Category: **Obligation to Provide Access to Legal Remedies; Substantive Obligations**

Sub-Category: Court Decisions

Name of Good Practice: **The Environmental Jurisprudence of** Costa Rica’s Constitutional Court

Key Words: Constitutional Right to Environment, Accountability, Access to Justice, Constitutional Court, Jurisprudence

Implementing Actors: Court: Constitutional Chamber of the Supreme Court

Location: Costa Rica

Description: The Constitutional Chamber of the Costa Rican Supreme Court has actively implemented the constitutional right to a healthy environment. Since 1995, much of the case law of the Constitutional Chamber has concerned the application of article 50 of the Costa Rican Constitution, which sets forth the right to a healthy environment. The Constitutional Chamber has defined the scope of article 50 broadly, transcending basic or primary protection of environmental components, such as water, to include factors relating to the economy, tourism, farming and other activities. It has held that the right requires not only that the State refrain from direct violations, but also that it protect against violations from others, emphasizing the State’s role as the guarantor for the protection and safeguarding of the environment and natural resources.

The Constitutional Chamber reviewed issues of constitutionality in environmental matters on 85 occasions between 1989, when the Chamber was established, and 2012. The majority of decisions where the Chamber reached findings of unconstitutionality involved protected areas (13 decisions) and EIA procedures (5 decisions). The court also reviewed a wide range of other issues, including mineral concession authorizations, aerial spraying, toxic substances used for baking, deforestation, ecotourism, protection of marine national parks, the procedure of the Environmental Administrative Tribunal and the use of pesticides. To give just a few examples, it has held that article 50 has been violated by a law permitting the hunting of green turtles; by the authorization of timber harvesting in the habitat of the green macaw; by the authorization of construction in Las Baulas National Park; and by the failure of the Government to take adequate measures to protect groundwater in approving a high-density urban development.

Further Information: See Report of Independent Expert on Mission to Costa Rica for an overview of the Court’s jurisprudence: http://www.ohchr.org/EN/Issues/Environment/IEEnvironment/Pages/Countryvisits.aspx; for more detail, including decisions of the Chamber, see its web page: <http://sitios.poder-judicial.go.cr/salaconstitucional/>.