

TABLE 10.

POSSIBILITY OF APPEAL OR REVIEW IF THE APPLICATION FOR REFUGEE STATUS IS DENIED

SEE ALSO TABLES 12, NATIONAL MECHANISMS FOR REFUGEE STATUS DETERMINATION, 5 (explicit non-refusal of entry at border), 6 (explicit non-refusal of entry at border of minors), 8 (declaratory nature of refugee status), 43 (due process)

Why is it good practice?	<p>It guarantees due process that a reasonable period of time be granted to appeal or challenge the first instance decision.</p> <p>Note that in Mexico and the Dominican Republic the remedy is of one of "review", and in Venezuela of "reconsideration"</p>
Country	Source
Argentina	<p>Article 50 of Law No. 26165 (2006)</p> <p>ARTICLE 50. - Once the resolution has been issued by the Commission in the first instance, the Executive Secretariat shall proceed to immediately notify the applicant in writing, who may file an appeal in writing to higher hierarchical structures within ten days of the date of notification. The appeal must be substantiated and filed before the National Commission's Executive Secretariat and submitted to the Minister of the Interior, following the intervention of the National Human Rights Office.</p> <p>The filing of administrative or judicial appeals shall suspend the implementation of the measures decreed until they are finalised.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf</p>
Belize	<p>Section 8 (5 and 6) of the <i>Refugees Act</i> (1991) and its reforms</p> <p>(5) Any person who is aggrieved by a refusal by the Committee to recognize him as a refugee, within fourteen days of being notified of such refusal, appeal in writing to the Minister.</p> <p>(6) In any appeal in terms of subsection (4), the Minister may confirm or set aside the decision of the Committee and shall cause the appellant concerned to be informed of his decision in the matter, and the decision of the Minister shall be final.</p> <p>"Minister" means the Minister for the time being responsible for refugees http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4935.pdf</p>

<p>Bolivia</p>	<p>Law 251 of 20 June 2012</p> <p>ART. 42. (Procedure). I. If the application is rejected in the first instance or if exclusion, cessation, cancellation, revocation or expulsion is determined, this decision may be appealed with the necessary rationale, within a period of fifteen (15) working days from its notification, before the Chairman of the Appeals Commission. II. Appealing the decision or resolution of first instance will have suspensive effect. III. The Appeals Commission shall issue a substantiated resolution of the case within a period of no more than fifteen (15) working days, which, once notified, shall not admit further appeals through administrative channels.</p> <p>Article 41. (Competent authority).</p> <p>I. The Appeals Commission is the competent entity for hearing and resolving appeals of first instance decisions or rulings. II. The Commission will be comprised of other representatives of the Ministries that make up the Executive Level of CONARE, appointed by the most senior authorities of the institution they represent, and must fulfill the same requirements established in Article 23 of this Law. III. In no event may the members of the Commission have a lower rank than the full members of CONARE. IV. The Presidency shall be appointed at the first meeting of this Commission.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8855.pdf</p>
<p>Brazil</p>	<p>Article 29 of Law No. 9474 (1997)</p> <p>In the case of a negative decision, this must be substantiated in the notification to the applicant, with the right of appeal to the Minister of State Justice, within a period of fifteen days from the receipt of the notification.</p> <p>Available in Portuguese at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/0801.pdf</p>
<p>Chile</p>	<p>Article 43 of Law No. 20430 (2010)</p> <p>Without prejudice to the constitutional actions that proceed, in accordance with the provisions of articles 20 and 21 of the Political Constitution of the Republic, against resolutions that deny, revoke, cancel or terminate refugee status, appeals may be lodged through administrative channels, according to article 59 of law N ° 19880 (...)</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7733.pdf</p> <p>Law 19880</p>

	<p>Article 59. (The first instance decision may be challenged before the same authority) within a period of five days. (An appeal may in addition be submitted).</p> <p>In the event of a first instance decision challenge rejected in part or in whole, the file will be submitted to the corresponding higher-ranking official (...)</p> <p>The appeal will be lodged before the next higher-ranking official to the one who issued the contested act, within 5 days following its notification.</p> <p>There shall be no hierarchical appeal against acts issued by the President of the Republic, Ministers of State, mayors and the senior management of decentralised public services. In these cases, the administrative appeal will exhaust all administrative channels.</p> <p>The authority called upon to rule on the appeals referred to in the preceding paragraphs shall have a term no longer than 30 days to rule on them. If a hierarchical appeal has been inferred, the authority called upon to resolve it must first hear the appealed body which may formulate its disclaimers by any means, written or electronic. The resolution granting the appeal may modify, replace or render the contested act ineffective.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2013/9075.pdf</p>
<p>Costa Rica</p>	<p>Articles 118 and 29 of Law 8764 (2009)</p> <p>Article 118. The Commission of Restricted Visas and Refuge shall, by means of a duly substantiated resolution, rule on the approval or denial of refugee status.</p> <p>Against the resolution that denies the refugee status a challenge may be submitted before the same Commission and, on appeal, before the Administrative Immigration Tribunal.</p> <p>Article 29. The Administrative Immigration Tribunal will be the competent body to hear and resolve the appeals against the final decisions issued by the General Directorate of Immigration and Foreign Citizens, on migration matters, and against the final decisions issued by the Commission of Restricted Visas and Refugee on refugee matters.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2009/7261.pdf</p>
<p>Ecuador</p>	<p>Organic Act on Human Mobility (2017)</p> <p>Article 99</p> <p>3. Applicants shall receive the necessary guidance on the procedure to be followed, including the stages of appeal, in a language and manner that they can understand;</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10973.pdf</p>
<p>El Salvador</p>	<p>Law on Refugee Status Determination (2002)</p>

Article 23.- In cases where the Sub-Commission has established that they do not meet the requirements established in this Law, applicants for refugee status may file an appeal to the CODER within 3 working days of the notification, once the decision has been notified through the Secretariat of the Commission.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1567.pdf>

Regulation of the Law on Refugee Status Determination, 7 September 2005

Term

Article 14.- Within a period of 72 hours from the moment the Sub-Commission receives the application and after having personally interviewed the applicant, the Sub-Commission shall determine whether the application is accepted or declared inadmissible.

Inadmissibility

Article 15.- The application shall be declared inadmissible for the following reasons:

- a) When it is manifestly unfounded. These are applications that are clearly fraudulent or bear no relation to the criteria for refugee status recognition, established in Art. 4 of the Law;
- b) When the elements established in Art. 57 of the Law are present.

Appeal

Article 16.- When the applicant has been notified by the Secretariat that his or her application has been declared inadmissible, he or she may lodge **an appeal to the Commission** within 3 working days from the date of notification. The Commission must make a decision within 3 working days of the appeal having been lodged by the applicant.

Applicants shall be authorised to remain in the national territory and shall present themselves before the Secretariat every 48 hours until the appeal is resolved. Once the decision made by the Commission has been notified, the administrative procedure is terminated.

Custody

Article 17.- During the maximum period of 72 hours of custody of applicants by the Border Division, their guarantees and human rights must be respected. In any event, no applicant may be confined to prison.

Non-Entry

Article 18.- If the decision of inadmissibility is final and the applicant is still in custody, he or she will not be authorised by the DGMYE to enter the national territory. However, the person may request another immigration status, if applicable.

Decision

Article 23.- Within 5 working days of the completion of the last interview, the Subcommittee will determine whether the application is accepted or declared inadmissible for admission for processing.

	<p>Admission and Inadmissibility Article 24.- The same criteria specified in Art. 15 of the Regulations, for the admission and inadmissibility of processing applications in the border procedure, will apply in the procedure in the territory.</p> <p>Appeal Article 25.- When the applicant has been notified by the Secretariat that his or her application has been declared inadmissible, he or she may lodge an appeal to the Commission within 3 working days from the date of notification. The Commission must make a decision within 7 working days of the appeal having been lodged by the applicant. The applicant shall be authorised to remain in the national territory until the appeal is resolved.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2005/3792.pdf</p>	
<p>Guatemala</p>	<p>Migration Code (2016)</p> <p>Article 43. Refuge. Foreigners may apply for refugee status before the State of Guatemala at the time of their entry at an official immigration post. The procedure for the recognition of refugee status shall be provided for in the respective regulations, in accordance with the legislation in force and the international instruments to which Guatemala is a party.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf</p> <p>Note: Article 241 repeals Government Agreement 383-2001</p>	
<p>Honduras</p>	<p>Immigration and Foreign Nationals Act (2004)</p> <p>(Art. 8: It is an attribution of the General Directorate of Migration and Foreign Nationals (...) 20) To recognise refugee status in accordance with this Law and its Regulations and the international treaties in force for Honduras;)</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2004/2528.pdf</p> <p>(In accordance with the supplementary administrative procedure) Article 139 of the Administrative Procedure Act (2009) The appeal shall be lodged before the body that issued the contested act, and the latter shall forward it to their superior for its ruling, together with the file and its report, within a period of 5 days. The period for lodging the appeal shall be 15 days.</p> <p>Article 140. After one (1) month from the lodging of the appeal without notification of its decision, it shall be deemed dismissed.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2013/9205.pdf</p>	

Jamaica	<p>Article 14 of the <i>Refugee Policy</i> (2009)</p> <p>An applicant who has been denied refugee status may apply in writing to the Minister responsible for immigration matters to have the decision reconsidered and shall do so within seven (7) working days from the date of notification of that decision.</p> <p>http://www.acnur.org/t3/fileadmin/Documentos/BDL/2009/7277.pdf</p>
Mexico	<p>Refugee and Complementary Protection Law (2011)</p> <p>Article 25 If the resolution is negative, the foreigner may lodge a judicial review within 15 working days from the respective notification, in accordance with that established in the regulations.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/8150.pdf</p>
Nicaragua	<p>Article 27 of Law No. 655 on Refugee Protection (2008)</p> <p>B) The CONAR's negative resolutions will be subject to the following: 2. Appeal, which will be lodged before the Executive Secretariat no later than 5 days after being notified of the decision on the judicial review, in order that the Minister of the Interior may rule on it and notify within the following 30 days.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf</p>
Panama	<p>Executive Decree 23 (1998)</p> <p>ARTICLE 46. Once notified, the Resolution containing the decision issued by the Commission admits the following appeals by the government: (...)2. Appeal shall be lodged and sustained in writing in a memo addressed to the Minister of Government and Justice, within three (3) business days following the notification of the Resolution that rules on the Right to Review.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0069.pdf</p>
Paraguay	<p>Article 30 b) of Law 1938 (2002)</p> <p>Appeals shall be lodged before the Executive Secretary of the National Refugee Commission, and submitted to the Minister for Foreign Affairs, and shall be issued within a maximum period of 30 working days.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1565.pdf</p>
Peru	<p>Article 12.2 of Law 27891 (2002)</p>

	<p>The appeal lodged against the resolution issued by the Special Commission for Refugees confirming the denial of refugee status is ultimately resolved by the Review Commission for Refugee Affairs.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2003/1938.pdf</p>
<p>Dominican Republic</p>	<p>Decree No. 2330 of 10 September 1984, Regulations of the National Commission for Refugees</p> <p>Article 10.- The duly authorised National Commission for Refugees shall study each file and within thirty (30) days shall issue a resolution that will determine the Status of the Applicant. Paragraph.- Should it consider it necessary to do so, the National Commission for Refugees may grant the United Nations High Commissioner a period of five (5) working days to express its views on one or more applications.</p> <p>Article 15.- The resolution may be appealed for review within seven (7) days of the date of notification, before the National Commission for Refugees, both by the United Nations High Commissioner for Refugees and by the person concerned.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1299.pdf</p>
<p>Uruguay</p>	<p>Article 40 of Law 18076 (2006)</p> <p>Resolutions adopted by the Refugee Commission shall be open to appeal by the appeals system provided for in articles 317 to 319 of the Constitution of the Republic and other equivalent legal provisions. The lodging of appeals shall have suspensive effect on expulsion orders.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf</p>
<p>Venezuela</p>	<p>Organic Law on Refugees and Asylum-Seekers, 2001</p> <p>Article 20.- Persons whose application was denied by the Commission may appeal to the same for review within a term of fifteen (15) working days following notification. The Commission must make a decision within a period of ninety (90) consecutive days.</p> <p>Article 21.- In the event of review, the applicant, as well as his/her family group, may remain in the national territory until a final decision is issued. Once the review referred to in this Law has been exhausted, the person may go to the contentious administrative jurisdiction. Once the judicial process has been exercised, it shall be subject to the provisions of the respective Law and its regulations.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0308.pdf</p>

<p>Inter-American Court of Human Rights. Case of Pacheco Tineo v Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of 25 November 2013.</p>	<p>159. The Court considers that, in accordance with the guarantees set forth in articles 8, 22.7, 22.8 and 25 of the Convention, and taking into account UNHCR's directives and criteria, asylum-seekers should have access to procedures for the determination of this status, which allow for a proper assessment of their application, (...) (and) include the following obligations for States:</p> <p>f) The review or appeal must have suspensive effect and the applicant should be allowed to remain in the country until the competent authority issues a decision on the case, and even while the means of appeal is pending, unless it is shown to be manifestly unfounded.</p> <p>See: http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=53ce2cee4&skip=0&query=Case%20of%20Pacheco%20Tineo%20v%20Bolivia</p>
<p>Brazil Declaration (2014)</p>	<p>The "Quality Asylum" programme shall include the following:</p> <p>g) Establish avenues for independent administrative appeal and judicial review, respecting the right to an appeal with suspensive effect until the competent authority issues a final decision.</p> <p>http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5487065b4&skip=0&query=Brazil%20Declaration%20(2014)</p>

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