

TABLE 5.

**THE LAW EXPLICITLY SETS FORTH THE PRINCIPLE OF  
NON-REFUSAL OF ENTRY (AT THE BORDER  
OR AT ANY POINT OF ENTRY INTO THE COUNTRY),  
AND THE OBLIGATION OF ANY AUTHORITY  
TO GUARANTEE THE PRINCIPLE OF *NON-REFOULEMENT***

SEE ALSO TABLES 6, 7, 8, 9 A, 12, 43

<b>Why is it good practice?</b>	The refusal of entry of an asylum seeker at the border or at any point of entry violates the principle of <i>non-refoulement</i> .
<b>Country</b>	<b>Source</b>
<b>Argentina</b>	<p>Law No. 26165 of 2006 - Refugee Recognition and Protection :</p> <p>Article 2 — The protection of refugees in the Argentine Republic shall be carried out in accordance with the principles of non-refoulement, <b>including the prohibition of refusal of entry at the border</b>, non-discrimination, no sanction for illegal entry, family unity, confidentiality, more favourable treatment and more favourable and humane interpretation or pro homine principle. In accordance with the declaratory nature of refugee status recognition, these principles shall apply to both recognised refugees and those applying for this recognition.</p> <p>Article 3 - The provisions and principles referred to in Articles 1 and 2 shall apply <b>from the moment the applicant for refugee status or the refugee is under the jurisdiction of the Argentine authorities</b> and until a solution is reached. Likewise, the principle of most favourable treatment will be applied, and in no case shall it be less favourable than that granted to foreigners in the same circumstances.</p> <p>Article 39. - The authorities, whether central, regional or municipal, i.e. <b>police, border, judicial migration or any other authorised officials</b> aware of the aspiration of a foreigner to access the procedure for the recognition of refugee status, <b>are responsible for ensuring respect for the principle of non-refoulement</b> contained in article 2 and 7 of this law and for immediately notifying the Executive Secretariat of such application.</p> <p>Available in Spanish at: <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf</a></p>
<b>Bolivia</b>	<p>Law N° 251 of 2012 – Refugee Protection Act</p> <p>Article 4. (NON-REFOULEMENT).</p> <p>I. No refugees or persons applying for this status, whose application is pending a</p>

final decision, may be returned to their country of origin or to another country where their life, safety or freedom is endangered by any of the grounds that gave rise to the recognition or application for refugee status.

II. For the purposes of the application of this Article, **refusal of entry at the border and extradition are considered forms of refoulement.**

Article 30. (AUTHORIZATION OF ENTRY). Local or border authorities who have knowledge of applications from foreigners to obtain refugee status shall authorise their entry and shall refer the applicant to the Technical Secretariat of CONARE, respecting the principles of confidentiality and non-refoulement provided herein.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2012/8855>

Migration Law (2013):  
Article 26

I. The prohibition of entry into the national territory of a foreign migrant is the administrative decision by which the migratory authority, in the course of migratory control, denies entry for the reasons established in paragraph II of this Article, ordering their immediate return to the country of origin or to a third country that admits them. There is no further appeal against this decision.  
(...)

III. **Asylum seekers and victims of human trafficking and migrant smuggling, i are exempt from the provisions of the preceding paragraph,** in addition to foreigners who can prove a family bond up to first-degree relatives, parentage, adoption or legal guardianship with nationals, having as a consequence to remedy the reasons or causes that would have caused the prohibition of their entry, except for the provisions in paragraphs 5, 6 and 7 of paragraph II of this Article.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2014/9556>

**Brazil**

Law 9474/97:

Article 8 **Irregular entry into the national territory shall not preclude the foreigner from seeking asylum from the competent authorities.**

Art. 9 The authority to which the application is submitted must hear the applicant and prepare the declaration, which will contain the circumstances related to the entry into Brazil and the reasons that caused them to leave the country.

Article 10. The application, submitted to the conditions provided in the previous articles, **shall suspend any administrative or criminal proceedings for irregular entry** established against the petitioner and persons from their family group that accompany them.

Available in Spanish at:

<http://www.acnur.org/fileadmin/Documentos/BDL/2002/0801.pdf>

<p><b>Chile</b></p>	<p>Law No. 20430 of 2010 - Establishes provisions on refugee protection:</p> <p>Fundamental Principles of Protection  Article 3.- Statement of Principles. The protection of asylum seekers and refugees shall be governed by the principles of non-refoulement, <b>including the prohibition of refusal of entry at the border</b>; no sanctions for illegal entry; confidentiality; non-discrimination; the most favourable treatment possible; and family unity.</p> <p>Article 26.- Filing of the Application. Applications may be submitted at <b>any immigration office</b>. Upon entering the national territory, foreigners may also do so <b>before the immigration authority at an authorised border crossing</b>, which will provide them with the necessary information about the procedure.</p> <p>Article 27.- Receipt of Applications. State Administration officials who are aware of a foreigner submitting an application for refugee status recognition must inform the Technical Secretariat of the Commission of Refugee Status Recognition of the situation as soon as possible.</p> <p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7733.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7733.pdf</a></p>
<p><b>Costa Rica</b></p>	<p>Regulations for Refugees (2011)</p> <p>Article 134.-The judicial and administrative authorities, or any other authorised official who knows of the written or verbal desire of a foreign person to access the procedure for the recognition of refugee status, <b>are responsible for ensuring compliance with the principle of non-refoulement</b> contained in articles 115 and 116 of the Law and these Regulations and for immediately notifying the Refugee Sub process of this request, a copy of which will be delivered to the applicant or their representative.</p> <p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2011/8171">http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2011/8171</a></p>
<p><b>Ecuador</b></p>	<p>Regulations regarding the Human Mobility Law (2017)</p> <p>Art.80 (All applications to “refuge” shall be sent to the Refuge Administrative Unit within no more than two days).</p> <p><a href="http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/11200">http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/11200</a></p>
<p><b>Guatemala</b></p>	<p>Migration Code (2016)</p> <p>Article 10. Right to be protected. The State of Guatemala, without any discrimination, has the obligation to protect the personal integrity, life and freedom of any national and foreign person in its national territory.  State institutions should not demand identification documents or any other requirement to provide the protection required by a foreign person. In any case, the</p>

	<p>necessary and available means must be used to give immediate attention.</p> <p>Article 46. Non-refoulement. If recognition of refugee or asylum status is denied, the person cannot be returned to the country where there is a well-founded reason to seriously endanger his or her life, physical integrity and freedom. The State of Guatemala, prior to the return, will ensure that the Office of the United Nations High Commissioner for Refugees (UNHCR) has been made aware of the situation of the person.</p> <p>Article 50. Sanction. The lack of identity and travel documents, or failure to comply with the administrative requirements for entry, stay or transit within the country does not justify the imposition of criminal sanctions, but obliges (the person) to pay the administrative expenses incurred in accordance with establish the regulations and be (the person will be) returned to the country of origin.</p> <p>Article 65. Ordinary entry of persons into the national territory (...) Persons who present themselves to the migratory posts of seaports, airports and land borders without the requisite official documents may be denied access to the national territory.</p> <p><a href="http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf">http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf</a></p>
<p><b>Honduras</b></p>	<p>Immigration and Foreign Nationals Act (2004)</p> <p>ARTICLE 44. NON REFOULEMENT, RESETTLEMENT OR REPATRIATION. In no event shall a person or group of persons who are in any of the situations listed in Article 42 of this Law be obliged to return to the country where their rights are threatened. <b>It is also prohibited to return an asylum-seeker or refugee from the border, port or airport on arrival or once the person concerned has entered Honduran territory.</b></p> <p>In the case of the resettlement of refugees in a third country or their repatriation to their country of origin, the Migration and Foreign Nationals Department is required to coordinate such actions with the Office of the United Nations High Commissioner for Refugees.</p> <p>Available in Spanish at: <a href="http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2004/2528">http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2004/2528</a></p>
<p><b>Mexico</b></p>	<p>REFUGEE LAW AND COMPLEMENTARY PROTECTION (2011)</p> <p>Article 6. <b>No applicant or refugee may in any way be refused entry at the border</b> or returned in any way to the territory of another country where their life is in danger for the reasons indicated in article 13 of this Law, or when there are reasonable grounds to believe that they would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment.</p> <p>Article 21. <b>Any authority having knowledge of a foreigner's desire to seek refugee status recognition must give written notice to the Secretariat immediately.</b> Failure to comply with the foregoing is punishable in accordance with the applicable provisions regarding the responsibilities of public officials.</p> <p>See:</p>

	<p>Regulations regarding above said Act: }</p> <p>Article 9.- For the purposes of compliance with article 6 of the Law, <b>no authority</b> shall take measures involving the refusal of entry of an asylum seeker or refugee at <b>border</b> or internment points into the national territory.</p> <p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/8150.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/8150.pdf</a></p>
<p><b>Panama</b></p>	<p>EXECUTIVE DECREE No. 23 of 10 February 1998</p> <p>ARTICLE 28. The primary receiving authority is the official who receives the asylum seeker in the first instance. They must inform ONPAR, within a period of no more than 24 hours, of any case of a person requesting protection who claims refugee status, in order that the procedure for gathering information and assessing the alleged facts may be initiated, which is required to determine their admission to the processing, applying the following principles:  <b>1) Non-refusal of entry at the border;</b></p> <p>ARTICLE 53. The following are the rights of Refugees and their basic family unit in accordance with the 1951 Convention and 1967 Protocol relating to the Status of Refugees, the Political Constitution and the laws of the Republic:  <b>1) The "non-refusal of entry" at the border or point of entry into the country.</b></p> <p>ARTICLE 82. In cases of the <b>large-scale influx</b> of persons under the category specified in this Statute, the principles of non-refoulement, <b>non-refusal of entry at the border</b> and non-sanctioning for illegal or irregular entry will apply provisionally, without this committing the Panamanian State to providing them with permanent settlement in their territory at the time of entry.</p> <p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0069.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0069.pdf</a></p>
<p><b>Uruguay</b></p>	<p>LAW No. 18076, Refugee Statute of 2006.  ARTICLE 10. (Principles).- All asylum applications require the State to respect the following principles:  A. Non-discrimination.  <b>B) Non-refusal of entry at the border.</b></p> <p>ARTICLE 12. <b>(Non-refusal of entry at border)</b>.- All public officials, in the exercising of migration control duties at a land, sea, river or air border post, shall refrain from prohibiting the conditional entry into the national territory of all persons who express their intention to seek asylum. This provision shall apply even if the asylum seeker does not have the documentation required by the statutory immigration provisions or if it is visibly <b>fraudulent or counterfeit</b>.</p> <p>ARTICLE 32. (Application).- The asylum application must be submitted verbally or in writing before any national or departmental authority or representative of the United Nations High Commissioner for Refugees in the country, or the office responsible for representing their interests.</p>

	<p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf</a></p> <p>Law No. 18250 (Migration, 2008)  Art. 45  (...) Notwithstanding the provisions of article 44 of the aforementioned Act, staff posted in the country's land, sea, river and air borders <b>are not permitted to refuse entry into the national territory of persons who have stated their intention to seek asylum.</b></p> <p>Available in Spanish at:  <a href="http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf">http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf</a></p>
<p><b>Brazil Declaration (2014)</b></p>	<p><i>We recognise</i> the developments in jurisprudence and the doctrine of the Inter-American Court of Human Rights in the countries in which they are applied, with regard to the content and scope of the right to request and receive asylum included in regional human rights instruments, their ties with international instruments related to refugees, the <i>ius cogens</i> nature of the principle of non-refoulement, <b>including non-refusal of entry at the border</b> and indirect return, and the integration of due process standards into refugee status determination procedures in order that these are fair and efficient</p> <p>(...)  During the subregional consultations, the need was expressed to continue to work towards consolidating secure borders and transit areas by means of actions aimed at the timely identification of asylum seekers and other persons with protection needs, the respect for the principle of non-refoulement, the timely care of these persons by means of their immediate referral to national protection institutions and satisfying their differentiated protection needs.</p> <p>Available in Spanish at:  <a href="http://www.acnur.org/cartagena30/en/brazil-declaration-and-plan-of-action/">http://www.acnur.org/cartagena30/en/brazil-declaration-and-plan-of-action/</a></p>
<p><b>Inter-American Commission on Human Rights</b></p>	<p>Report on the situation of human rights of asylum-seekers within the framework of the Canadian refugee status determination system, OAS/Ser.L/V/II.106, Doc. 40 rev., 28 February 2000.</p> <p>25. The prohibition of refoulement means that any person recognised as a refugee or requesting recognition as such is eligible for this protection in order to avoid deportation. This necessarily implies that <b>these persons cannot be refused entry at the border</b> or expelled without adequate and individualised analysis of their petitions, paragraph 25.</p> <p>See:  <a href="https://www.cidh.oas.org/countryrep/Canada2000en/canada.htm">https://www.cidh.oas.org/countryrep/Canada2000en/canada.htm</a></p>
<p><b>Inter-American Court of Human Rights Case</b></p>	<p>152. Thus, these persons are protected against refoulement as a specific form of asylum under article 22.8 of the Convention, regardless of their legal status or immigration status in the State concerned, and as an integral component of international refugee protection under the 1951 Convention and its 1967 Protocol, Article 33.1 of which provides that "No Contracting State may, by expulsion or</p>

<p><b>of Pacheco Tineo v Bolivia. Preliminary Objections, Merits, Reparations and Costs (2013)</b></p>	<p>refoulement, in any manner whatsoever return a refugee to the borders of territories where his (or her) life or freedom would be threatened on account of his (or her) race, religion, nationality, membership of a particular social group or political opinions".</p> <p>153. This necessarily implies that these persons <b>cannot be refused entry at the border</b> or expelled without adequate and individualised analysis of their petitions. (Judgment of 25 November 2013)</p> <p>For a Summary of the Judgment see: <a href="http://www.refworld.org/docid/53ce2cee4.html">http://www.refworld.org/docid/53ce2cee4.html</a> Available in Spanish at: <a href="http://www.corteidh.or.cr/docs/casos/articulos/seriec_272_esp.pdf">http://www.corteidh.or.cr/docs/casos/articulos/seriec_272_esp.pdf</a></p>
--	--

**Compiled by the Regional Legal Unit of the Bureau for the Americas, UNHCR**