

## **COSTA RICA**

### **DEMOCRATIC TRANSITION AND ITS CHALLENGES**

#### **Executive Summary**

Costa Rica improved its position with respect to the year 2021, and is in fifth place with 73.83 points. The legal framework continues to protect essential liberties; hence, citizens do not experience unlawful restrictions or excessive pressure for the exercise of freedom of the press. The Executive exercised a moderate influence, while the Legislative and Judicial environments keep a minor influence that tends to be protective of liberties. General elections were held during the period under study. This led to an increase in attacks against the media and journalists.

#### **Introduction**

General elections were held in the country during the period under study (August 2021-August 2022). The event resulted in the election of the 49<sup>th</sup> President of Costa Rica, Rodrigo Chaves, and the members of the Legislative Assembly for the period 2022-2026. Even though some media outlets and journalists were targets of attacks during this process, Costa Rica kept its standard of protection for freedom of the press and reached the fifth place in the ranking with 73.83 points.

Because of the foregoing, politics dominated media coverage and displaced issues related to the COVID-19 pandemic and its effects. To inform the public about their government plans, the presidential candidates took part in debates organized by public institutions like the Supreme Electoral Court (Tribunal Supremo de Elecciones); private institutions such as the Costa Rican Union of Business Chambers and Associations and the Private Sector (*Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial y Privado*), and the media (*Teletica*). The debates were influential over the electoral process, but also increased verbal attacks against those who hosted them (Sánchez Ramírez, 2022).

Similarly, the topics related to the economy were part of the most important discussions. In 2021, the unemployment rate stood at 14%, while poverty is estimated to have reached 23%, with 6.3% under extreme poverty (Blandón Ramírez, 2022). In 2022, this situation improved thanks to open-market economics; but this is still a matter of concern in the country (UCR, 2022). Moreover, the crossing of borders by irregular migrants and the increase of requests by refugees intensifies the need for resources to assist these people (SELA, 2022).

Even so, the behavior of the media and government representatives makes Costa Rica one of the best countries in the region in the realm of Citizens Free to Express Themselves. Equally, the rates [for the realms] of Violence and Impunity and Control over the Media remain at levels protective of freedom of the press, which explains the country's position in the Index.

Furthermore, Costa Rica's democracy remains as one of the strongest in the region. Separation of public powers is respected, which guarantees protection for freedom of expression.

The Legislative and Judicial environments maintain a slight level of influence, while the Executive intervenes moderately in communication dynamics.

## **Legislative Environment**

The experts inquired for this study show that the influence of this environment is minor (1.02 points out of a maximum of ten). During the period under study, the Legislative Assembly did not pass any bill affecting freedom of the press or of expression; consequently, it can be stated that the Legislative did not influence on control over the media. Similarly, with respect to violence and impunity, the influence of the Legislative is minimal.

Regarding the exercise of journalism, it is worth noting that the members of the Legislative Assembly approve the laws related to the access to public information, updates to the regulations associated to radio operation, the granting of broadcast licenses, digital transition of broadcast TV, and adjustments of tax rates on the use of airwaves.

It is also worth mentioning that some of the broadcast licenses will expire in 2024 and it transpires that the renewal will depend on the regulations adopted for such purpose (Cordero, 2022). This suggests that the behavior of the Legislative environment for the year 2023 will vary considerably.

## **Judicial Environment**

Like in the previous case, with 1.14 points, the Judicial environment has a slight influence over the exercise of freedom of the press. The Judiciary is viewed as the guarantor of human rights as confirmed by some of the decisions made during the period under study. However, some rulings issued during 2021 were controversial.

For instance, in September 2021, the San José Sentencing Court (*Juzgado Ejecutor de la Pena de San José*) issued a resolution whereby, by means of an injunction, it requests that judiciary authorities abstain from "... staging demonstrations, or making statements or opinions" that could affect the right to due process (Muñoz Solano, 2021). The Association of Journalists (*Colegio de Periodistas*) requested an injunction against the measure, but it was rejected by the Constitutional Chamber in October 2021.

Another disputed decision was the one adopted by the Constitutional Chamber regarding injunction relief requested by the *Diario Extra* newspaper. The filing inquired on the possibility for the media to demand accountability from public officials. However, as quoted by Iary Gómez, representative of Inter-American Press Association (IAPA) in Costa Rica, "[t]he Constitutional Chamber ruled that it is not mandatory for a public official to be held accountable during an interview and offered the choice for the official to respond in writing." (Granados, 2022).

## **Executive Environment**

With 2.66 points, this is the environment that exerts the greatest influence on the exercise of freedom of the press in Costa Rica. It is remarkable that, during this period, the general

elections were the most important topic, and the decisions made by both outgoing president (Carlos Alvarado) and incoming president (Rodrigo Chaves) influenced on the rating obtained.

For example, Carlos Alvarado was widely criticized for his poor cooperation with the media. In fact, in January 2022, the Ombudsman's Office (*Defensoría de los Habitantes*), indicated that:

When the highest political official, this being the President of the Republic, does not address the press, openly and without middlepersons, and instead restricts press access and refuses to engage in any interview or press conference, the rest of the officials will follow their example and consequently the country will become opaque regarding accountability and transparency (Castro, 2022).

For his part, Rodrigo Chaves resumed press conferences after holding cabinet meetings. Nevertheless, verbal attacks against journalists and representatives in attendance have continued to occur. In this regard, the IAPA "... expressed concern over the public speech of the President of Costa Rica", especially over the attacks against the newspaper *La Nación* (IAPA, 2022).

### **Realm A: An information access v. opacity pendulum**

During the 2022 electoral process, the people had access to the information necessary to make their electoral choices while journalists and the media faced several challenges to access public information. In fact, the Legislative and the Judicial Environments exerted a slight influence (with 1.43 and 1.50 points, respectively), while the Executive environment had a moderate influence with 2.93 points.

On the one hand, we can state that there was access to public information, especially in connection with the elections. Authorized pollsters continuously published the results of their surveys, presidential debates were held to learn about the candidates' proposals, and the media published information on the most relevant issues (economy, corruption, pandemic) which favored the general perception in this realm (Solano, 2022).

On the other hand –as mentioned above– journalists and the media often reported the restrictions they were met with to access official sources during the administration of Carlos Alvarado and Rodrigo Chaves. Remarkably –with respect to information about the pandemic– former Minister of Health Daniel Salas would constantly provide information on the cases and the measures being adopted, while sitting Minister of Health Joselyn Chacón followed Executive Order MS-DM-6218-2022 which established a single email to address inquiries from media outlets (Chacón Madrigal, 2022).

### **Realm B: Journalists and media under scrutiny from the Executive**

The Legislative and Judicial environments exerted a slight influence (1.71 and 2.00, respectively), while the Executive had a moderate influence on this realm (4.71 points). It is worth mentioning that the main situations affecting this realm took place during the electoral campaign and after the inauguration ceremony in May 2022.

During the campaign, Rodrigo Chaves made several statements against some media outlets following the publication of documents regarding the sexual harassment case in which he was involved when he was working at the World Bank (Bolaños, 2021; González, 2022). At the closing of his campaign, Chaves referred to *La Nación* and *Telenoticias* as "slanderous media" (Sequeira, 2022).

Following presidential inauguration, the government of Rodrigo Chaves has exerted indirect pressure on the exercise of journalism. One of the most notorious cases was the shutdown of Parque Viva, a venue property of *La Nación* group. In this regard, IAPA President Jorge Canahuati, stated:

Our experience tells us that many times freedom of the press is indirectly attacked to 'discipline' a media outlet, either by means of tax audits or by discriminating against them through government advertising, among other forms of indirect censorship (IAPA, 2022).

### **Realm C: Increasing attacks against journalists**

The exercise of journalism was affected by different incidents that placed the safety of journalists at risk. The environment that had the greatest impact was the Executive with 3.00 points (moderate influence) and, similar to the realms described above, the Legislative and Judicial environments had a slight influence with 0.95 and 1.05 points respectively.

Journalists faced excessive pressure, which sought to hinder the exercise of their profession. For example, in March 2022 a journalist from *Diario Extra* newspaper was not allowed to broadcast live from *Plaza de la Justicia*, a square located at the premises of the Judiciary in San José, because security officers prevented him from doing so (Valverde Loaiza, 2022). In the same way, journalists were unable to cover the first Cabinet Meeting of President Rodrigo Chaves (Cabezas, 2022).

Likewise, those who participated in hosting the presidential debates were subjected to verbal attacks and hate speech on social media. A study published by the University of Costa Rica (*Universidad de Costa Rica*) underscored that polarization, disinformation, and social fragmentation were some of the causes for the increase of this kind of attacks (Hidalgo, 2022). Additionally, journalists have deemed some statements by high-ranking government officials offensive and contrary to the press (Soto, 2022; Zamora, 2022).

### **Realm D: Costa Rica does not control the media**

Notably in this realm, the score for all three environments was zero. Control over the Media encompasses actions or omissions by the Government that seek to influence the activities of journalists. This score places Costa Rica as one of the best countries in the region.

There have been no reports of media shutdowns, expropriations, or confiscations. The Government has not used tax privileges to favor or harm those who criticize public policies; nor has the Government used the allocation of advertising funds as a measure to control the editorial policies of the country's major media outlets.

Likewise, the Government guarantees the continuous access to the Internet and does not impose undue restrictions or limitations to access media digital platforms. There is also no evidence of pressure applied on service providers or technology intermediaries to prevent the dissemination of content.

## **Conclusions**

Costa Rica is one of the countries in the region that offers most guarantees for the exercise of journalism. The actions of the Legislative and Judiciary seek to promote and respect freedom of the press, and although the Executive is the branch that exerts some moderate influence, the separation of powers and the promotion of democratic debate guarantee a climate favorable for the exercise of freedom of speech.

The 2022 general elections enabled a peaceful democratic transition. The media contributed with the dissemination of information about the candidates, their government plans and, in general, the electoral process. It is worth noting that an increase in polarization was expected, which indeed occurred and affected journalists, especially those who hosted the presidential debates. Discriminatory speech and verbal attacks against journalists have not ceased, so this topic is expected to remain relevant in 2023.

Also, the change of administration implies a transformation in the media agenda that poses countless challenges to the press. The relationship of journalists with government representatives has been marked by confrontation, and in some cases, by difficulties to access public information. If this situation continues, we can expect an increase of the influence by the Executive and the country's scores to worsen with respect to access to public information.

Regarding control over the media, it is important to mention that broadcasting transition to digital is still underway. Delays [in this regard] prevented a "digital blackout" of sorts from affecting communications during the electoral process; but by 2023, it will overlap with the renewal of broadcast licenses. The branches of government will face the challenge of working in a coordinated manner to guarantee freedom of the press during these processes.

The role of the Legislative will be essential to guarantee that the legal framework is respectful of fundamental freedoms. Since we can expect increased activity from the Legislative Assembly during 2023, the influence of this environment is also expected to grow, especially in relation to control over the media and the exercise of journalism in the country.

Finally, the Executive will face two major challenges. On the one hand, it must guarantee that the attacks against journalists are properly investigated and do not go unpunished. On the other hand, it will have to review the regulations proposed by the Legislative Assembly and ensure respect for freedom of the press and expression. Its actions will be important for the realms of Violence and Impunity, Practice of Journalism, and Control over the Media.

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