of the small size of the country, territorial reform has never been considered.

3. Local Democracy

3.1 – The Local Political System

a) Local political parties have great influence in local elections. In the last two elections (2002 and 2006), local parties emerged that managed to attain significant representation in the respective municipalities, which has obliged the national political parties to pay more attention to their choice of candidates in order to avoid being ousted by emerging forces. (Hernández, 2006).

³ (Constitutional Reform 2741 on May 12 1961),

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⁴ General estimations made in the previously mentioned Trejo study.



b) The elections of councilors are not very pluralistic. The elections of the municipal executives tend to embrace pluralism and the inclusion of local initiatives.

c) In Costa Rica, the elected mayor is only invested with executive functions, without being able to govern. With the promulgation of the new Municipal Code in 1998, the institution of the plebiscite with powers to revoke the mandate of municipal executives (the so-called mayors) was introduced.

d) The election of mayors is made by relative majority and the election of councilors by proportional representation of minorities. The electoral system employed is that of quotient, subquotient and greatest residue (a variation of the proportional system), which enables the constitutional principle of representing minorities to be fulfilled (art. 95 section 6 of the Constitution).

e) There are indicators concerning the attitudes of the citizens, which, although still in the early stages, are interesting. They have been obtained from field research carried out by FLASCO⁵. The study shows that municipal councils and mayors represent a high average in terms of honesty, while citizens' evaluations of other national political figures, such as ministers and deputies, are considerably lower. (Ibid. P.169/70). Equally surprising, according to the study, is the fact that Costa Ricans rate the municipality quite highly in terms of trust, and above the institutions that are by nature associated with citizens' interests, like the Supreme Tribunal of Elections and the Office of the Public Advocate (Defensoria de los Habitantes.)

⁵ Latin American Faculty of Social Sciences. Roy Rivea's book (2001) documents these attitudes and behaviour.

3.2 – Civil Participation

a) The statistics for participation in local elections are similar to general elections because councilors are elected in them. Elections for municipal mayors have only been conducted separately to national elections since 2002. Of the country's only experience to date, abstention has registered a considerable rise, at 31% from the 1998 national elections to those held in 2002, even reaching 48% in some cantons.

b) The constitution and the municipal code recognizes procedures of direct democracy, such as town halls (cabildos), the referendum and the plebiscite but they have had little practical application on the whole

c) According to Article 172 of the Constitution at the lower level of the municipality: the district will be represented before the Municipality by its own Syndicate and a substitute with a voice but without a vote. In the Canton's districts the administration of interests and services, in certain cases, can include the creation of municipal district councils by the municipalities, as bodies that work alongside the respective municipality with their own functional autonomy and incorporated by following the same procedures of popular election that are used to make up the municipalities.

d) In Costa Rica there are many small, disperse, indigenous institutions throughout the country but they do not have any organic or institutional relationship to the municipalities.

4. Relationship between central and local levels

4.1 – General Issues

a) The main legal concepts used in the judicial system to refer to local government



that have already been mentioned are: the popularly elected Municipal Council (councilors) as well as the municipality and municipal governments.

b) The government institutions that are in charge of matters of municipal government are the National Finance and Accounts Office (to which municipal governments are subordinate), the Treasury Department, the Institute of Municipal Promotion and Evaluation, -IFAM- and in some cases the Presidential Ministry, especially in cases of conflict resolution.

Constitutional guarantees of local government autonomy do exist and are applied by the Constitutional Hall of the Judicial Organism and the Supreme Court of Justice. In general they are weak guarantees because local governments are subordinate institutions within the Costa Rican State. The country does not have any real municipal tradition of defending municipal autonomy. c) Authority entitled to legislate over local government. The National Finance and Accounts Office has enormous sway over the municipalities, to such a degree that it can directly influence the dismissal of mayors. The Legislative Assembly is responsible for national legislative powers over the municipalities.

4.2 – Supervision of Local Governments

a) In financial terms, the Republic's National Finance and Accounts Office, the Treasury Department and IFAM exercise a legally protected supervisory mechanism that makes municipal government autonomy vulnerable. Diverse ministries and decentralized autonomous entities supervise different areas of local development: housing, environment, roads and tracks etc.

b) Conditions and practice of dismissal, revocation and dissolution. The weak institutional and political levels of

autonomy mean that the dismissal of mayors and the revoking of mandates to be legally protected, are common practices. This is less common in the case of town councilors.

c) Costa Rica is peculiar in that it has a host of specialized institutions divided in to sectors (there is an excessive amount of these) protected by the constitutional mandate that grants these institutions their autonomy. These reach local communities directly, fulfilling roles that inhibit local government action, with great financial and bureaucratic power and which also tend to encourage political favoritism.

4.3 – Guarantee of local government autonomy; rights and interests.

a) The autonomous rights of local governments in Costa Rica are limited, as are the legal solutions available to them. They may appeal to the constitutional hall of the Supreme Court of Justice.

b) The institution responsible for the defense of municipal interests is the National Union of Local Governments. The UNGL was founded on the 28th of August 1977 and has gradually acquired strength and legitimacy in defending those interests before central government, though its political weight is still weak. There is also the Institute of Municipal Promotion and Evaluation which despite having promoted initiatives in favor of the municipalities, also defends the interests of the executive organism and does not democratically elect mayors for incorporation in its board of directors.

c) Associations of local autonomies, town councilor associations and others.

The National Confederation of Associations of Communal Development (CONADECO), created on April 7th 1967, is important. "With the exhaustion and crisis of the



centralist model of the State, the present efforts of the Confederation are oriented towards the search for autonomy and the opening of spaces in processes of compromise for decentralization and local development".⁶

d) Description of the procedures and practices carried out regarding conflict resolution. Conflicts are resolved at a judicial level, so that the procedures adopted are those that belong to the respective processes of public law disputes or of legal protection.

5. Local powers and Responsibilities

a) Costa Rican municipalities have a limited number of responsibilities, which are marginal compared with State responsibilities. They are the following: public lighting; cleaning of public roads, waste collection; maintenance of parks and green areas; municipal police; construction and repairs to walkways; weed removal and cleaning of un-constructed sites; municipal construction of public works within the jurisdiction of the canton.

b) In the processes mentioned above, local authorities can exercise their judicial powers and enjoy a fair amount of independence in decision-making processes, since they are responsibilities that are exclusive to them. The approval of the Urban Regulator Plan in the canton should also be mentioned.

c) How power is distributed in the different sectors is as follows:

Planning. Development planning is totally centralized. However, the development and

approval of the Regulating Plans is under municipal responsibility.

Education. The role of municipalities is marginal.

Social Services. The role of municipalities is marginal.

Health Services. The role of municipalities is marginal.

Water supply. It is increasingly more centralized in the independent institution, Aqueducts and Sewage Systems. However, some municipalities lease this public service via municipal companies.

Electricity supply. As in the previous case, some municipalities lease this service to institutions that specialize in this field.

Public transport. The power to regulate the provision of public transport services is totally centralized. Public transport is in the hands of private entities that exploit it by means of concessions granted by central government.

Business development support. The municipalities have powers to organize companies.

d) The three tasks of local government that are considered decentralized in Costa Rica are: waste collection, street lighting and general urban upkeep.

e) The three tasks of local government that are considered centralized in Costa Rica are: electricity supply, drinking water supply and public transport.

6. Local Finance and Staff Administration

6.1 – Local Government Income

a) Local authorities do not have the power to fix taxes. This is the exclusive power of

⁶ National Confederation of Associations of Communal Development, CONADECO: Brochure.



the Legislative Assembly. Nevertheless, the municipalities do collect taxes that have been approved by the Legislative Assembly and their own taxes (or rates) for public services that fall under their responsibility. In view of the fact that the municipalities do not receive financial transfers from the Government, the proportion of income that they collect against their total income is very high (about 90%), even when the global collected income total is very low (less than 6% of the general government income).

b) Fiscal co-liability exists in some areas of taxation. In the case of fuel tax, the municipalities are responsible for collecting 30% of it and central government the remaining 70%. There are no other taxes that are divided between national government and municipal entities. In some cantons, there are specific taxes for the extraction or exploitation of certain productive activities, like banana, or pineapple cultivation etc. c) The amount that corresponds to external income is estimated at less than 5% of all the municipal income.

d) Difference between general budgets and special budgets. The only distinction in this area, according to Costa Rican legislation, is between ordinary and extra-ordinary budgets. The difference lies in that the former must be financed by the ordinary municipalities' income, that is, by municipal taxes, transfers specified by law such as fuel tax. On the other hand, the latter are exclusively financed by extra-ordinary income, meaning income originating from public credit. For example, government loans, placing of bonds in the market, and so on.

e) Other taxes and resources in local budgets.

Municipal income is divided into four categories: Tax (taxes approved by the

Legislative Assembly and charged locally); non-taxed, which are the quotas (or rates) for local public services; transfers, mainly from Central Government; credit resources and other income. In the case of Costa Rica, taxed income makes up the greater portion at 73%; the quotas for public services represent only 15%; transfers barely 4%; credit resources 1%; and other income 7%.

Local (or voluntary) taxes can be determined by the municipalities, but they have to be approved by Congress. The quotas for public municipal services constitute an independent faculty.

6.1 – Local Government Staff Administration

a) Local Government Staff.

There are no precise registers that indicate the number of employees, although it is estimated at ten to fifteen thousand. The municipalities in the large cities are very different to those in the smaller ones. The quality of staff on executive panels in the big cities is generally high, while the same cannot be said of the smaller ones. The regulation of staff is decentralized and independent. Municipal staff are employed under statutory labor regulations, that is to say, subject to Administrative Law. Each municipality has its own Statute which should adjust to the principles of the issue in question: access to the position on account of proven suitability, stable working conditions, exercise of the working activity subject to the principles of efficiency, effectiveness and transparency.

b) Integrity of the authorities elected and civil servants.

Corruption levels in local government do not appear to differ greatly from levels experienced in national government. Of those sporadic cases that do occur, they are reported, investigated and if the perpetrators found guilty, they are



dismissed and if any crime is involved in the deeds, charged before the Ministry of Justice (Ministerio Público).

The Law in force against Corruption and Illicit Enrichment establishes very strict prohibitions for all public employees, including those working in municipal government, and establishes very severe penalties for transgressors.

c) Administration of Human Resources

The culture of public service sector management is deeply rooted in the municipalities' civil servants and staff. Strategies are starting to be put in place, which aims to optimize the quality and efficiency of service provision in the municipalities of the larger cities. The process of modernization in these areas, however, has yet to be set in motion, in part because the process of decentralization and autonomy is still very much in its early stages. The great majority of the population does not accept the privatization of services in Costa Rica.

7. Conclusion: The Evolution of Local Governments during the last five years

August 2000: First national Congress I composed of a mix of local governments and civil society, between the Union of Local Governments (UNGL) and the National Confederation of Associations of Communal Development (CONADECO), with the central theme: "Decentralization and Local Power". The specific themes dealt with in the Congress were: 1) Decentralization and local power, 2) Citizen participation and electoral reforms 3) Autonomy and areas of local responsibilities and 4) Local Economic Development.

May 2001: Reform to article 170 of the Constitution. Transfer of 10% of the

budget to the municipalities in a 5-year process. It has not been put into effect.

2002 (December): First separate elections of Municipal Mayors and Syndicates, representing the Districts.

2005 was a very important year due to the significance and exposure given during the tenth Congress of the Union of Local Governments.

2006 (October) The Sixth Central American Conference for the Decentralization of the State and Local Development in San José Costa Rica.

2006 (December): Elections, for the second time of the municipal mayors and trustees, representing the Councils of the district.

In the light of a new electoral situation, which came in to force in February 2006, which allows for a choice of president, vice-presidents, deputies and councilors, the Union of Local Governments has taken a more serious stance once again. It has called on the presidential candidates to include in their national agenda the decentralization of the State and Local Development. Lamentably, the winning candidate, Oscar Arias Sánchez of the National Liberation Party of social democratic orientation, has so far not been seen to endorse these requests.

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