



# DECENT WORK CHECK

## **COSTA RICA** 2023

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## WageIndicator Foundation - [www.wageindicator.org](http://www.wageindicator.org)

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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# INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

*The text in this document was last updated in June 2023. For the most recent and updated text on Employment & Labour Legislation in Costa Rica in Spanish, please refer to: <https://tusalario.org/costarica>*

# MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour Code of 27 August 1943, last amended in 2020
2. Political Constitution of the Republic of Costa Rica 1949, last amended in 2011
3. Law 832 Concerning Minimum Wages
4. Executive Decree No. 11324 of March 1980
5. Act No. 7735 on Protection of the Adolescent Mother
6. Law on Promotion of Women's Social Equality 1990, amended by legislative decree No. 9677 of March 2019
7. Act No. 7739 issuing the Code of the Childhood and Adolescence of 6 January 1998
8. Law 4903, of November 17, 1971
9. Law no. 7302, National Pension System
10. Law no. 7983, Worker Protection Act
11. Law against Sexual Harassment Employment and Teaching, 1995 (Law No. 7476)
12. Ley No. 2694. Prohíbe toda clase de discriminación en materia laboral, 1960
13. Law No. 8107 of 18 July 2001
14. Law No. 9095 regarding Forced Labour

*The text in this document was last updated in June 2023. For the most recent and updated text on Employment & Labour Legislation in Costa Rica in Spanish, please refer to: <https://tusalarario.org/costarica>*

# 01/13 WORK & WAGES

## **ILO Conventions**

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

**Costa Rica has ratified the Conventions 95, 117 and 131.**

### ***Summary of Provisions under ILO Conventions***

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

## Regulations on work and wages:

- Labour Code of 27 August 1943, last amended in 2020
- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011
- Law 832 Concerning Minimum Wages

## Minimum Wage

Minimum Wage is the minimum remuneration that every worker is entitled. It should be sufficient to cover the material, moral and cultural needs of the worker and is fixed periodically for different occupations, sectors and regions.

National Wages Council in collaboration with the Ministry of Labour determines the minimum wage through executive decrees. The Council sets the minimum wage by sector and occupations and it is applicable to all workers employed in private sectors. The Council is a tripartite body composed of government, worker and employer representatives. It works under the Ministry of Labour and Social Security and is responsible for setting and reviewing minimum wages for all private sector labour activities. It is composed of 9 regular members and three substitute members. The National Wages Council is established by a constitutional mandate under article 57 of the Constitution.

Minimum wage should be sufficient to cater to the needs of workers and their families. Other factors that are considered while determining the minimum wage includes cost of living, level of wages and incomes in the country, economic development, and inflation rate.

Minimum wages can be revised at the request of 5 employers or 15 workers in the same occupation at any time during the year. Minimum wage for public sector employee is determined by specific Decrees, which regulate the increment of wages for these workers.

Labour Inspectors, working under the Ministry of Labour and Social Security, are authorized to carry out inspections to ensure compliance with the constitutional provisions as well as labour code provisions, international ratified conventions and collective agreements. Minimum wage compliance is also regulated by the labour inspectors. Violation of these provisions leads to fines. Fines may range between 1 to 23 base wages.

Source: §57 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §177-192, 608 and 614 of Labour Code of 27 August 1943, last amended in 2020; §2, 4, 17, 18, & 19 of the Decree No. 832 concerning minimum wages

## Regular Pay

Wage is the compensation that an employer must pay to the worker according to a labour contract. In accordance with the Costa Rican Constitution, it is a primary obligation of the employer to give salary to his workers.

Labour Code allows employer to pay wages per unit of time (hourly, daily, weekly, fortnightly or monthly) or per piece of work. It requires an employer to pay workers in legal tender. Parties are free to set wage payment period, which cannot be greater than a fortnight for manual workers and one month for intellectual (non-manual) workers and domestic workers.

The law allows in kind payment of wages, which a worker receives in form of food, lodging, clothes and other perquisites, intended for his/her immediate personal use. Value of in-kind payment must not exceed 50% of the cash salary that a worker receives. Workers must be provided with a salary slip which should indicate base salary, working hours, overtime amount, and any commissions or bonuses paid to the worker.

Executive Decree No. 11324 of March 20, 1980 prohibits the payment of wages, in whole or in part, with intoxicating beverages or harmful drugs. Remuneration in kind means only what the worker or his family receives in form of food, clothing and other items intended for immediate personal consumption, and should not exceed 50% of salary or wage.

Source: §162, 164-166 & 168 of Labour Code of 27 August 1943, last amended in 2020; §1, 2 of Executive Decree No. 11324 of March 1980



# 02/13 COMPENSATION

## **ILO Conventions**

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

**Costa Rica has ratified the Convention 01 only.**

### ***Summary of Provisions under ILO Conventions***

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

## Regulations on compensation:

- Labour Code of 27 August 1943, last amended in 2020
- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011

## Overtime Compensation

In accordance with the Labour Code, normal working hours are 8 hours a day and 48 hours a week. Working time is the time during which the worker is at the disposal of the employer in the establishment, including the lunch periods or breaks. For young workers, normal working hours are 6 hours per day and 36 hours per week. In case of domestic workers, normal working hours are 8 hours a day and 48 hours a week for daytime work and 6 hour a day and 36 hours a week for night-time work.

Any work performed exceeding the legal working time limits or that exceeds the lower working time limits that the employer and worker have agreed upon is known as overtime. If a worker works beyond the stipulated working hours, i.e., 8 hours a day and 48 hours a week, he/she is entitled to an overtime pay that is 50% over and above the rate of his ordinary pay (150% of the normal wage rate for overtime hours). Maximum daily working hours (normal + overtime) can't exceed 12 hours a day which means total weekly hours will exceed 56 weekly hours if a worker works overtime on 3 days of the week.

Normal working hours limit is not applicable to managers, administrators and those who work without direct supervision; commission agents and similar workers who do not carry out their work at the workplace; intermittent

workers or those whose presence alone is required; and workers who, because of the nature or functions of their work, cannot be subject to the hours limit. Overtime is not allowed for works, which are dangerous or unhealthy in nature. The 12-hour limit does not apply where the work is in response to disasters or risks to lives, establishments, machinery, facilities, products, or crops and where the workers concerned cannot not be substituted and the work cannot be postponed.

Source: §137, 139 of Labour Code of 27 August 1943, last amended in 2020

## Night Work Compensation

There is no provision in the law, which requires employers to provide premium pay to workers working at night. Night work means the work performed in the interval between 7 p.m. and 5 a.m. In cases of mixed hours of work (mix of day and night hours), it is considered night work when a worker performs work for 3.5 hours or more in the interval between 7 p.m. and 5 a.m. The daily and weekly hours limit for night workers cannot exceed 6 hours and 36 hours respectively. The daily and weekly limit for mixed schedule workers cannot exceed 7 hours and 42 hours respectively.

Source: § 58 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §136-140 of the Labour Code of 27 August 1943, last amended in 2020

## Compensatory Holidays / Rest Days

In cases where the public or social interest justifies the measure, and the worker disagree with working on his rest day, the

employer may request to the Ministry of Labour authorization for provide his workers with cumulative compensatory rest as a way of remuneration. Similarly, if a worker works on public holiday, an employer is required to provide compensatory rest within 15 days of the public holiday.

Source: §148 & 152 of the Labour Code of 27 August 1943, last amended in 2020

## **Weekend / Public Holiday Work Compensation**

Workers may be required to work on weekly rest days and public holidays. In such circumstances, when employees have to work on weekend or official holidays, they are entitled to receive wages at a premium rate of 200% of the normal hourly wage rate.

Source: §148 & 152 of the Labour Code of 27 August 1943, last amended in 2020

# 03/13 ANNUAL LEAVE & HOLIDAYS

## ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention  
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.  
In addition, for several industries, different Conventions apply.

**Costa Rica has ratified the Conventions 14 and 106 only.**

### *Summary of Provisions under ILO Conventions*

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

## Regulations on annual leave and holidays:

- Labour Code of 27 August 1943, last amended in 2020

### Paid Vacation / Annual Leave

The legislation provides that right to paid annual leave is guaranteed to all employees, after completion of 12 months (50 weeks) of continuous service. The annual leave has a minimum length of (12 working days) 14 calendar days. This law does not indicate whether paid annual leave increases with longer service. If a contract is terminated before the period of fifty weeks, employee is entitled to at least one day of vacation for each month worked and it is paid at the time of their contract termination.

The employer determines the schedule of annual leave for the workers. It is obligatory for the employer to indicate the timing of annual leave for the workers within 15 days after 50 weeks of continuous work, in order not to negatively influence the functioning of the establishment, industry or business or the effectiveness of rest.

Workers may enjoy the uninterrupted leave. Under agreement between the parties, such leave may be split in maximum two terms, when the circumstances of the establishment do not permit a long absence. In general, it is not permitted to accumulate holidays. However, it can be done once by the worker who perform specific tasks such as technical, managerial positions or similar work, when worker cannot be replaced by other worker, or when the residence of worker's family is situated in another

Province.

Annual leave is a paid leave and the employee receive a leave benefit which is equivalent to the average of the ordinary and extraordinary remunerations received in the last week; best reference term provided by Regulation regarding occupations in the agricultural sector; or the average of the last 50 weeks' salary if working in a commercial, industrial establishment or of any other type.

Compensation in lieu of annual leave is prohibited except in the case of contract termination before enjoyment of leave; in the case of casual or piecework; and if for some reason worker could not take annual leave and may agree with the employer to get compensation for excess of minimum two weeks of leave. The compensation may not be granted if the employee has received benefit in the previous two years.

Source: §153-160 of the Labour Code of 27 August 1943, last amended in 2020

### Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are usually 11 in number however paid holidays, required under the law, are only 09. An employer is not under obligation to pay for holiday on August 02 and October 12.

Public holidays include New Year's Day (January 01), Juan Santamaria Day (April 11), Holy Thursday (April 17), Good Friday (April 18), Labour Day (May 01), Annexation of Guanacaste (July 25), Virgin of Los Angeles Day (August 02), Mother's Day (August 15), Independence Day (September 15), National Cultures Day/Columbus Day

(October 12), and Christmas Day (December 25).

For one time only, the Labour Code allows enjoyment of some public holidays on Mondays immediately after a public holiday for 2020-2024. In 2022, workers enjoy the public holidays of 15 September and 1 December 2022 on Mondays immediately after. In 2023, workers enjoy the public holidays of 11 April, 25 July and 15 August on Mondays immediately after. In 2024, workers enjoy the public holidays of 11 April, 25 July and 15 August on Mondays immediately after.

Source: §147 & 148 of the Labour Code of 27 August 1943, last amended in 2020

## Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest after six days of work. Workers are paid premium rate in the case they render services in commercial establishments and in other occupations if it has been expressly determined.

Generally, working on weekly rest day is not allowed except in case when the nature of the work does not involve heavy, unhealthy or dangerous tasks and upon mutual agreement between the parties. These occupations are those in the agricultural sector, livestock farming, industrial establishments which requires continuous work, or in the public or social interest and where the opening of the establishment on weekly rest day is necessary.

Labour Code has provisions on both the rest breaks (during working hours) however the provision on daily rest periods is unclear. Employer and worker may agree on the length of rest break allowed for rest and meals depending on the nature of work. The minimum rest break is however 30 minutes which is continuous and is considered part of the working time.

As for daily rest periods, there is no clear provision and deducing the maximum daily working hours (12 hours) from 24 hours provides for a general daily rest period of 12 hours.

Source: §136, 137 and 152 of the Labour Code of 27 August 1943, last amended in 2020

# 04/13 EMPLOYMENT SECURITY

## **ILO Conventions**

Convention 158 (1982) on employment termination

**Costa Rica has not ratified the Convention 158.**

### ***Summary of Provisions under ILO Convention***

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

## Regulations on employment security:

- Labour Code of 27 August 1943, last amended in 2020

## Written Employment Particulars

The employment contract is a contract under which a person undertakes to provide services or work under the immediate direction of another and for consideration of pay, in any kind or form. It presumes the existence of this contract between the worker who provides services and the person who receives them.

Employment contracts can be both oral and written. Oral contracts are provided in some specific cases (agricultural labour, temporary employment and piecework where the value does not exceed certain limit). Written contracts are provided for most of the work. Following information must be present in an employment contract: the full name, nationality, age, sex, marital status and address of the contracting parties; the number of their identity cards, if they are obliged to carry them; a precise description of the worker's residence; the duration of the contract or the expression must be indefinite, for particular work or lump sum; the time of the working day and the times at which it should be paid; the salary, and mode, time and place of payment; the place or places where the service will be provided or performed the work; other terms agreed upon by the parties; the place and date of conclusion of the contract; the signatures of the parties, provided that two witnesses may validly replace the one who does not know or cannot read and write.

Employment contract is concluded in a triplicate: one for each party and third is

submitted by the employer to the Office of Employment, Ministry of Labour and Social Security within fifteen days of its conclusion or modification or renewal. In accordance with article 6 of the Labour Code, all workplace orders and instructions must be in Spanish which means that all employment related documents including employment contract must be concluded in Spanish.

Source: §06 and 18-48 of the Labour Code of 27 August 1943, last amended in 2020

## Fixed Term Contracts

Costa Rican labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. The general duration of fixed term contracts is 12 months. This duration is 60 months (5 years) if the work requires special technical preparation. A fixed term contract is subject to renewal if the service provided remains extraordinary, does not involve the permanent activity of the enterprise and objective reasons (at the time of hiring) still persists. An employment contract may be concluded for a definite (fixed term), indefinite (permanent term) periods or for performing some specific task.

Source: §19-20 & 26-27 of the Labour Code of 27 August 1943, last amended in 2020

## Probation Period

Probationary period in Costa Rica is 3 months. It is implied from the provisions of Labour code. An indefinite term contract may be terminated within the first three months without any obligation to serve notice or pay in lieu thereof. For domestic workers, the probation period is also three months.



Source: §28-29 of the Labour Code of 27 August 1943, last amended in 2020

## Notice Requirement

The employment contract can be terminated by mutual consent without liability to any party, or on the expiry of term, except in the case of extension, and the conclusion of the work on contracts for specific work; or on the grounds expressly provided in the labour code.

Labour law requires an employer to render a written termination notice before terminating an employee for reasons other than just cause. Notice period is not required in case of just cause. At the time of termination, an employer must issue a letter stating the date of hiring and job description. A worker may request the employer to include in letter the reason for termination and the way he worked. If the employment contract expires due to dismissal for lack attributed to the worker, the delivery of the letter of dismissal is obligatory which should describe in a timely and detailed manner the fact or facts on which the dismissal is based. Under the reform, employers are now required to personally deliver the dismissal letter to the employee, outlining in clear detail the facts leading to dismissal. If the employee refuses to accept the letter, the employer must deliver the letter to the nearest local office of the Ministry of Labour via certified mail within 10 calendar days of the dismissal. (applicable from 26 July 2017)

However, the length of pre-termination notice depends on the length of time, which the employee has worked for that particular employer. Duration of notice period is as follows:

- for an employment period of more than 3 months but less than 6 months, required notice period is one week;
- for an employment period of more than 6 months but less than 1 year, required notice period is two weeks; and
- for an employment period of one year or more, one-month notice is required.

Notice period is provided in writing but if the contract is verbal, the employer may give verbal notice before two witnesses. If a party fails to provide notice period, payment in lieu of notice is obligatory. Amount of payment is equivalent to the salary that he/she would have earned during the notice period.

Source: §28, 29 & 35 of the Labour Code of 27 August 1943, last amended in 2020

## Severance Pay

If a contract of indefinite term is terminated by the employer, he/she has to pay the following to the worker: severance pay, proportional mandatory Christmas-bonus, compensation for annual leave/vacations not yet enjoyed, compensation in lieu of prior notice of termination (if notice was not served). A worker receives severance pay on termination due to following cases: involuntary termination; dismissals for reasons other than just cause; terminations based on redundancy or employer's restructuring; retirement; employer's bankruptcy; force majeure; and death.

Severance Pay is also dependent on the length of employment and is as follows:

- For continuous work of three to six months, an amount equal to 7 days

wages is paid as severance.

- For continuous work of one year, the severance pay is 19.5 days of wages.
- The severance pay increases with years of service.

Source: §29, 83 & 85 of the Labour Code of 27 August 1943, last amended in 2020

# 05/13 FAMILY RESPONSIBILITIES

## **ILO Conventions**

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

**Costa Rica has not ratified the Convention 156.**

### ***Summary of Provisions under ILO Convention***

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

## Regulations on family responsibilities:

- Labour Code of 27 August 1943, last amended in 2020

## Paternity Leave

Biological parents will be granted a two-day paternity leave per week during the first four weeks following the birth of their child. The employer will be obligated to grant the father permission to spend time with their new-born child and contribute to their care within the parameters of this leave. In the event that this provision is not respected by the employer, it will be considered a serious breach of the employment contract, and the employer will be required to compensate the worker in all labour-related aspects as mandated by law, in addition to adding an indemnity payment equivalent to six salaries.

Source: §95 of the Law No. 10211, of May 5, 2022

## Parental Leave

There is no provision in the law on paid or unpaid parental leave.

## Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

# 06/13 MATERNITY & WORK

## **ILO Conventions**

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

**Costa Rica has not ratified the Conventions 103 and 183.**

### ***Summary of Provisions under ILO Convention***

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.

## Regulations on maternity and work:

- Labour Code of 27 August 1943, last amended in 2020
- Act No.7735 on Protection of the Adolescent Mother
- Act No.7739 issuing the Code of the Childhood and Adolescence of 6 January 1998
- Law No. 10211 of 5 May 2022

## Pregnancy Testing / Inquiry in Recruitment

It is absolutely forbidden for the employer: to require a medical pregnancy test for entry into or continued employment.

Source: §70 of the Law No. 10211 of 5 May 2022

## Free Medical Care

The clinics covered under the Social Security Fund and Health Care Centres provide free prenatal and post-natal care to the adolescent mothers.

## No Harmful Work

There is no specific provision for pregnant women working in arduous conditions. However, in general, Labour Code prohibits employment of women in the work that is heavy, unhealthy or dangerous (either physically or mentally).

In accordance with the regulation No.33507-MTSS, pregnant workers or nursing mothers must not be hired in any work that involves use and management of agro chemicals.

Source: §87 & 88 of the Labour Code of 27

August 1943, last amended in 2020; § 7 of the Regulation No.33507-MTSS

## Maternity Leave

Female employees are entitled to a paid maternity leave in the event of childbirth. A pregnant woman is entitled to a mandatory period of paid leave of four months (120 days) including one month before birth and three months after birth. Maternity leave can be extended by 03 additional months for medical reasons. In order to acquire paid maternity leave, a worker must provide a medical certificate, indicating expected date of delivery likely to occur within 5 weeks, to the employer.

Same rights are provided to the worker in case of adoption, i.e., 3 months leave is provided immediately following the adoption. Pregnant workers are entitled to 45 days of paid maternity leave in the event of miscarriage.

Source: §95 of the Law No. 10211 of 5 May

## Income

The maternity leave is awarded with full pay. The employer pays half of a worker's wage while the other half is paid by the government/social security fund. In the case of miscarriage or premature non-viable birth, amount of benefit reduces to half.

Source: § 95 of the Labour Code of 27 August 1943, last amended in 2020

## Protection from Dismissals

In accordance with the labour code, it is illegal for an employer to dismiss a female employee during her pregnancy or when

she is nursing a baby. Exceptions are provided for the dismissal due to just cause. If employment of a pregnant or breastfeeding worker is terminated in violation of above provision, she has the right to reinstatement and with full enjoyment of all rights including all the maternity leave allowance and wages she could have received from the time of dismissal to eighth month of pregnancy. A breastfeeding worker is entitled to 10 days' salary in addition to severance and damages.

Source: §94 & 94-bis of the Labour Code of 27 August 1943, last amended in 2020

## **Right to Return to Same Position**

Labour law provides a pregnant worker the right to return to same position after availing her maternity leave.

Source: §94-96 of the Labour Code of 27 August 1943, last amended in 2020

## **Breastfeeding**

Labour Code requires employers to provide nursing breaks, each of 15-minute duration, after every 3 hours of work to breastfeed a child. An employer can also provide two half-an-hour breaks in the full working day, if requested by worker.

Source: §97 of the Labour Code of 27 August 1943, last amended in 2020

# 07/13 HEALTH & SAFETY

## **ILO Conventions**

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

**Costa Rica has ratified the Convention 81 only.**

### ***Summary of Provisions under ILO Conventions***

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.



## Regulations on health and safety:

- Labour Code of 27 August 1943, last amended in 2020

## Employer Cares

In accordance with article 193 of the Labour Code, an employer is required to adopt occupational safety and health measures at the workplace to protect employee's lives, safety, moral and physical integrity against work hazards.

The employer must also ensure periodic medical examination of the workers. Employers must adopt health and safety measures regarding buildings, facilities and environmental conditions; operations and work processes; provision, use and maintenance of personal protective equipment; installation and maintenance of safeguards and protections of all kinds of machines and installations; and reduction, through technical measures, of the impact of noise and vibration.

It is obligatory for an employer to provide and promote OHS information and training to all workers.

Source: §193, 282, 283, 284, 295-297 of the Labour Code of 27 August 1943, last amended in 2020

## Free Protection

In accordance with the provisions of this Labour Code, it is the responsibility of employer to provide and maintain free protective equipment for the workers and to ensure its proper use and operation.

Source: §284 of the Labour Code of 27

August 1943, last amended in 2020

## Training

In accordance with the article 284 of Labour Code, it is the responsibility of an employer to provide training as is necessary to ensure health and safety at work of his employees.

Source: §284 of the Labour Code of 27 August 1943, last amended in 2020

## Labour Inspection System

Labour Inspection System is provided under the Labour Code. However, it is not as efficient as is required under ILO Convention on labour inspection.

The Inspectorate of Labour is responsible to ensure compliance with laws, collective agreements and regulations governing the conditions of work and OSH. The National Insurance Institute may also appoint inspectors so that the relevant OSH regulations can be enforced.

The national legislation has authorized the inspectors to enter in workplace premises at any time during the day or the night to ensure the compliance with OSH law and the prevention of risks at work. They may suspend the work or order the temporary cessation of the work until the employer complies with the provisions. Labour tribunals have the power to impose the closure of the workplace for up to a month.

The inspectorate is obliged to educate, advice and train employers and workers and their unions about their rights and obligations in order to prevent conflicts in the workplace. They are also authorized to issue orders and make recommendations to the employer to take certain steps within

a specified period. They can initiate legal action if the employers do not comply with the orders.

The inspectors have the power to require the police and other authorities to provide assistance in order to fulfil their functions. The financial penalties, in case of non-compliance, vary from 1 to 23 basic salaries.

Source: Labour Code of 27 August 1943, last amended in 2020

# 08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

## **ILO Conventions**

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

**Costa Rica has ratified the Conventions 102 and 130 only.**

### ***Summary of Provisions under ILO Conventions***

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

## Regulations on sick leave & Employment Injury Benefits:

- Labour Code of 27 August 1943, last amended in 2020

### Income

Employees are entitled to sickness benefits when the disease proves to render a person unfit for the normal performance of his/her duties for a period not exceeding three months. During sick leave, an employer has to pay at least 50 percent of the salary for the first three days of an employee's sick leave while the Social Security Administration (CCSS) pays the other 50 percent. The CCSS pays 60 percent of the salary from the fourth day of the sick leave up to 52 weeks with no obligation on the part of the employer to pay salary during the remaining period of sick leave. However, in accordance with article 79 of the Labour Code, an employer is required to provide following to a sick worker:

- a) Half (50%) salary for one month after continuous work of greater than three months but less than six months;
- b) Half (50%) salary for two months after continuous work of greater than six months but less than nine months;
- c) Half (50%) salary for three months after continuous work of greater than nine months.

Source: §79 of the Labour Code of 27 August 1943, last amended in 2020, ISSA Country Profile for Costa Rica

## Medical Care

Insured workers are entitled to medical care which includes general medical care, specialist care, medicine, hospitalization and maternity care.

Source: § 218 of the Labour Code of 27 August 1943, last amended in 2020; ISSA Country Profile for Costa Rica

### Job Security

In accordance with article 79 of the Labour Code, employment contract of a worker is suspended during the term of his sick leave. Art. 80 of Labour Code which allowed an employer to terminate employment contract of a sick worker after 3 months of leave has been repealed in 2009. Therefore, it is concluded that employment of a worker is secure during the period of his/her sick leave.

Source: §79 of the Labour Code of 27 August 1943, last amended in 2020

## Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to the death of a worker.

In the case of permanent total incapacity/disability (when assessed degree of disability is greater than 67%), pension is 100% of the minimum wage plus 90% of the insured's earnings that exceed this amount.

In the case of permanent partial disability, amount of compensation depends on the

assessed degree of disability and a percentage of full pension is accordingly paid. For assessed degree of disability in between 50% to 67%, benefit (67% of earnings) is paid up to 10 years while for assessed disability in between 0.5% to 49%, benefit is paid for 5 years.

In the case of temporary disability, benefit is 75% of the earnings for first 45 days are paid. Thereafter, 100% of the legal minimum wage plus 75% of worker's earnings is paid up to 2 years.

In the case of fatal injury, dependents (widow/disabled widower/children/dependent parents) receive survivors' pension. The widow(er) pension is 40% of the deceased worker's average earnings. Orphan's pension is 15% to 40% of the deceased worker's average earnings. Dependent parents also get some benefit. Survivors' benefits, when combined, cannot exceed 75% of the deceased's average earnings.

Source: ISSA Country Profile for Costa Rica

# 09/13 SOCIAL SECURITY

## ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions

Employment Injury Benefits: Conventions 121 (1964),

Invalidity, Old age and survivors' benefits: Convention 128(1967)

Medical Care and Sickness Benefits: Convention 130 (1969)

Unemployment Benefits: Convention 168 (1988).

**Costa Rica has ratified the Convention 102 and 130 only.**

### ***Summary of Provisions under ILO Conventions***

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

## Regulations on social security:

- Law no. 7302, National Pension System
- Law no. 7983, Worker Protection Act

## Pension Rights

To be entitled for full pension, a worker must have attained 65 years of age (same for men and women) with at least 300 months of contributions. There is also an option of advanced pension. Qualifying age for advanced pension is 62 years (60 years for women). Retirement age can also be reduced if worker has higher (than 300) months of contributions. Pension may also be deferred.

The Old-age pension depends upon the length of the total contribution period and average earnings. The average earnings in the last 60 months as well as indexed earnings in the last 240 months determine the pension payable to a worker.

Source: ISSA Country Profile for Costa Rica

## Dependents' / Survivors' Benefit

National Pension System (Law No. 7302) and Worker's Protection Act (Law No. 7983) provide for survivor benefit. A person is entitled to a survivor pension if he/she is the surviving spouse or the child of the deceased, and the deceased was, at the time of death, a pensioner or eligible for a pension. If the survivor is a spouse, he / she is entitled to 50% of the pension deceased worker received or was entitled to receive if younger than age 50; 60% if aged 50 to 59; 70% if aged 60 or older or with a disability. Orphans and dependent parents also receive pension. Total Survivors' benefit

cannot exceed 100% of the deceased worker's pension.

Source: ISSA Country Profile for Costa Rica; National Pension System Law No. 7302; Worker's Protection Act Law No. 7983

## Unemployment Benefits

There is no provision for unemployment benefit under Costa Rican labour and social security laws.

## Invalidity Benefits

National Pension System (Law No. 7302) and Worker's Protection Act (Law No. 7983) provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. Invalidity pension depends upon the length of the total contribution period and average earnings. The average earnings in the last 60 months determine the basic component of the pension (from 43% to 52.5%). It is calculated similarly as old age pension.

Source: ISSA Country Profile for Costa Rica; National Pension System Law No. 7302; Worker's Protection Act Law No. 7983

# 10/13 FAIR TREATMENT

## ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

**Costa Rica has ratified the Conventions 100 and 111.**

### *Summary of Provisions under ILO Conventions*

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.



## Regulations on fair treatment:

- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011
- Labour Code of 27 August 1943, last amended in 2020
- Law against Sexual Harassment Employment and Teaching, 1995 (Law No. 7476)
- Ley No. 2694. Prohíbe toda clase de discriminación en materia laboral, 1960
- Law No. 8107 of 18 July 2001

## Equal Pay

In accordance with the Labour Code, the principle of equal remuneration for work of equal value between men and women workers has to be respected and there cannot be any discrimination on the basis of age, ethnicity, gender, religion or nationality. The Constitution also protects the right of equal pay for equal work (art. 57). The new Labour Procedure Code also has provisions on equal pay for equal work and requires equal treatment to workers in term of working hours and remuneration.

Women have the right to equal pay with men for work of equal value, both in the private sector and in the public sector. The Inter institutional Commission for Wage Equality can oversee the wage difference between men and women. Differences in remuneration that are based on objective criteria duly demonstrated and justified, for reasons of abilities, qualifications, suitability, responsibility, productivity or seniority, among others, are not considered arbitrary and discriminatory.

Source: §167, 405 & 618-619 of Labour Code

of 27 August 1943, last amended in 2020; §14-15 of the Law on Promotion of Women's Social Equality 1990, amended by legislative decree No. 9677 of March 2019

## Sexual Harassment

The law against sexual harassment (Law No. 7476) prohibits sexual harassment in the workplace and educational institutions. Sexual harassment is considered as any sexual conduct that is undesired by the individual who receives it. The conduct is repeated and causes detrimental effects in the material conditions of employment or teaching; working or educational performance and fulfilment; and general state of personal well-being.

The law imposes penalties, which include a letter of reprimand, suspension of contract to dismissal, with more serious incidents subject to criminal prosecution.

Source: Law against Sexual Harassment Employment and Teaching of 1995 (Law No. 7476)

## Non-Discrimination

The Constitution of Costa Rica guarantees equality before the law and prohibits practicing of all discrimination contrary to human dignity. It further requires that "no discrimination may be made with respect to salary, advantages or conditions of work between Costa Ricans and foreigners, or with respect to some group of workers. However, it stipulates, "in equal conditions, the Costa Rican worker must be preferred. Law 2694 prohibits any type of discrimination on the grounds of race, colour, sex, age, religion, marital status,

political opinion, national extraction, social origin, affiliation or economic status, which limits equality of opportunity or treatment in employment or occupation. Similarly, other laws prohibit discrimination on the basis of disability and union activity. Discrimination in employment on the basis of age, ethnicity, gender or religion is prohibited.

In accordance with new Labour Procedure Code, effective from July 2017, any discrimination in the workplace based on age, ethnicity, gender, religion, race, sexual orientation, marital status, political opinion, national extraction, social origin, affiliation, disability, union affiliation, economic status or any other similar form of discrimination is prohibited. Similarly, dismissal of workers on above grounds is also prohibited. A 2019 amendment in the Labour Code includes “health condition” as a prohibited ground for dismissal.

In accordance with Law No. 7600 on Equal Opportunities for Persons with Disabilities, the State shall guarantee to persons with disabilities, both rural and urban areas, the right to an adequate job in accordance with their conditions and needs.

Under a 2019 amendment in the Labour Code, employers cannot require HIV tests from workers for the purpose of hiring or continued employment. If a worker discriminates against a co-worker on the basis of HIV, employer can terminate the former’s employment contract for a just-cause. A worker can also terminate the contract on just cause basis if they are discriminated against by the employer on the ground of HIV.

Source: §33 & 68 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §404-406 and

619 of Labour Code of 27 August 1943, last amended in 2020; §1 of the Ley No. 2694 Prohíbe toda clase de discriminación en materia laboral of 1960; §40& 406 of Labour Procedure Code; Law No. 7600 on Equal Opportunities for Persons with Disabilities 1996

## Equal Choice of Profession

Women cannot work in the same industries as men. Night work for women workers is prohibited.

Source: §87 & 88 of Labour Code of 27 August 1943, last amended in 2020

# 11/13 MINORS & YOUTH

## **ILO Conventions**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

**Costa Rica has ratified the Conventions 138 and 182.**

### ***Summary of Provisions under ILO Conventions***

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

## Regulations on minors and youth:

- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011
- Labour Code of 27 August 1943, last amended in 2020
- Childhood and Adolescence Code (Law No. 7739), 1998

## Minimum Age for Employment

Minimum age for employment is 15 years. The working hours for workers over 15 and less than 18 years of age cannot exceed seven hours a day and forty-two hours a week. The working hours of young workers over 12 years and under 15 cannot exceed five hours a day and thirty hours a week. Work of all types by young workers under the age of 12 years is fully prohibited. In order to employ a young worker, it is obligatory for an employer that age, full name, address, job/class of work, salary, and a proof of compulsory education for the young worker must be recorded and then registered in the Civil Registry.

Education is the priority for the children. Employers must ensure that the work performed by minors must not interfere with their education and provide the means to allow their under-age workers to attend school on regular basis. Parent's consent is also required to employ a worker less than 15 years of age. Under the Childhood and Adolescence Code, the compulsory education age is 17 years.

The goal of the law 4903, of November 17, 1971 is to provide methodical and complete professional training to adolescents. Any adolescents between fifteen years to twenty years, they can be contracted as "beginner workers" in semi-

skilled occupations. Beginner workers may receive a salary below the minimum but in no case less than 50% of the minimum during the first year; 75% during the second year and 100% of the salary from the third year.

Source: §89-93 of Labour Code of 27 August 1943, last amended in 2020; §57, 59 and 92 of the Childhood and Adolescence Code (Law No. 7739) of 1998; §1, 5 of the law 4903, of November 17, 1971

## Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. The Labour Code prohibits children younger than age 18 from working in certain occupations that are hazardous to their physical, mental, or moral health. These are occupations that entail working at night, in a mine, in a quarry, as well as places deemed dangerous for children to dwell in, such as a bar, hostels, pubs, or clubs. The night period for children is between 06 p.m. to 06 a.m.

The Childhood and Adolescence Code mentions additional hazardous occupations prohibited to children, including working with machines, toxic substances, and excessively loud noises. Law No. 8922, Prohibiting Dangerous Work and Unhealthy Work for Adolescent Workers, has a comprehensive list of hazardous occupations, employment sectors, and activities that children should not be engaged in.

Source: §87 & 88 of Labour Code of 27 August 1943, last amended in 2020; §94 of the Childhood and Adolescence Code (Law No. 7739)

# 12/13 FORCED LABOUR

## **ILO Conventions**

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

**Costa Rica has ratified both Conventions 29 & 105.**

### ***Summary of Provisions under ILO Conventions***

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

## Regulations on forced labour:

- Labour Code of 27 August 1943, last amended in 2020
- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011
- Law No. 9095 regarding Forced Labour

## Prohibition on Forced and Compulsory Labour

In accordance with article 80 of Law against Trafficking in Persons and Creation of the National Coalition Against the Smuggling of Migrants and Trafficking No 9095, a person who induces, maintains or subjects a person to carry out work or services in serious detriment of their basic human rights (without the consent of the victim) is punishable with imprisonment for four to eight years. The penalty is six to twelve years if the victim is a person under eighteen years of age or is vulnerable.

Source: §80 of the Law against Trafficking in Persons and Creation of the National Coalition Against the Smuggling of Migrants and Trafficking No 9095; §189-bis of Penal Code

## Freedom to Change Jobs and Right to Quit

The constitution provides the right to choose the occupation. It states, "Work is a right of the individual and an obligation with society. The State must procure that everyone has an honest and useful occupation, duly remunerated, and because of this to impede the establishment of conditions that in some form diminish the freedom or the dignity of

man or degrade his work to the condition of simple merchandise."

Workers have the right to change jobs after serving due notice on their employer. For more information on this, please refer to the section on employment security.

Source: §56 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §28 of Labour Code of 27 August 1943, last amended in 2020

## Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-eight hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed 12 hours a day and 56 hours a week, if a worker works overtime on 3 days of the week. This 12-hour limit does not apply where the work is in response to disasters or risks to lives, establishments, machinery, facilities, products, or crops; and where the workers concerned cannot not be substituted and the work cannot be postponed.

For more information on this, please refer to the section on compensation.

Source: § 137, 139 of Labour Code of 27 August 1943, last amended in 2020

# 13/13 TRADE UNION

## ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)  
Right to Organize and Collective Bargaining: Convention 98 (1949)

**Costa Rica has ratified both Conventions 87 & 98.**

### *Summary of Provisions under ILO Conventions*

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.



## Regulations on trade unions:

- Labour Code of 27 August 1943, last amended in 2020
- Political Constitution of the Republic of Costa Rica 1949, last amended in 2011

## Freedom to Join and Form a Union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. This right is regulated by the labour code.

In accordance with the labour code, union is a permanent association of workers or employers or engaged in a profession or trade, constituted exclusively for the study, improvement and protection of their common economic and social interests. Their main objective is to hold conventions and collective agreements and in general, they are involved in all the activities that are not inconsistent with their essential purposes or with the law.

Workers have a right to form a union without prior authorization and the registration process must begin within 30 days of its formation. To get a legal recognition, an application is signed by its president or secretary-general and forwarded to the Office of Trade Unions of the Ministry of Labour and Social Security. The charter must contain the information regarding the number of members, type of union and the names of the people who make up its directive. The union gets registered within 15 days of filing the required documents.

Source: §25 & 60 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §339-344 of Labour Code of 27 August 1943, last amended in 2020

## Freedom of Collective Bargaining

Right to collective bargaining is recognized by Constitution and the law. However, this right is frustrated when employers bargain directly with workers' representatives.

Collective Agreement is held between one or more trade unions and one or more employers, or one or more unions of employers, in order to regulate the conditions under which the work is to be paid and other related matters to it. The collective agreement must specify the working hours, breaks and holidays; wages; the professions, crafts, activities and places and other legal stipulations agreed upon by the parties.

A CBA may be concluded for definite or indefinite period. The duration of a CBA signed for definite period may not be less than one year and not more than three.

The collective bargaining agreement must be executed in triplicate, one for the employees, one for the employer, and one for the Ministry of Labour. The agreement may not be enforceable until a copy is filed at the Ministry of Labour.

A 2010 Decree establishes Higher Labour Council which is a permanent tripartite consultative body with the purpose to contribute to the economic and productive development of the country and the consolidation of a democratic system of labour relations based on decent work and permanent social dialogue. The Council is mandated to analyse the situation of the country in terms of work, employment and social protection in order to propose and promote national policies in respective field. The Council is composed of 9 members, with three members each from



worker, employer and government side. The Council is chaired by the Minister for Labour and Social Security.

Source: §62 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §54-60 of the Labour Code of 27 August 1943, last amended in 2020; Decreto N° 36157-MTSS

## Right to Strike

Right to strike is provided under the constitution however excessively long list of essential services frustrates the right to strike.

A strike is legal temporary stoppage of work in an enterprise, establishment or business, agreed and carried out peacefully by a group of three or more workers with the sole purpose of improving or defending their common economic and social interests.

Strike is legal after all the methods of dispute resolution fail and strikers strictly adhere to the provisions provided by the law. Employees now can initiate a strike as long as 35% of the employees vote in its favour and the vote is ratified by 50% of the workforce plus one employee. Prior to the reform, the threshold was a lot higher, which made it difficult for employees to initiate a legal strike.

Strike is considered illegal if it is not peaceful and does not comply with the provisions of labour law. Employers also have the right to lockout workers. This right is subject to the same rules and restrictions as the right to strike. Employer is not obliged to pay wages during strike period as the employment contract suspends temporarily during this period.

A new decree regulates strikes in public services and gives effect to article 375 of Labour Code by specifying essential services. The essential services are those services whose interruption would endanger the life, personal safety or health of the whole or part of the population or which could have effect on delivery of goods and services which have direct bearing on the life and health of people.

These essential public services include prevention and health care services, emergency care services, electricity distribution and water supply, transporting of patients by land, water or air routes, and telecommunication services necessary for effective provision of other public services.

Source: §61 of the Political Constitution of the Republic of Costa Rica 1949, last amended in 2011; §371-391 of Labour Code of 27 August 1943, last amended in 2020; Decree no. 143 of 8 October 2015; Decreto Ejecutivo 38767-MP-MTSS-MJP denominado Reglamento al artículo 375 del Código de Trabajo

# QUESTIONNAIRE

## DECENTWORKCHECK.ORG

## Check

Decent Work Check Costa Rica is a product of WageIndicator.org and  
www.tusalario.org/costarica



National Regulation exists



National Regulation does not exist

## 01/13 Work &amp; Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

## 02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

## 03/13 Annual Leave &amp; Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

## 04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

## 06/13 Maternity &amp; Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

\* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





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- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy<br><i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child   |  | <input type="checkbox"/> | <input type="checkbox"/> |





## 07/13 Health & Safety

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |









## 08/13 Sick Leave & Employment Injury Benefits

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |    | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury                                       |   | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease     |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 09/13 Social Security

- |     |   |   |                          |                          |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit   |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

## 10/13 Fair Treatment

- |     |  |   |                          |                          |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination                                     |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace  |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Sex/Gender   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Race   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Colour   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Religion   |  | <input type="checkbox"/> | <input type="checkbox"/> |
|     | Political Opinion  |  | <input type="checkbox"/> | <input type="checkbox"/> |

\* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

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Nationality/Place of Birth	😊	<input type="checkbox"/>	<input type="checkbox"/>
Social Origin/Caste	😊	<input type="checkbox"/>	<input type="checkbox"/>
Family responsibilities/family status	😊	<input type="checkbox"/>	<input type="checkbox"/>
Age	😊	<input type="checkbox"/>	<input type="checkbox"/>
Disability/HIV-AIDS	😊	<input type="checkbox"/>	<input type="checkbox"/>
Trade union membership and related activities	😊	<input type="checkbox"/>	<input type="checkbox"/>
Language	😞	<input type="checkbox"/>	<input type="checkbox"/>
Sexual Orientation (homosexual, bisexual or heterosexual orientation)	😊	<input type="checkbox"/>	<input type="checkbox"/>
Marital Status	😊	<input type="checkbox"/>	<input type="checkbox"/>
Physical Appearance	😞	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/Maternity	😞	<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men and have the freedom to choose my profession	😞	<input type="checkbox"/>	<input type="checkbox"/>

## 11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden	😊	<input type="checkbox"/>	<input type="checkbox"/>
42. In my workplace, children under 18 are forbidden for hazardous work	😊	<input type="checkbox"/>	<input type="checkbox"/>

## 12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
44. My employer keeps my workplace free of forced or bonded labour	😊	<input type="checkbox"/>	<input type="checkbox"/>
45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week	😞	<input type="checkbox"/>	<input type="checkbox"/>

## 13/13 Trade Union Rights

46. I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
47. I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
48. My employer allows collective bargaining at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination	😊	<input type="checkbox"/>	<input type="checkbox"/>

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## Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Costa Rica scored 39 times "YES" on 49 questions related to International Labour Standards

### If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

### If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

### If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.