GLOBAL DETENTION PROJECT

Cristosal
Derechos Humanos

COSTA RICA: THE DETENTION OF THIRD-COUNTRY NATIONALS DEPORTED FROM THE UNITED STATES

SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE

SUBMITTED: OCTOBER 2026

ABOUT THE SUBMITTING ORGANISATIONS

GLOBAL DETENTION PROJECT (GDP)

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

CRISTOSAL

Cristosal is a human rights organization founded in El Salvador in 2000 that defends victims of human rights violations. It is known for leading the El Mozote trial and documenting the abuses of the State of Emergency in El Salvador. Since July 2025, it has operated in exile, from Guatemala and Honduras.

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85TH SESSION: 16 NOVEMBER – 4 DECEMBER 2026

1. INTRODUCTION

1.1 The Global Detention Project and Cristosal welcome the opportunity to provide information on Costa Rica's compliance with the Convention against Torture ahead of the Committee's adoption of its List of Issues Prior to Reporting for the State Party's forthcoming periodic report. This submission focuses on Costa Rica's reception and treatment of third-country nationals deported from the United States, as well as its long-standing immigration detention practices, which have drawn widespread scrutiny and concern.

1.2 This submission is made with regards to articles 2, 3, 11, 13, and 16 of the Convention, and is informed by the Committee's important engagement on immigration detention and deportation. We recall the Committee's General Comment No. 4 (2017), which highlights the *"exceptional"* nature of immigration detention and underscores the prohibition of deporting a person into situations of harm, stating (in paragraph 12): *"[T]he person at risk should never be deported to another State from which the person may subsequently face deportation to a third State in which there are substantial grounds for believing that the person would be in danger of being subjected to torture."*[1]

1.3 The UN Special Rapporteur on torture has also repeatedly expressed concerns about the arbitrary nature of immigration detention measures, including notably the rapporteur's 2018 report to the Human Rights Council (A/HRC/37/50), which states that the *"margins of permissibility of migration-related detention are narrow … and the mere fact that detention is authorized by national law does not exclude its arbitrariness under international law. In the view of the Special Rapporteur, criminal or administrative detention based solely on migration status exceeds the legitimate interests of States in protecting their territory and regulating irregular migration, and should be regarded as arbitrary."*[2]

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[1] UN Committee against Torture, "General Comment No. 4 (2017), on the Implementation of Article 3 of the Convention in the Context of Article 22," 4 September 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FGC%2F4&Lang=en

[2] UN Committee against Torture, "General Comment No. 4 (2017), on the Implementation of Human Rights Council, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman

1.4 With respect to Costa Rica's decision to enter agreement with the United States concerning the deportation of third-country nationals, we think it important to highlight the recent report on the externalisation of migration enforcement from the UN Special Rapporteur on the Human Rights of Migrants, which urges states to: *"Refrain from any measure that would amount to or lead to arbitrary detention, torture and ill-treatment, arbitrary deprivation of life, enforced disappearance and racial discrimination, and ensure that people are able to enjoy socioeconomic rights and the right to leave any country, including one's own."*[3]

1.5 Also relevant in this context is the September 2025 joint statement from the Inter-American Commission on Human Rights and several UN experts, which stresses that bilateral migration agreements, all parties *"must protect and guarantee human rights, and in particular observe the right to due process, the right of persons not to be arbitrarily detained, and to humane and dignified conditions of detention, once the persons are under their jurisdiction and control."*[4]

2. CONTEXT

2.1 Since as far back as the late 1990s, there have been reports revealing Costa Rica's use of detention measures for controlling irregular migration, initially using ad hoc facilities located in border regions.[5] As we note below, the country eventually codified immigration detention measures in its Migration Law, and established specialised facilities for this purpose, including the *Centro de Atención Temporal para Migrantes Sur* (CATEM Sur), which initially was conceived in 2017 as a humanitarian shelter located near the border with Panama.[6]

2.2 In 2025, CATEM Sur began being used to detain third-country nationals deported from the United States as part of a bilateral agreement between

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or Degrading Treatment or Punishment," A/HRC/37/50, 23 November 2018, https://documents.un.org/doc/undoc/gen/g18/347/27/pdf/g1834727.pdf

[3] Special Rapporteur on the Human Rights of Migrants, "Externalization of Migration Governance and its Effect on the Human Rights of Migrants," A/80/302, 4 August 2025, https://www.refworld.org/reference/themreport/unga/2025/en/151182

[4] Inter-American Commission on Human Rights, "IACHR and UN Experts: States Must Protect the Rights of Persons in Human Mobility," 18 September 2025, https://www.oas.org/en/iachr/jsForm/?File=%2Fen%2Fiachr%2Fmedia_center%2Fpreleases%2F2025%2F190.asp

[5] Central American Human Rights Commission (CODEHUCA). 2002. "SITUATION OF NICARAGUAN IMMIGRANTS IN COSTA RICA – CERD 2002." Available at https://www.fidh.org/IMG/pdf/costarica2002cerd.pdf

[6] La Nacion, "Este es el CATEM, sitio donde Costa Rica recibirá a los migrantes deportados por Trump," 20 February 2025, https://www.nacion.com/politica/este-es-el-catem-sitio-donde-costa-rica-recibira-a/WJ4UXFL25VF3RAZBUUXCLVCIOA/story/

the two countries. In February 2025, Costa Rica became one of the first countries to receive third-country nationals deported by the U.S. Trump administration. The country accepted 200 people–amongst them 81 children and 2 pregnant women–stating that they would be returned the countries of origin.[7] Based on an unwritten agreement,[8] two flights brought the group to the country on 20 and 25 February where, upon arrival, they were detained in the CATEM Sur.

2.3 In June 2025, Costa Rica's Constitutional Court ruled that the individuals' prolonged detention in the CATEM Sur constituted a violation of their right to personal liberty and ordered their release. By this stage, however, many of the detainees had already returned to their home countries.[9]

2.4 In March 2026, Costa Rica entered a new agreement with the United States, signing a Memorandum of Understanding (MoU), which established that it would accept up to 25 third-country nationals a week. Costa Rican government agreed that it would "provide appropriate immigration status or other legal accommodation for third-country nationals," and that all actions taken pursuant to this MoU are to be in accordance with obligations under the Convention against Torture, the 1951 Refugee Convention and its 1967 Protocol, and "all other relevant international obligations, national constitutions, laws, regulations, and immigration and visa policies, as well as the principle of non-refoulement."

2.5 As of 2 October 2026, 478 people representing 41 nationalities had been deported to Costa Rica under the scheme. The largest groups were Mexican (101), Chinese (96), Colombian (52), Brazilian (45), and Indian (22) nationals. Of the 478 individuals, 269 had left Costa Rica, 26 were in the process of leaving, and 183 remained in the country.[10]

2.6 Reports indicate that third-country nationals deported to Costa Rica have arrived after (often) prolonged detention in the U.S, with some reportedly shackled at the ankles, waist, and wrists during the removal flights. These accounts raise concerns about the treatment of deportees throughout the entire removal process and the extent to which Costa

[7] CNN, "Costa Rica acepta recibir y repatriar a 200 migrantes asiáticos deportados por EE.UU.," 17 February 2025, https://cnnespanol.cnn.com/2025/02/17/latinoamerica/costa-rica-recibir-repatriar-200-migrantes-asiaticos-deportados-eeuu-orix

[8] Diario Extra, "Canciller revela que acuerdo con EE.UU. para recibir migrantes no fue escrito," 19 March 2025, https://www.diarioextra.com/noticia/canciller-revela-que-acuerdo-con-ee-uu-para-recibir-migrantes-no-fue-escrito/

[9] Third Country Deportation Watch, "Costa Rica," accessed 13 October 2026, https://www.thirdcountrydeportationwatch.org/costa-rica

[10] Dirección General de Migración y Extranjería, "Centro de Documentación Institucional," accessed 13 October 2026, https://migracion.go.cr/documentacion-institucional/

Rica's arrangements with the U.S may contribute to a broader chain of human rights violations.

3. DETENTION LEGAL FRAMEWORK & INTERNATIONAL CONCERNS

3.1 Immigration detention is provided for by Costa Rica's General Law on Migration and Foreigners (Law No. 8764). Article 31(5) establishes that non-nationals may be held for up to 24 hours to verify their immigration status, and that they may subsequently be detained for up to 30 days to enforce a removal order (this can be extended in special circumstances). According to 31(5)(C), persons subject to administrative detention have the right to be held in a place with conditions that guarantee dignified and respectful treatment, and which take into account gender, age, and disability. Persons are to be informed of the reason for their arrest, and given the opportunity to access a lawyer and translation assistance (Article 31(7)).

3.2 Article 183 subsequently provides grounds for deportation, including entering the country clandestinely or without complying with entry or stay requirements, obtaining entry or permission to stay with false documents, and failing to leave after being ordered to do so.

3.3 This same law also provides the right to seek asylum. Article 31(8) provides that "every foreign person has the right to seek and receive asylum in the national territory," while 31(9) incorporates the principle of non-refoulement, prohibiting the expulsion, deportation, or rejection of asylum seekers and refugees to a country where their right to life is at risk.

3.4 Costa Rica's immigration detention practices have repeatedly come under scrutiny by human rights mechanisms, including the CAT. In 2023 Concluding Observations, CAT noted the failure of Costa Rica to provide adequate information about its immigration detention measures and urged the country to improve conditions in detention, requesting that it "Ensure adequate detention conditions and decent treatment in all places of detention or internment of asylum-seekers and immigrants."[11]

3.5 In 2017, the Committee on the Elimination of Discrimination of Women noted that "The inadequate conditions in migrant detention centres for transgender women throughout the refugee determination procedure."[12]

[11] Committee against Torture, "Observations finales concernant le troisième rapport périodique du Costa Rica*" CAT/C/CRI/CO/3, 19 December 2023, https://docs.un.org/fr/cat/c/cri/co/3

[12] Committee on the Elimination of Discrimination of Women, "Concluding Observations on the Seventh Periodic Report of Costa Rica," CEDAW/C/CRI/CO/7, 24 July 2017, https://docs.un.org/en/CEDAW/C/CRI/CO/7

3.6 In 2016, the Human Rights Committee also highlighted inadequate condition for immigration detainees, stating, "The Committee is concerned by information pointing to inadequate living conditions at the Temporary Detention Facility for Irregular Foreign Migrants, in particular overcrowding, poor sanitation and lack of health services. It is also concerned that the law does not limit the time that migrants may be held in detention (art. 10)."[13]

4. DETENTION OF THIRD-COUNTRY NATIONALS

4.1 Despite the repeated recommendations from human rights bodies to reform its immigration detention practices and improve conditions of detention, when Costa Rica began detaining the individuals deported by the United States in early 2025, these same concerns re-emerged, leading to widespread criticism and eventual intervention by judicial authorities.

4.2 Upon arrival in Costa Rica, the 200 third-country foreign nationals were placed in the *Centro de Atención Temporal para Migrantes* (CATEM Sur), where they were deprived of their liberty without individualised assessments of the necessity and proportionality of their detention.

4.3 At the CATEM Sur, third-country nationals were subjected to restrictions on their freedom of movement, which Costa Rica's National Mechanism for the Prevention of Torture characterised as de facto deprivation of liberty. The NPM noted a lack of legal basis for their detention and lack of effective judicial review.[14] It also noted that despite terms like "humanitarian accommodation," the conditions resembled formal detention, given the use of surveillance and their prohibition on leaving the facility.[15]

4.4 Numerous reports documented inhumane conditions at the CATEM Sur, in violation of Articles 31(5)(C) and 31(7) of the Law on Migration and Foreigners. Concerns included extreme heat and humidity; mosquitoes; inadequate and insufficient food; limited access to drinking water; a lack of medical, mental health, and psychosocial services; inadequate

[13] Human Rights Committee, "Concluding Observations on the Sixth Periodic Report of Costa Rica," CCPR/C/CRI/CO/6, 21 April 2016, https://docs.un.org/en/CCPR/C/CRI/CO/6

[14] Mecanismo Nacional de Prevención de la Tortura, "Privación de libertad de facto, refugio y afectación a los DDHH: Consideraciones preliminares sobre la situación de las personas deportadas desde EEUU y alojadas en el CATEM," 4 March 2025, https://www.dhr.go.cr/informacion_relevante/comunicados/2025/marzo/029_MNPT%20Deportaciones_CATEM.pdf

[15] La Nacion, "Este es el CATEM, sitio donde Costa Rica recibirá a los migrantes deportados por Trump," 20 February 2025, https://www.nacion.com/politica/este-es-el-catem-sitio-donde-costa-rica-recibira-a/WJ4UXFL25VF3RAZBUUXCLVCIOA/story/

translation support; and difficulties in communicating with the outside world. [16]

4.5 The deportees' legal status remained unclear for several months. An official resolution published in Costa Rica's *La Gaceta* on 18 February 2025 authorised the "exceptional entry" and "temporary stay" of third-country nationals deported from the United States, "solely for the purpose of continuing their journey to their countries of origin or elsewhere."[17] Concerns were similarly raised regarding effective access to asylum, including a lack of adequate information about the procedures for applying for asylum.[18]

4.6 In June 2025, in response to a habeas corpus petition filed on behalf of the 200 third-country nationals, Costa Rica's Constitutional Court ruled that their rights to personal liberty had been violated and ordered their release. The court also instructed the government to "determine the type of health, education, housing, and overall social assistance these individuals require from the State."[19] By this stage, however, many of the deportees had returned to their home countries, and only 28 remained at the facility as of 20 June.[20]

5. 2026 MEMORANDUM OF UNDERSTANDING

5.1 In March 2026, Costa Rica signed a Memorandum of Understanding (MoU) with the United States, agreeing to accept 25 third-country nationals per week. According to the MoU, "The Government of the Republic of Costa Rica intends to provide appropriate immigration status or other legal accommodation for third-country nationals transferred consistent with this MOU." (This was further emphasised by the country's Minister of Security, who was cited by Costa Rican media outlets on 25 March 2026 stating that deportees would have freedom of

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[16] See, Global Detention Project, "Centro de Atención Temporal para Migrantes (CATEM Sur), Conditions & Regime," https://www.globaldetentionproject.org/countries/americas/costa-rica/detention-centres/2799/centro-de-atencion-temporal-para-migrantes-catem

[17] Dirección General de Migración y Extranjería, "Se autoriza ingreso excepcional, permanencia transitoria y documentación de personas extranjeras deportadas de los Estados Unidos de América," La Gaceta, Alcance No. 22, 18 February 2025, https://www.imprentanacional.go.cr/pub/2025/02/18/ALCA22_18_02_2025.pdf

[18] Human Rights Watch, "'The Strategy is to Break Us,' The US Expulsion of Third-Country Nationals to Costa Rica," 22 May 2025, https://www.hrw.org/report/2025/05/22/the-strategy-is-to-break-us/the-us-expulsion-of-third-country-nationals-to-costa

[19] American Friends Service Committee, "Costa Rica: Constitutional Court Decision Sets a Precedent for the Rights of Migrants in the Region," 27 June 2025, https://afsc.org/newsroom/costa-rica-constitutional-court-decision-sets-precedent-rights-migrants-region

[20] Sala Constitucional (Corte Suprema de Costa Rica), "Sentencia Nº 2025027425 de Sala Constitucional, 29-08-2025," https://vlex.co.cr/vid/sentencia-n-2025027425-sala-1093611030

movement.[21]) The MoU also commits Costa Rica to ensuring that no individual is transferred to a country where they would face persecution or torture

5.2 While the General Directorate on Migration and Foreigners (DGME) is the institution responsible for executing this MoU, according to Annex A, it is the IOM which is to provide reception services to the deportees, and these services are to be of no cost to Costa Rica. As well as providing hotel accommodation, the IOM offers deportees Assisted Voluntary Return (AVR).

5.3 Third-country nationals transferred under the new arrangement have been accommodated in hotels, rather than the CATEM Sur, and observers including the National Mechanism for the Prevention of Torture have noted that their accommodation does not constitute deprivation of liberty and that they hold regular immigration status.

5.4 However, concerns remain regarding transparency and independent monitoring. On 12 August 2026, the Director General of the Directorate General of Migration and Foreigners (DGME), who also serves as Vice Minister of the Interior and Police, stated by email that civil society organisations would not be permitted to visit the hotels where deportees were accommodated.

5.5 This restriction raises concerns about independent oversight of their treatment and conditions, as well as their access to legal information and assistance.[22] In particular, observers note concern regarding deportees' access to assistance in applying for asylum–raising concerns regarding the risk of *refoulement*.

5.6 This concern is further compounded by the fact that the provision of information regarding deportees' options upon arrival (assisted voluntary return, leaving Costa Rica by their own means, applying for asylum, or requesting humanitarian status) is often inadequate. As Refugees International and the Global Strategic Litigation Council note:

> *"This information is often unclear, insufficiently accessible in their languages, and incomplete regarding legal and migration options. This suggests violation of the right to clear and effective information under domestic and international law. Information is generally provided in a group session, without individualized legal counselling. Without that individual support, people have difficulty understanding what each option*

[21] La Nación, "Costa Rica hospedaría en hoteles o en casas alquiladas a los nuevos migrantes deportados por Estados Unidos," 25 March 2026, https://www.nacion.com/politica/costa-rica-hospedaria-en-hoteles-o-en-casas/BC3QHO6FZJDMXBERDKZJ5L76HI/story/

[22] Refugees International, "Left in Limbo: Emerging Challenges for Third Country Nationals Forcibly Transferred by the United States to Costa Rica," 1 October 2026, https://www.refugeesinternational.org/reports-briefs/left-in-limbo-emerging-challenges-for-third-country-nationals-forcibly-transferred-by-the-united-states-to-costa-rica/

would mean for them, which avenue fits their circumstances, or the procedures and requirements they must follow."

6. RECOMMENDATIONS

6.1 In light of this information, the Global Detention Project and Cristosal encourage the Committee to request the following information:

6.1.i The measures being taken to identify and respond to potential ill-treatment experienced by individual deported third-country nationals, including whether they are provided with medical and psychosocial assessments upon arrival.

6.1.ii The measures it is taking to ensure that third-country nationals deported from the United States have effective access to Costa Rica's asylum system, including timely information in a language they can understand and individualised assessments of their protection needs, and that no individual is removed to a country where they risk persecution or torture.

6.1.iii The steps the state party is taking to ensure monitoring of, and transparency surrounding, the conditions in which deportees are accommodated–including access for civil society organisations and other independent monitors, and the availability of confidential complaints mechanisms and effective remedies for individuals whose rights are violated.

6.1.iv Detailed information about Costa Rica's current immigration detention system, including a complete list of sites used to confine people for immigration-related reasons, disaggregated annual and daily statistics on the numbers, age, gender, and nationalities of people placed in immigration detention, going back as many years as such data have been collected.

6.1.v The steps being taken to assess IOM's treatment of people deported by the United States and measures it is taking to ensure that the IOM is held liable for any mistreatment that happens while people are in their care.