

TABLE 11.
FREE LEGAL AID FOR APPLICANTS FOR REFUGEE STATUS

Why is it good practice?	It allows applicants, during the refugee status determination process, to effectively exercise their rights recognised under the 1951 Convention. (In Argentina, both free legal aid and free legal representation are provided for)
Country	Source
Argentina	<p>National Attorney General (D.G.N. in Spanish) Resolution No. 1055/11 (...) IV- Provide that the programme created by this resolution shall begin on 1 February 2012, offering legal aid and legal representation to any person requesting recognition of refugee status after the date indicated.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2013/9204.pdf</p> <p>General Refugee Recognition and Protection Act (2006)</p> <p>ARTICLE 32. —(...). The Commission shall be required to coordinate the necessary measures for the accessibility of free and adequate legal services for asylum seekers.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf</p> <p>Act No. 25871 of 2004. Argentine Immigration Policy.</p> <p>Article 86 - Foreigners who are in the national territory and lacking economic means shall have the right to free legal aid in administrative and judicial proceedings that may lead to refusal of entry, return to their country of origin or expulsion from the Argentine territory. They shall also have the right to access to interpreters if they do not understand or speak the official language. The regulations of this law, which are enforced where appropriate, should safeguard the exercising of the Constitutional Right to defence.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2004/2441</p>
UNHCR-Argentina	<p>Framework Agreement UNHCR- Argentina</p> <p>On 3 October 2011, a Reciprocal Cooperation Framework Agreement was signed by the Argentinian Ministry of Defence, the National Commission for Refugees (CONARE) and UNHCR to guarantee free public legal representation for refugees and asylum-seekers in Argentina. The Agreement was reached following the setting up of the "Commission for Comprehensive Assistance and Protection for Refugees and Asylum-Seekers" within the scope</p>

	<p>of the National Directorate of Migration, which shall ensure their legal needs are met during the different stages of the asylum procedure in the country. For its part, UNHCR is committed to supporting the selection and training of the lawyers who will be responsible for the implementation of the project and to facilitating areas of coordination with the other institutions within the framework of the Agreement.</p> <p>Available in Spanish at: http://www.acnur.org/t3/noticias/noticia/defensa-legal-para-solicitantes-de-asilo-y-refugiados-en-argentina/</p>
Brazil	<p>Refugee Protection Law (9474/97) CHAPTER I Competence Article 12. The following is within the competence of CONARE, in line with the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the other sources of international refugee law: IV - to guide and coordinate the necessary actions for effective protection, assistance and legal aid for refugees;</p> <p>Available in Portuguese at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/0801.pdf</p> <p>Memorandum of understanding between the <i>Public Defender of União</i> and the United Nations High Commissioner for Refugees (2012). Establish a framework for cooperation between the parties to enable training and working together in order to contribute to the fulfilment of the rights of asylum seekers, refugees, stateless persons and other persons in need of international protection, and also to ensure access to justice and to a full defence.</p> <p>The Public Defender is the institution that provides legal aid to citizens in need (including refugees) and it can take action in relation to criminal matters, but also regarding others, such as providential matters, and the RSD process. It is the main institution for providing legal advice to refugees and asylum-seekers.</p> <p>Available in Portuguese at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8940.pdf</p>
Ecuador	<p>Regulations of the Organic Act on Human Mobility (2017)</p> <p>Article 82. All applicants for refugee status may be assisted by a public defender or private defence attorney, during the refugee status determination procedure.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2017/11200</p>

Nicaragua	<p>Law No. 655 on Refugee Protection (2008)</p> <p>Article 20 Right to Request Legal Representation. Applicants for refugee status shall have the right to request legal representation. The competent authority must facilitate access to free legal services, including those of law schools and public law firms.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf</p>
Uruguay	<p>LAW No. 18076 (Refugee Status, 2006).</p> <p>ARTICLE 36. (Unaccompanied children or adolescents).- Every child or adolescent has the right to request recognition of refugee status and to be recognised as a refugee, independently of the persons who act as their legal representatives. When the request is made by unaccompanied children or adolescents, the Permanent Secretariat shall guarantee them mandatory legal aid and priority processing.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf</p>
El Salvador	<p>Child and Adolescent Protection Act (LEPINA) (2009)</p> <p>Article 50.- Material defence of their rights Children and adolescents have the right to defend themselves with all the means provided by the Law, before any person, entity or body, be it public or private. Likewise, they are guaranteed administrative and judicial protection, which involves the possibility of appealing to the competent authorities, either directly or through their mother, father, representatives or parties responsible for them, in accordance with the provisions of this Law. In order to exercise this right, the State must guarantee free legal aid and legal representation for children and adolescents.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2013/9207.pdf</p>
Venezuela	<p>Organic Law for the Protection of Children and Adolescents, 2007</p> <p>Article 87 Right to Justice. All children and adolescents have the right to appear before a competent, independent and impartial tribunal, for the defence of their rights and interests, and for it to make a decision on their application within the legally-prescribed periods. All adolescents have full capacity to directly and personally exercise this right. For the exercising of this right, the State guarantees free legal aid and legal representation for children and adolescents who lack sufficient financial resources.</p> <p>Available in Spanish at: http://www.acnur.org/index.php?id=bdl&no_cache=1&tx_news_pi1%5Boverwrite</p>

	<p>Demand%5D%5Bcategories%5D=1690&selectedCat=1690&fmenu=0&cHash=99fec7edbee842862f847d5743f8c34a</p> <p>Constitution of the Bolivarian Republic of Venezuela</p> <p>Article 26. 108. All persons have the right to access agencies for the administration of justice in order to assert their rights and interests, even where these are collective or diffuse, and they have the right to the effective protection of these rights and to obtain a prompt decision concerning them. The State guarantees free justice, which is also accessible, impartial, adequate, transparent, autonomous, independent, responsible, fair and expeditious, without undue delays, formalities or unnecessary setbacks.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2001/0246.pdf</p>
<p>Brazil Declaration (2014)</p>	<p>“Quality Asylum” Initiative (...) </p> <p>f) Consolidate national refugee status determination systems, in particular to guarantee: (...) </p> <p>ii. Respect for the principle of <i>non-refoulement</i> and the right to legal representation, if possible through mechanisms that are free of cost, with qualified interpreters or translators;</p> <p>http://www.refworld.org/docid/5487065b4.html</p>
<p>Inter-American Court of Human Rights. Case of Nadege Dorzema et al. v. Dominican Republic Judgment of 24 October 2012</p> <p>Inter-American Court of Human Rights,</p>	<p>161. (...) in the universal system for the protection of human rights, the Human Rights Committee, when interpreting Article 13 of the International Covenant on Civil and Political Rights, established that “if the legality of an alien's entry or stay is in dispute, any decision on this point leading to his expulsion or deportation ought to be taken in accordance with article 13.”; that is, it must comply with the following guarantees: (i) an alien can only expelled in compliance with a decision reached in accordance with the law, and ii) the alien must be empowered with the means to: (a) provide arguments against the expulsion; (b) submit his or her case before by the competent authority, and (c) be heard and represented for such purpose before the competent authority. (...) </p> <p>164. (...) in cases where the consequence of the immigration proceeding may be a punitive deprivation of liberty, -as the expulsion was in this case-, "free legal representation becomes an imperative for the interests of justice." http://www.corteidh.or.cr/docs/casos/articulos/seriec_251_ing.pdf</p> <p>130. The Court considers that States have the obligation to ensure to any child involved in immigration proceedings the right of legal counsel by the offer of free State legal representation services.</p>

Advisory Opinion OC-21/14 of 19 August 2014, "Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection"	
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Compiled by the Regional Legal Unit of the Bureau for the Americas, UNHCR