

Democratic governance in Costa Rica and its challenges

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NICARAGUA

MAR CARIBE

La Fortuna
San Carlos

San Jose

Quejos
Unita

Sejre

MAR PACÍFICO

PANAMÁ



Costa Rica in brief

- Between Nicaragua and Panama, a very narrow country of 51,000 km² and 5 million people, with 6% of the world's biodiversity and 3 000 km of coastline: "Costa Rica"=Rich Coast
- From the poorest colony in Central America, it became the region's most advanced country in the region
- 200 years of republican life, 72 years without an army and strong tradition of rule of law
- Robust system of Checks and Balances (Ex./Legisl./Jud.) + Electoral Tribunal as a 4th branch.
- Constitution (1949)/ Civil law country with a strong investment in education: +7.2% of GDP
- Costa Rica has a size smaller than W.V. and the population of Maryland or Alabama.

Democratic governance in Costa Rica



Constitution of 1949

After the revolution of 1948, Pepe Figueres called for elections and established the ground for the Constitution of 49, our current one that states:

- The abolition of the army
- Women 's right to vote
- Constitutional rights for "autonomy" were granted to the Public Universities and to the National Health System ("La Caja")
- In the economy side, the country embraced the development model based on Import Substitution and our belonging to the CA 's regional Common Market

Branches of government

- The division of branches is the cardinal principle of the modern state since Montesquieu ... “checks and balances”.
- Article 9 of the Constitution establishes that Costa Rica is a representative and participatory democracy, which is exercised through the legal channels established by the Constitution and the legal system.
- The principle of the division of branches, a fundamental pillar of the democratic system, is today understood as the collaboration of those branches. The validity of most of the fundamental acts requires the concurrence of the two political branches par excellence: the Executive and the Legislative.
- The legislation process is a clear example of this joint activity, since law making requires the participation of both branches; in addition, there are reciprocal control mechanisms, such as the veto. Others are exercised by the Judiciary, especially through the Constitutional Chamber.

Central Executive Branch

- Costa Rica has mainly a **presidential** system.
- Costa Rica 's Executive Branch oversees administering and managing the State, creating and executing public policies, directing public institutions and representing the country in its diplomatic relations with other nations.
- The Executive is composed of the President, the first & the second vice-president and a Cabinet of Ministers in charge of the different portfolios/areas of responsibility.
- The Ministry of the Presidency is the liaison of the Presidency with the other Powers (Legislative).

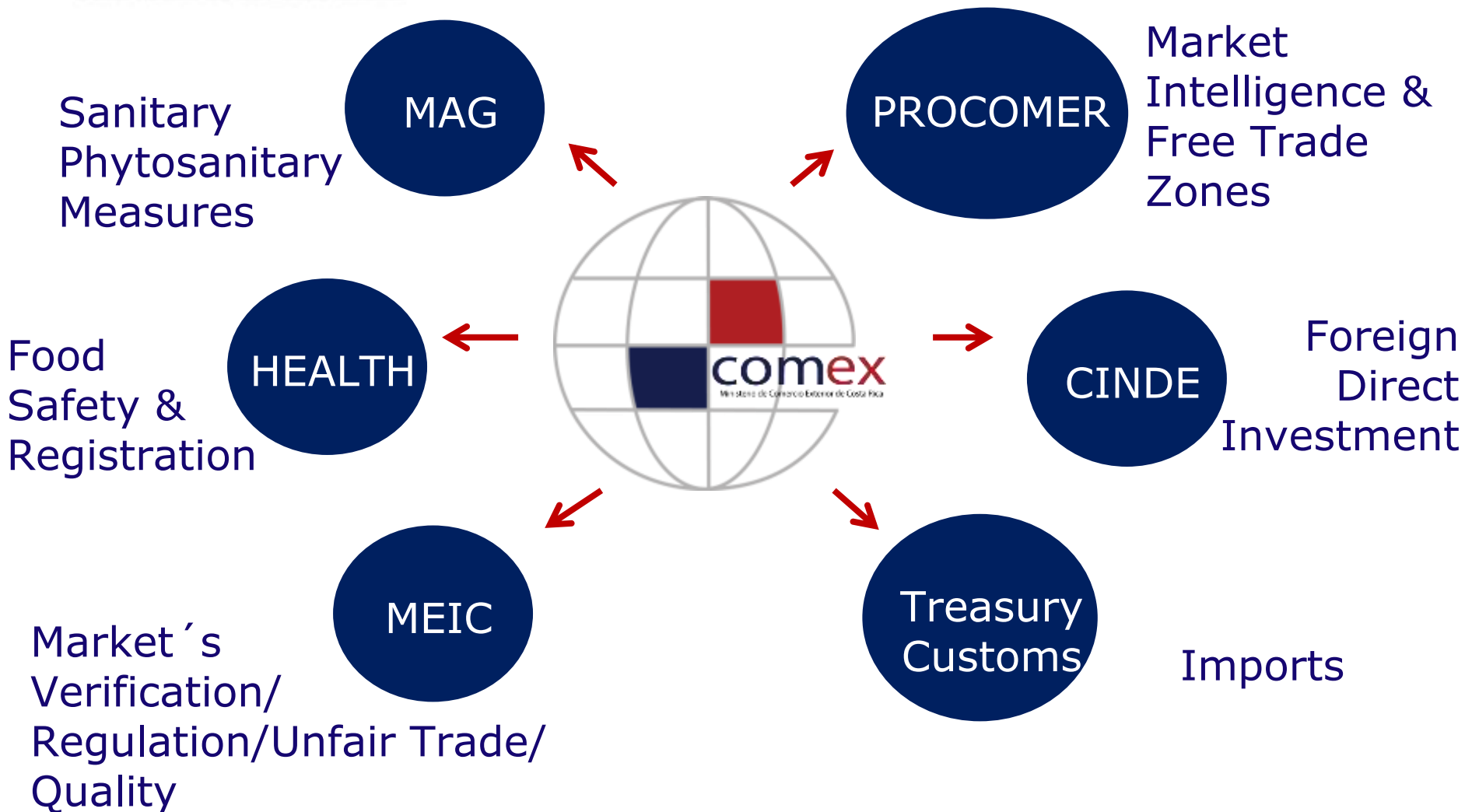
Areas of Executive Branch

- Ministry of Foreign Affairs
- Ministry of Treasury
- Costa Rica abolished its army in 1949. It has the Ministry of **Public Security**: surveillance, preservation of public order, prevention of crime and maintenance of national sovereignty &
- Ministry of **Justice**: preventing violence, supporting the Ministry of Public Security in the control of firearms and promoting alternative dispute resolution to develop a culture of peace.
- Public Education
- Infrastructure and Transportation

Other ministries...

- National Planning
- Economy, Industry and Commerce
- Agriculture and Livestock
- Science, Technology and Telecommunications*
- **Foreign Trade** & Procomer
- **Tourism** & ICT
- Health & “La Caja” (CCSS)
- Environment and Energy
- Culture and Youth & Sports and Recreation
- **Social areas**: Childhood/Women's Status/Human Development and Social Integration/Housing

Institutional Arrangement: Trade & FDI



But also it is a fragmented Executive

- Costa Rica has a central government, but also decentralized and autonomous entities. It makes for a very fragmented governance.
- Some bodies are autonomous by the Constitution like the public universities. Also, the Constitution grants monopoly to certain institutions (ICE).
- Other bodies are decentralized by law like the 83 local governments of the country.
- There are other functions that cannot be performed by the Executive like national budget, international loans or trade treaties must be approved by the Legislative branch.

- The Legislative Assembly is a single chamber composed of 57 legislators, according to the proportion of the population in the 7 provinces.
- They are directly elected by direct suffrage, but they represent each the political party who chooses them.
- The “diputados” are elected simultaneously with the presidential elections for a 4-year period.
- The Constitution lists its functions: approval of laws and international treaties/appointment of Supreme Court justices/approval of the budget of the Republic/call public officials or citizens to account in cases where warranted.

The Judicial Branch

- The Judicial Branch in Costa Rica functions independently from the other branches.
- It is composed of: Supreme Court of Justice, Constitutional Chamber, Courts of Justice, Appellate Courts and other entities such as Prosecutor's Office, Alimony, Courts of Civil Law.
- The Constitution gives them jurisdiction to hear civil proceedings , criminal, juvenile criminal, commercial, labor, contentious-administrative and civil finance, constitutional, family and agrarian matters, as well as other functions established by specific laws.
- Judicial career and a Judicial School

But our democratic governance faces
some dramatic challenges...



Weaknesses in the Model (1)

A “statist” and rigid Executive with many constitutional or legal dispersions.

- The Constitution grants autonomy to institutions as the public universities with the consequent difficulties in aligning with job creation and the needs of the private sector
- The law grants decentralization to local government with overlapping of functions and represent a heavy burden on the public finances.
- Constitutional monopolies: ICE & INS. Ex. the hijacking of the 5G frequency and DR-CAFTA was the only recent opportunity of a structural change.
- Obsolete institutions that never go away: a refinery that does not refine or the excess of public banks.

Weaknesses in the Model (2)

- The financial cost of maintaining a state with hyperthyroidism
- A very rigid legal framework which makes it difficult to ensure good quality civil servants
- Overlapping of entities that often deal with the same subject: productive linkage of SMEs or in the social area.
- Gaps that no one wants to fill: industrial policy
- And an increasingly obvious difficulty of negotiation in the face of a fragmented legislature.

Some comparisons Between Costa Rica and the United States



A general comparison of governance

- Both systems operate under the principle of checks & balances and under a Constitution as the “law of the land”
- A Federal System with federal and state laws vs. a centralized state with a single framework legislation for the whole country.
- Common Law vrs. Civil Law with the addition in Costa Rica of a Constitutional Court.
- A Bicameral System (HR & Senate) with two types of representations vrs. Single Chamber
- The electoral governance in CR is a 4th branch under a different model than the USA.

Costa Rica´s electoral system

Tribunal Supremo de Elecciones: Costa Rica has a fourth branch: The Constitution gives the Supreme Electoral Tribunal full powers to organize and supervise the elections, to the point of receiving the command of the Law Enforcement 6 months before elections.

- The International Institute for Democracy & Electoral Assistance ranks the quality of Costa Rican electoral processes in 4th place out of 165 countries with a perfect rating. Only one in LA with 72 years of continuous elections without fraud.
- All inhabitants have an ID that allows them to universally vote/everybody older 18 years old (prisoners) on Sunday.
- The kids exercise a moot vote to learn a civic value.
- Direct & secret vote for President and Leg. each 4 years.

**EL VOTO
es SECRETO**



PROHIBIDO
EL USO DE



Systems

CR



USA

- Universal ID
- Electoral Registry
- Electoral Tribunal
- One unified law: national electoral law
- Direct and secret vote
- In person vote
- TSE

- Every State defines the document that identifies the voter
- Registry in every state
- No federal electoral authority
- Each State has its own law + Federal law
- Electoral College
- Different types of vote as mail voting or in person or....
- Supreme Court (Gore vrs. Bush in Florida)

Lessons learned? Questions?



Pura vida

Visítenos: www.uned.ac.cr/ocex