

TABLE 17.

Differentiated Protection for Unaccompanied Children

See also Table 17a (IACHR Advisory Opinion 21, 2014) and Table 17b (Legislation prohibits the deprivation of liberty of a migrant minor in an irregular situation, decreed by this single circumstance)

<p>Why is it good practice?</p>	<p>The experience of being uprooted has serious repercussions on refugee children, especially those who are unaccompanied or separated from their parents or guardians. Therefore, national authorities must consider a differentiated response to protect this sector of the refugee population in order to adequately address their specific protection and assistance needs.</p>
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Country	Date	Source
<p>Argentina</p>	<p>2006</p>	<p>General Law 26165 on the Recognition and Protection of Refugees;</p> <p>ARTICLE 31. The Executive Secretary shall have the following responsibilities: (...) f) To provide, in the case of women or minors who have been victims of violence and other circumstances that have affected them, specialised psychological care for these persons during the procedure.</p> <p>ARTICLE 53. In the case of women or children who have been victims of violence, especially if they are unaccompanied, the Commission shall endeavour to provide them with specialised psychological care and, during the procedure, shall observe UNHCR's recommendations set out in the Guidelines on the Protection of Refugee Women and the Guidelines on Gender-Related Persecution. In the case of minors, the guidelines on their protection and care shall be taken into account, informing the agencies with primary responsibility for policies aimed at vulnerable groups for the purposes of the efficient, rapid and effective support of these persons.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2006/4658.pdf</p> <p>LAW OF COMPREHENSIVE PROTECTION OF THE RIGHTS OF CHILDREN AND ADOLESCENTS (2005)</p> <p>ARTICLE 27. - MINIMUM PROCEDURAL GUARANTEES. GUARANTEES IN JUDICIAL OR ADMINISTRATIVE PROCEDURES. The State-Run Bodies must guarantee to children and adolescents in any judicial or administrative procedure that affects them, in addition to all the rights contemplated in the National Constitution, the Convention on the Rights of the Child, international treaties ratified by the Argentine Nation and the laws that are issued as a consequence, the following rights and guarantees: (a) To be heard before the competent authority if so requested by the child or adolescent;</p>

		<p>(b) To have their views taken into account as a matter of priority when a decision affecting them is taken;</p> <p>(c) To be assisted by counsel, preferably an expert in child and adolescent issues, from the outset of any judicial or administrative proceedings affecting them. If they lack economic resources, the State shall, of its own motion, assign a court-appointed lawyer to defend them;</p> <p>(d) To participate actively in the entire proceedings;</p> <p>(e) To appeal to a higher court against any decision affecting them.</p> <p>ARTICLE 28. - PRINCIPLE OF EQUALITY AND NON-DISCRIMINATION. The provisions of this Act are applicable to all children and adolescents, without discrimination of any kind based on race, sex, colour, age, language, religion, beliefs, political opinions, culture, economic status, social or ethnic origin, special capacities, health, physical appearance or physical disability, birth or any other status of the child or of his or her parents or legal representatives.</p> <p>ARTICLE 47. - ORGANISATION. Set up an Ombudsman for the Rights of Children and Adolescents, which shall be in charge of ensuring the protection and promotion of their rights enshrined in the National Constitution, the Convention on the Rights of the Child and domestic laws.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2005/3793.pdf</p>
Bolivia	2012	<p>Law No. 251 of 2012 - Refugee Protection Act Article 33. (APPLICATIONS MADE BY CHILDREN AND ADOLESCENTS). I. Unaccompanied children and adolescents or those separated from their parents or guardians, may submit their refugee application on their own, and CONARE must coordinate with the relevant entity for the protection of their rights and to appoint an ombudsperson or guardian. II. Once the application is submitted, any action carried out without the presence of the guardian or ombudsperson, shall be null and void.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8855.pdf</p> <p>SUPREME DECREE N° 1440, REGULATIONS OF THE REFUGEE PROTECTION LAW N° 251, OF 20 JUNE 2012</p> <p>ARTICLE 27.- (ENTRY OF CHILDREN AND ADOLESCENTS). I. In the event that a child or adolescent enters the country accompanied by an adult other than one of their parents or legal guardian, but that this adult provides them with the necessary care and assistance, the guardianship must be formalised or ratified before the Judge responsible for Issues Relating to Children and Adolescents; otherwise, this event shall be immediately notified before and referred to the Departmental Social Management Service - SEDEGES, in order to proceed in the same way as in cases of unaccompanied minors. II. When children and adolescents enter Bolivian territory separated from their parents or the person exercising their guardianship and legal representation, but are accompanied by third parties who have not judicially ratified the guardianship, this shall be communicated to the Special Crime-Fighting Force - ELCC, for research purposes, without prejudice to the other necessary measures of protection and assistance.</p>

		<p>ARTICLE 28.- (APPLICATION AND DOCUMENTATION OF CHILDREN OR ADOLESCENTS).</p> <p>I. Any child or adolescent who is unaccompanied or separated from their family has the right to apply for refugee status, and CONARE must coordinate with the SEDEGES and the District's Children and Adolescents' Ombudsman, government bodies and departmental agencies for the protection of Children and Adolescents, who shall inform the Judge responsible for Issues Relating to Children and Adolescents for the purpose of appointing a guardian and legal representative, within the framework of the refugee status determination procedure. These requests shall be addressed as a priority, through an expedited procedure, favouring the best interests of the child.</p> <p>II. Should the child or adolescent not carry identification documents, the Ombudsman for Children and Adolescents and the SEDEGES shall help them to obtain these documents, in order that their full identification may serve to process their application.</p> <p>ARTICLE 29.- (FULFILMENT OF RIGHTS). The CONARE must inform the Ombudsman for Children and Adolescents and the SEDEGES of the jurisdiction in which the children and adolescents who entered the country separated and not accompanied by their parents or guardians and who applied for refugee status, reside, in order that, within the framework of coordination and cooperation, their rights are protected in a comprehensive manner and, if applicable, the application for guardianship is filed with the Judge responsible for Issues Relating to Children and Adolescents.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2013/9073.pdf</p>
Brazil	2002 1990	<p>Brazilian Civil Code (Act 10406/2002) Statute of the Child and Adolescent - ECA (Act 8069/1990)</p> <p>There is no specific provision in Brazilian law for unaccompanied asylum-seeking minors. However, it is the CONARE's standard practice to respect child protection mechanisms.</p> <p>The CONARE is especially attentive to cases of people who accumulate vulnerability profiles, such as underage applicants, women and indigenous women, and Afro-descendant girls and women.</p> <p>In article 36, the Statute of the Child and Adolescent - ECA (Act 8069/1990) provides that the child must have a guardian: "The guardianship shall be deferred, under the terms of civil law, to persons up to 18 (eighteen) years of age."</p> <p>In article 1744 I, the Brazilian Civil Code (Act 10406/2002) provides that it is the responsibility of the judge to appoint the child's guardian: "The responsibility of the judge shall be: I - direct and personal, when the guardian has not been appointed, or has not done so in a timely manner."</p> <p>The National Immigration Council has granted permanent visas to unaccompanied or separated foreign minors who can prove they have no relatives in their country of origin or in another country. The visa can be granted only after the judge appoints a guardian.</p>

Colombia	2013	<p>Decree No. 2840 of 6 December 2013</p> <p>Article 17. Applications submitted by children and adolescents. In the case of children and adolescents seeking refugee status, the Colombian Institute of Family Welfare -ICBF- shall be informed, and may appoint an official who shall ensure the protection of the rights of the child or adolescent during all stages of the procedure, in accordance with the provisions in force, especially those contained in the Code for Children and Adolescents.</p> <p>In the case of children or adolescents accompanied by their parents or those exercising parental authority, the latter shall act as representatives in the proceedings before the Ministry of Foreign Affairs. In all other cases, the ICBF will represent the children or adolescents during the entire process. The protection of the best interests of the child or adolescent shall be ensured during the refugee status recognition process.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2014/9437.pdf</p> <p>Child and Adolescent Code (2006)</p> <p>Article 41. Obligations of the State. The State is the institutional context for the comprehensive development of children and adolescents. In fulfilling its obligations at the national, departmental, district and municipal level, it must:</p> <p>(...) 35. Search for and locate the family of origin or the people with whom they live as soon as possible in the case of unaccompanied minors.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2006/4609</p>
Costa Rica	2009	<p>Immigration and Foreign Citizens Act</p> <p>ARTICLE 65.- (...) The determination and execution of the refusal of entry shall be made in full compliance with article 31 of the Political Constitution.</p> <p>Under no circumstances may unaccompanied minors or persons whose age of majority is uncertain be refused entry. The immigration authorities in charge of controlling entry into the country must immediately inform the PANI (Child Protection Institute) of the situation of these minors. The PANI must immediately take on temporary representation of these persons and transfer them to a shelter until the corresponding investigations are carried out.</p> <p>ARTICLE 69.- The request for legal stay of the foreign person who has entered the country or remains in it under conditions contrary to the provisions of this Law shall be inadmissible; minors are excluded from this norm. Under conditions of humanity, the Directorate General may admit such requests by reasoned resolution.</p> <p>ARTICLE 185.- Foreigners who are deported may not re-enter the country for a period of five years.</p> <p>The director general may, by means of a justified decision, authorise entry before this period, under exceptional circumstances, in accordance with that established in article 44 of this Law.</p>

		<p>Available in Spanish at: http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2009/7261</p> <p>Regulations regarding refugees (2011)</p> <p>Article 58. - Applicants for refugee status shall be exempt from the filing of documents of affiliation to the Costa Rican Department of Social Security (CCSS) only for the processing of their first permanent immigration document as established in articles 78 and 80, the last paragraphs of the Law. Likewise, uninterrupted affiliation to the Costa Rican Department of Social Security (CCSS) shall not be required for the purposes of renewing the migratory status. This requirement shall not be requested of minors.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/8171.pdf</p>
Chile	2010	<p>Act that sets out provisions for Refugee Protection</p> <p>Article 38.- Minors. Every underage person has the right to request the recognition of their refugee status, regardless of the persons who exercise their legal representation under Chilean law.</p> <p>Article 39.- Unaccompanied or separated minors. When applications are presented by unaccompanied minors or ones separated from their family, the Technical Secretariat of the Recognition Commission shall immediately inform the juvenile authority, so that the necessary protection, care and assistance measures are put in place.</p> <p>ARTICLE 40. Proceedings. In the case of unaccompanied minors or those separated from their families, the recommendations issued by the United Nations High Commissioner for Refugees in the Guidelines on the Protection and Care of Refugee Children shall be observed.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2010/7733.pdf</p> <p>REGULATIONS (2011) OF LAW N° 20430</p> <p>Article 55.- Applications. All children and adolescents have the right to request the recognition of refugee status, on their own or represented by their parents, immediate relatives, legal representatives or the persons or institutions that, in accordance with the law, are responsible for their personal care. If the minor so requires it, the application may benefit from processing independently of the persons exercising their legal representation or personal care, in order to consider the specific circumstances that motivate it, in which case the Technical Secretariat shall evaluate the appropriateness of informing the authority that protects the rights of children or adolescents. In the case of minors who are separated from their family, or are unaccompanied or orphans, the Technical Secretariat must immediately inform the authority protecting the rights of children or adolescents in order that the protection, care and assistance measures deemed necessary are adopted.</p>

		<p>Article 56.- Interview. The immigration authority shall individually assess the need for and appropriateness of the minor being accompanied during the interview by their parents, legal representatives, the person in charge of their personal care or a professional specialising in the rights of children and adolescents. In the case of children or adolescents who are separated from their family, or are unaccompanied or orphans, the interview shall always be conducted in the presence of a professional specialising in the rights of children and adolescents.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7411.pdf</p>
Ecuador	2017	<p>Organic Act on Human Mobility</p> <p>Article 99.- (...) 9. In the case of unaccompanied children and adolescents or those separated from their legal representatives, the competent authority shall coordinate the appointment of a guardian or legal representative. The human mobility authority shall immediately notify the Ombudsman's Office in order that it may take on the legal representation of the child or adolescent;</p> <p>Article 113. 4. Priority shall be given to the processing of applications submitted by unaccompanied children and adolescents or those separated from their legal representative, and child or adolescent victims of torture, sexual abuse or gender-based violence; (...)</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10973.pdf</p>
El Salvador	2002	<p>Act No. 918 - Refugee Status Determination</p> <p>ARTICLE 32. ACT FOR REFUGEE STATUS DETERMINATION. While the person's application for recognition of refugee status is being processed, the CODER (Commission for Refugee Status Determination) shall provide social assistance (...)</p> <p>In order for protection and aid to reach all the members of the family, the aforementioned non-government organisations shall adopt the necessary measures in favour of the care of minors and other dependents.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1567.pdf</p> <p>Executive Decree No. 79 Regulations for the Refugee Status Determination Law (2005)</p> <p>ARTICLE 57. In the case of unaccompanied child refugee status applicants, they must be represented by the Attorney General of the Republic, who shall act on their behalf.</p> <p>The Secretariat shall, within four hours of receiving the application, inform the Attorney General of the Republic, in order that it may undertake their</p>

	2009	<p>representation. To the same end, the Secretariat shall inform the Executive Directorate of the Salvadoran Institute for the Comprehensive Development of Children and Adolescents, in order that it may undertake the protection of the child and coordinate actions for locating or obtaining information on their family and, if possible, reuniting them.</p> <p>The Salvadoran Institute for Comprehensive Child and Adolescent Development, in coordination with the agencies responsible for guaranteeing refugee rights, shall seek the best care alternative for the child and shall have the obligation of providing monthly follow-up on the protection measure applied.</p> <p>In all the procedure carried out to grant refugee status and in the procedure to provide social protection, the child must be heard and freely express their opinion, which will be taken into account depending on their age and maturity. Likewise, the provisions of Art. 9 of these Regulations must be applied.</p> <p>Article 12.- The immigration agent that attends the applicant must give them the information sheet and the application form written in a language that the applicant can read. The form must be completed under oath and individually by all applicants over the age of eighteen and by unaccompanied children and applicants. If the applicant does not know how to or cannot write, the immigration agent shall do so on their behalf.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2005/3792.pdf</p> <p>Law for Comprehensive Child Protection</p> <p>Article 1.- Intended Purpose The purpose of this Law is to guarantee the exercise and full enjoyment of the rights of every child and adolescent in El Salvador and to facilitate compliance with their duties, contained in this Law, regardless of their nationality, for the purpose of which a National System for the Comprehensive Protection of Children and Adolescents has been set up with the participation of families, the State and society, based on the Constitution of the Republic and the International Human Rights Treaties in force in El Salvador, in particular the Convention on the Rights of the Child.</p> <p>Article 6.- Scope of Application</p> <p>Article 12.- Principle of the best interests of children and adolescents. In the interpretation, application and integration of all norms; in judicial and administrative decision-making, as well as in the implementation and evaluation of public policies, the principle of the best interests of children and adolescents, in terms of ensuring their comprehensive development and the enjoyment of their rights and guarantees. (...)</p> <p>Article 49.- Refugee and asylum rights Children and adolescents who hold refugee status or who are in an asylum situation in El Salvador, have the right to receive protection and legal and humanitarian aid for the full enjoyment of their rights. The same right is applicable to their mother, father or the people in charge of their care.</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 implies</p>
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		<p>the possibility of having recourse to the competent authorities, either directly or through their mother, father, representatives or responsible parties, in accordance with the provisions of this Law.</p> <p>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>
Guatemala	<p>2003</p> <p>2016</p>	<p>LAW OF COMPREHENSIVE PROTECTION OF CHILDREN AND ADOLESCENTS, Decree No. 27-2003</p> <p>ARTICLE 58. Guarantees. Children and adolescents who apply for or have refugee or returnee status or are uprooted according to applicable domestic or international procedures, are, if they are alone or accompanied by their parents, a relative or any other person, entitled to receive adequate protection and humanitarian aid for the enjoyment of the rights embodied in the Political Constitution of the Republic, domestic legislation and the conventions, treaties, pacts and other international human rights instruments approved and ratified by Guatemala. This shall be effective during the time, and in the manner and procedures established by domestic and international laws related to the matter.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6741.pdf</p> <p>Decree No. 44-2016, Migration Code Article 11. (...) The competent authorities must take into account a differentiated protection response for refugee children, especially those who are unaccompanied (...) Children or adolescents cannot be deported unless it is in their best interests.</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf</p>
Mexico	2010	<p>MEMORANDUM No.001/2010: Memorandum that sets out the procedure for the care of unaccompanied migrant children and adolescents</p> <p>Article 7.- In the case of unaccompanied migrant children and adolescents, the following procedure shall be followed: I.- Where possible, the OPI (Child Protection Officials) shall interview the unaccompanied foreign migrant child or adolescent, in order to verify if he or she entered the national territory with a blood relative (any degree). If this is not the case, the OPI must identify him or her as a foreign unaccompanied migrant child or adolescent. If the foreign migrant child or adolescent is staying with a blood relative, the consular or diplomatic representative of their country of origin shall be the only entity authorised to verify the family link, however, no contact will be made with the consular or diplomatic representative if they are identified as a possible refugee claimant, in terms of the applicable provisions in the matter.</p> <p>Available in Spanish at:</p>

	2011	<p>http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8931.pdf</p> <p>Law on Refugees and Complementary Protection</p> <p>ARTICLE 20. During the procedure, the Secretariat shall take the measures necessary to ensure the granting of institutional assistance to applicants who require special attention, as well as pregnant women, children and adolescents (...) When an applicant in a vulnerable situation has been admitted provisionally or is held at a migrant holding centre, the Secretariat shall assess the measures that best favour the applicant, according to the case's circumstances. In the case of children and adolescents, their best interests must be determined.</p> <p>ARTICLE 54. The Secretariat, within the scope of its powers, shall adopt the measures necessary for providing institutional assistance to refugees, as well as assisting them in facilitating their integration into the country, taking into consideration the social and cultural context from which they come, as well as if they are children and adolescents (...)</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2010/8150.pdf</p>
	2011	<p>Migration Act</p> <p>Article 52. Foreigners may stay in the national territory under the conditions of a visitor, temporary resident and permanent resident, provided that they meet the requirements established in this Law, its Regulations and other applicable legal provisions, in accordance with the following: (...) V. VISITOR FOR HUMANITARIAN REASONS (...) b) Be an unaccompanied migrant child or adolescent, under the terms of article 74 of this Law.</p> <p>Article 74. When it is in the best interests of the unaccompanied foreign migrant child or adolescent, the child or adolescent shall be provisionally documented as a Visitor for Humanitarian Reasons under the terms of article 52, section V, of this Act, whilst the Secretariat offers temporary or permanent legal or humanitarian alternatives to assisted return. The procedure to be followed for determining the best interests of the unaccompanied migrant child or adolescent shall be established in the Regulations.</p> <p>Article 112. When an unaccompanied migrant child or adolescent is placed in the care of the Institute they shall remain in their custody, and respect for their human rights must be guaranteed, subject in particular to the following: I. The Institute shall immediately refer the unaccompanied migrant child or adolescent to the National System for Comprehensive Family Development, to the State DIF Systems, and to those of the Federal District in order to favour their stay in places where they are provided with adequate care, while their immigration status is being resolved. When, due to exceptional circumstances, unaccompanied migrant children and adolescents become housed at a migrant holding centre whilst they are transferred to the facilities of the National System for Comprehensive Family Development, to</p>

the State DIF Systems, and to those of the Federal District, in that holding centre they must be assigned a specific space for their stay other than that of the accommodation for adults. **The authority must, at all times, respect the rights of unaccompanied migrant children and adolescents as provided for in these regulations and the applicable legislation;**

II. The children and adolescents shall be informed of the reasons for their presentation, of their rights within the immigration procedure, of the services to which they have access and they shall be put in contact with the consulate of their country, except when, in the opinion of the Institute or at the request of the child or adolescent, they may access political asylum or the recognition of refugee status, in which case the consular representative shall not be contacted;

III. The consulate of the child or adolescent's country of nationality or residence shall be notified of the location of the facilities of the National System or State Systems for Comprehensive Family Development or the migrant holding centre to which they were referred and the conditions in which they find themselves, unless, in the opinion of the Institute or at the request of the child or adolescent, he/she may access political asylum or the recognition of refugee status, in which case the consular representative shall not be contacted;

IV. The Institute's staff, specialised in the protection of children and trained in the rights of children and adolescents, shall interview the child or adolescent in order to establish their identity, their country of nationality or residence, their immigration status, the whereabouts of their relatives and their specific needs for protection, and medical and psychological care.

A representative of the National Human Rights Commission may be present at these interviews, without prejudice to the faculties that correspond to the child or adolescent's legal representative or person of trust;

V. In coordination with the consulate of the child or adolescent's country of nationality or residence or with the institution in charge of caring for the child or adolescent in the country in question, the search for their adult relatives shall proceed, except when, in the opinion of the Institute or at the request of the child or adolescent, they may access political asylum or the recognition of refugee status, in which case the consular representative shall not be contacted.

In the event that the case of the child or adolescent is one of those established in articles 132, 133 and 134 of this Law, he/she shall be entitled to regularise his/her immigration status, and

VI. Once the immigration status of the child or adolescent has been determined and if the appropriateness of their assisted return is resolved, the corresponding consulate shall be notified of this situation, with enough time for the reception of the child or adolescent in their country of nationality or residence.

The assisted return of migrant children or adolescents to their country of nationality or residence shall be made in the best interests of the child and adolescent and their situation of vulnerability, with full respect for their human rights and with the intervention of the competent authority of the country of nationality or residence.

Article 133. (...) foreigners who are located in national territory and are in any of the following situations have the right to the regularisation of their immigration status:

I. Can prove they are the spouse or common-law partner of a Mexican person or a foreigner with residency status;

II. Can prove they are the father, mother, child or have the legal representation or custody of a Mexican or foreign person with residency status;

III. The foreign citizen has been identified by the Institute or by a competent authority as being a victim of or witness to a serious crime committed in the national territory;

IV. Persons whose level of vulnerability makes it difficult or impossible for them to

be deported or for their assisted return;
V. Children and adolescents who have been subjected to international abduction and restitution of children or adolescents.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7525.pdf>

GENERAL LAW ON THE RIGHTS OF CHILDREN AND ADOLESCENTS

2014

Article 89. This Chapter refers to the special protection measures that the authorities must adopt to guarantee the rights of migrant children and adolescents who are accompanied, unaccompanied, separated, national, foreign and repatriated in the context of human mobility.

The authorities of all levels of government must, in accordance with their competences, provide the services corresponding to children and adolescents in migration situations, **regardless of their nationality** or immigration status.

While the National Migration Institute determines the immigration status of the child or adolescent, the National DIF System or system of entities must, as appropriate, offer the protection provided by this Law and other applicable provisions.

The principle of the best interests of the child shall be a primary consideration that shall be taken into account during the administrative immigration procedure to which migrant children and adolescents are subject, in which the possible repercussions of the decision taken in each case shall be estimated.

Article 90. The competent authorities must monitor the procedures of care arrangements and special protection of the rights of migrant children and adolescents, provided for in the Migration Law, its Regulations and other applicable legal provisions, and must at all times observe the principle of the best interests of the child and the international standards in the matter.

Article 91. Once in contact with the child or adolescent, the competent authorities must adopt the measures corresponding to the protection of their rights. Consequently, they shall provide a solution that resolves all of their protection needs, taking into account their opinions and favouring family reunification, unless it is contrary to their best interest or will.

Article 92. **Due process guarantees** that must be applied in immigration processes involving children and adolescents include the following:

I. The right to be notified of the existence of a procedure and of the decision adopted within the framework of the immigration process;

II. The right to be informed of their rights;

III. The right to have immigration processes undertaken by a specialised official;

IV. The right of children and adolescents to be heard and to participate in the different stages of the procedure;

V. The right to be assisted free of charge by a translator and/or interpreter;

VI. Effective access to communication and consular assistance;

VII. The right to be assisted by a lawyer and to communicate freely with him or her;

VIII. The right, where applicable, to substitute representation;

IX. The right for the decision adopted to evaluate the best interests of the child and adolescent and be duly-informed;

X. The right to appeal the decision before the competent jurisdictional authority, and

XI. The right to be informed of the duration of the procedure that is to be carried out, which must follow the principle of celerity.

Article 93. During the administrative immigration process, the family unit or family reunification may prevail under the terms of this Law and other applicable

provisions, as long as it is not contrary to the best interests of the child.

In order to make a decision on family reunification, the opinions of migrant children and adolescents must be taken into account, as must all the elements that are necessary for that purpose.

Article 94. In order to guarantee the comprehensive protection of rights, the National, State and Municipal DIF Systems shall provide accommodation or shelters to receive migrant children and adolescents.

Likewise, they shall agree on minimum standards in order that the accommodation or shelters provide adequate care for migrant children and adolescents.

Article 95. Accommodation arrangements for migrant children and adolescents shall respect the principle of separation and the right to family unity in such a way that, in the case of unaccompanied or separated children or adolescents, they must be housed in spaces other than those allocated for adults. In the case of accompanied children or adolescents, they may stay with their families unless separation from them is more appropriate in the application of the principle of the best interests of the child.

Article 96. It is prohibited to return, expel, deport, return, refuse entry at the border or not admit, or in any way transfer or remove a child or adolescent when their life, security and/or freedom are in danger due to persecution or the threat of persecution, generalised violence or massive violations of human rights, among others, as well as where they may be subjected to torture or other cruel, inhuman or degrading treatment.

Article 97. Any decision to return a child or adolescent to their country of origin or to a safe third country may only be based on the requirements of their best interests.

Article 98. In the event that, through an initial assessment, the DIF Systems identify foreign children or adolescents who are susceptible to the recognition of refugee or asylum status, they shall inform the National Migration Institute in order to adopt special protection measures.

The National DIF System and the systems of the federal entities, in coordination with the competent institutions, must identify foreign children and adolescents who require international protection, either as refugees or otherwise, through an initial assessment guaranteeing security and privacy, in order to provide them with the appropriate and individualised care that is necessary by means of the adoption of special protection measures.

Article 99. The National DIF System must design and manage the databases of unaccompanied migrant children and adolescents, including, among other aspects, the causes of their migration, transit conditions, family ties, risk factors in countries of origin and transit, information on their legal representatives, data on their housing and legal status, among others, and share it with the Ombudsman for the Protection of Children and Adolescents, in accordance with the provisions of the Federal Law on Transparency and Access to Public Government Information and other applicable provisions regarding transparency.

The Systems of the Entities shall send the information to the National DIF System the moment it is generated in order to incorporate it in the databases referred to in the previous paragraph.

The National Migration Institute must provide the information and collaborate with the National DIF System for the purposes of this article.

Article 100. The National Migration Institute, in coordination with the National DIF System, must safeguard the databases on migrant children and adolescents, including, among other aspects, the causes of their migration, the conditions of transit, their family ties, risk factors in countries of origin and transit, information on their legal representatives, and data on their accommodation and legal situation.

		<p>In order to guarantee, as a priority, the social assistance and consular protection of migrant children and adolescents who are abroad in the process of repatriation, it shall be the responsibility of the Ministry of Foreign Affairs, through consular representatives, to coordinate with the National Migration Institute and with the corresponding DIF Systems.</p> <p>Article 101. Under no circumstances shall the irregular migratory situation, in itself, of a child or adolescent prevent the committing of a crime, nor prejudice the committing of illicit acts due to the fact that they have an irregular migratory status.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2015/10015.pdf</p>
Nicaragua	2008	<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>ARTICLE 21. Guardianship for vulnerable minors and adults. If the applicant is an unaccompanied or separated minor, or an adult who is not able to represent him or herself during the asylum procedure, a person in charge of their guardianship must be appointed to accompany them.</p> <p>ARTICLE 24. Investigation of the file B) The interviewer should preferably be a woman when it is a woman who is requesting refugee status. Special attention and care should be taken when interviewing unaccompanied minors.</p> <p>ARTICLE 32. Local integration B) In local integration processes, special preference shall be given to the (sic) elderly, children, adolescents and persons in vulnerable conditions.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2008/6435.pdf</p>
Paraguay	2002	<p>General Law on Refugees No. 1938</p> <p>ARTICLE 32. The principle of the most favourable treatment shall apply for unaccompanied women and children seeking refuge in the Republic of Paraguay. To this end, the Commission shall arrange for the participation of the competent bodies in this field, in order to provide them with protection, employment opportunities, training, health and education.</p>

		<p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2002/1565.pdf</p>
Peru	2015	<p>Executive Decree 1236</p> <p>Article IX.- Principle of the best interests of the child and adolescent</p> <p>In all measures concerning children and adolescents that the State adopts through all its institutions, as well as in the actions undertaken by society, the principle of the best interests of the child and adolescent and respect for their rights shall be taken into consideration.</p> <p>Article 17.- Protection of foreign persons in vulnerable situations.</p> <p>The immigration authority brings to the attention of the competent authorities cases of children and adolescents, persons of legal age with disabilities, members of indigenous populations and others who are in a situation of vulnerability; as well as of victims of alleged crimes of human trafficking and people smuggling, and those who require protection in response to a serious threat or act of violation of their fundamental rights, especially victims of family and sexual violence, all of whom are foreign persons, in order that the administrative or jurisdictional actions that correspond to their rights are adopted.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2015/10203.pdf</p>
Uruguay	2006	<p>Article 36 of the Law on Refugee Status No. 18076</p> <p>ARTICLE 36. (Unaccompanied children or adolescents).- Every child or adolescent has the right to request 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, giving them priority processing. Likewise, it must communicate the fact immediately to the Family Court Judge who shall adopt the appropriate measures. Any action that has taken place without the presence of the ombudsman is null and void. In the case of any doubt concerning the age of the person, that declared by them shall prevail as long as there are no technical studies that establish another age. The defence of the best interests of the child or adolescent shall prevail throughout all the stages of the procedure. All the decisions that are adopted during the procedure must take into consideration the mental development and maturity of the child or adolescent.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2007/4752.pdf</p>
Venezuela	2001	<p>Organic Law on Refugees and Asylum-Seekers</p> <p>ARTICLE 2. FUNDAMENTAL PRINCIPLES.</p> <p>6. The unity of the refugee or asylum-seeker's family shall be guaranteed, with special protection for unaccompanied refugee and asylum-seeker children and adolescents or those who have been separated from their immediate family, under the terms established by the Law on Refugees and Asylum-Seekers.</p> <p>Article 19.- The identification document granted to people who are in the country with refugee status (...) in the case of children and adolescents, shall be valid for</p>

study in education centres.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2001/0308>

Organic Law for the Protection of Children and Adolescents. G.O.5859E of 10 December 2007

Article 397-A. Protection of separated children and adolescents or those separated from their original family.

For the purposes of article 394-A, any person who has knowledge of a child or adolescent who is lacking his or her parents or is separated from them, either because their identity or whereabouts are unknown, must inform the corresponding Committee for the Protection of Children and Adolescents as soon as possible. Once aware of this, this Committee shall search for the child or adolescent and shall, simultaneously, do everything necessary to locate their parents and their original family, either directly or through a family tracing programme. If it is impossible to locate the original family, it shall issue the measure for shelter. The families in which the measure for shelter is executed may only be those that appear on the corresponding register of persons eligible for shelter. Should it not be possible to find a family that fulfils this prerequisite and that responds to the needs and characteristics of the respective child or adolescent, the measure for shelter shall be executed in a care institution. When one or both parents are located the Committee for the Protection of Children and Adolescents shall adopt the necessary measures to achieve the integration or reintegration of the child or adolescent with his or her parent or parents.

Article 397-B. Custody of separated children and adolescents or those separated from their original family.

In cases where both parents or only one of them, when there is only one representative, have died or their whereabouts are unknown, and a guardian has been appointed by the parent or parents, this guardian or any relative of the respective child or adolescent must report directly to the mediation and substantiation judge of the Court for the Protection of Children and Adolescents, in order that it may proceed to constitute the corresponding guardianship, under the terms provided by law.

Available in Spanish at:

<http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7519.pdf>

2011 Venezuela-UNHCR

Memorandum of Understanding between the Venezuelan National Autonomous Institute Committee for the Protection of Children and Adolescents (IDENNA) and the Office of the United Nations High Commissioner for Refugees (UNHCR) in Venezuela

The main objective of this Memorandum of Understanding is to strengthen the articulated and collaborative work between the IDENNA and UNHCR in order to promote the protection of the human rights of the country's children and adolescents and refugees, as well as those of applicants for refugee status in the Bolivarian Republic of Venezuela.

		Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7523.pdf
Regional Scope		
Regional Conference on Migration	2007	2007 REGIONAL GUIDELINES FOR SPECIAL PROTECTION IN CASES OF REPATRIATION OF CHILD AND ADOLESCENT VICTIMS OF HUMAN TRAFFICKING http://www.unhcr.org/4bfd9179.pdf
	2009	2009 REGIONAL GUIDELINES FOR ASSISTANCE TO UNACCOMPANIED MIGRANT CHILDREN AND ADOLESCENTS IN CASES OF REPATRIATION (..) The content of these Guidelines shall not affect the rights, obligations and responsibilities of countries and peoples according to international law, including international humanitarian law, international human rights law and, in particular, the right to request the recognition of refugee status and <i>refoulement</i> protection, where applicable, in accordance with the 1951 Convention Relating to the Status of Refugees, or its 1967 Protocol. 10. Alternatives to Repatriation. When the protecting country considers that repatriation entails risks for the unaccompanied migrant child or adolescent, it shall offer temporary or permanent legal and/or humanitarian alternatives to repatriation, in accordance with the provisions of international law and the domestic legislation of each country. http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7348.pdf?view=1
	2013	Meeting of the Regional Consultation Group on Migration of the Regional Conference on Migration, San Jose, Costa Rica, 25-26 June 2013 (...) 3. Approve the Proposal of Regional Guidelines for the Preliminary Identification of Profiles and Referral Mechanisms for Migrant Populations in Vulnerable Situations http://www.programamesoamerica.iom.int/sites/default/files/LINEAMIENTOS%20in%20gules.pdf
Inter-American Court of Human Rights Case of Pacheco Tineo v Bolivia. Preliminary Objections, Merits, Reparations and Costs. Judgment of 25 November 2013.		222. The Court notes that, in this case, there are two different situations in which it is necessary to define whether or not the children should have been heard in the above-mentioned terms. The first relates to the processing of the asylum request presented by their parents, while the second relates to the process to expel the Pacheco family as aliens in an irregular situation. 223. Regarding the former aspect, the right of children to express their opinions and to play a significant role is also important in the context of asylum proceedings, the scope of which may depend on whether the child is an applicant, regardless of whether or not the child is accompanied and/or separated from his or her parents or the persons responsible for taking care of him or her. 224. In addition, when the applicant for refugee status is a child, the principles contained in the Convention on the Rights of the Child must guide both the substantive and the procedural aspects of the decision on the child's request for refugee status. Thus, when children are the applicants, they must enjoy specific procedural and probative guarantees to ensure that fair decisions are taken when deciding their requests for refugee status, which requires the establishment and

	<p>implementation of proceedings that are appropriate and safe for children and of an environment that creates trust at all stages of the asylum procedure. Also, and under this same principle, if the main applicant is excluded from refugee status, the family members have the right to have their own requests evaluated independently (...).</p> <p>225. In addition, if an applicant for refugee status receives protection, other members of the family, particularly the children, may receive the same treatment or benefit from that recognition, based on the principle of family unification. In the proceeding to decide refugee status, the applicant's family members may eventually be heard, even if there are children among them. In each case, it is for the authorities to evaluate the need to hear them based on the contents of the application. In this case, although Juan Ricardo was only one year old, Frida Edith and Juana Guadalupe could have been heard by the authorities in relation to the request presented by their parents.</p> <p>226. Regarding the second aspect, in relation to the proceeding on the expulsion of the Pacheco Tineo family based on their situation as irregular aliens, the Court recalls the intrinsic relationship that exists between the right to protection of the family and the rights of the child. In this regard, the Court has found that the right to protection of the family, and to live in a family, recognized in Article 17 of the Convention, means that the State is obliged not only to establish and execute directly measures of protection for children, but also to promote, as extensively as possible, the development and enhancement of the family unit. Consequently, the separation of children from their family constitutes, under certain circumstances, a violation of the said right, because even legal separations of the child from its family are only admissible if they are duly justified in the best interests of the child, exceptional and, insofar as possible, temporary.</p> <p>http://www.corteidh.or.cr/docs/casos/articulos/seriec_272_ing.pdf</p>
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<p>Brazil Declaration (2014):</p>	<p>Promote the assessment of the protection needs of accompanied and unaccompanied children and adolescents, including their access to refugee status determination procedures, and emphasise that all considerations in this matter should be governed by the principles enshrined in the Convention on the Rights of the Child, in particular the best interests of the child and non-discrimination, seeking to preserve family unity and recognizing children as persons entitled to rights and special protection.</p> <p>(...)</p> <p>"Quality Asylum" Programme (...)</p> <p>i) Develop and implement priority procedures - with the participation of a legal representative and/or guardian, as appropriate - in cases concerning unaccompanied and separated children, guaranteeing the minor's participation according to their age and maturity.</p> <p>(...)</p> <p>j) Develop protocols or procedures for protection, assistance and the search for durable solutions for refugee and asylum-seeking children who are unaccompanied and separated from their families.</p> <p>(...)</p> <p>"Borders of Solidarity and Safety" Programme (...)</p>
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c) Design norms and operating procedures to introduce **alternatives to the administrative migratory detention** of asylum-seekers, in particular for accompanied and unaccompanied children.

"Dignified and Safe Transit" Programme

(...) the programme will seek to promote in border areas: better understanding among people of their right to seek international protection; the training of border officials on national mechanisms for refugee status determination, particularly concerning accompanied and unaccompanied children; and a rights-based approach that includes the design of procedures based on the best interests of the child.

<http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=search&docid=5487065b4&skip=0&query=Brazil%20Declaration>

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