

TABLE 18.

**NATIONAL LEGAL PROVISIONS ACCORDING TO WHICH
THE VICTIMS OF HUMAN TRAFFICKING
OR OTHER PARTICULARLY VULNERABLE PEOPLE
HAVE THE RIGHT TO ASYLUM**

SEE ALSO TABLES 16 AND 37

Why is it good practice?	By analogy to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which complements the United Nations Convention against Transnational Organized Crime, following which nothing in the Protocol should affect the rights, obligations and responsibilities of States in accordance with the 1951 Convention Relating to the Status of Refugees and the right of people to seek and receive asylum.
Country	Provision
Argentina	<p>Law 26842 (2012) Prevention and penalisation of trafficking in persons and assistance for victims (2012)</p> <p>"ARTICLE 4 - Replaces Article 6 of Law 26364 with the following: Article 6: The national State guarantees to the victims of the crimes of trafficking or exploitation of persons the following rights, regardless of their status as claimant or complainant in the corresponding criminal process and until the effective achievement of the relevant reparations: (...) g) Remain in the country, if they so choose, receiving the necessary documentation for this purpose. If applicable, they will be informed of the possibility of formalising a refugee claim under the terms of Law 26165"</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2014/9763.pdf</p>
Brazil	<p>The CONARE recognises the refugee status if the foreign victim of trafficking has a well-founded fear of persecution.</p> <p>The recently established State Committee for Refugees and Migrants of the State of Paraná determines in its founding Decree (Art. 1 §2) the establishment of a mechanism to identify and refer victims of trafficking with a well-founded fear of persecution to the National Committee for Refugees.</p> <p>"Art. 1 §1 Refugee status shall be recognised by the competent authority when the</p>

	<p>requirements established by Federal Law No. 9474, of 22 July 1997, are met.</p> <p>Decree 4289 - 5 April 2012 Published in the Official Journal No. 8687 of 5 April 2012:</p> <p>§2 In the cases of aliens identified as victims of trafficking in persons, the Committee shall make provisions, together with the State of Paraná's Centre for Combating Trafficking in Persons, for the referral of the victims in order to analyse the possible presence of a well-founded fear of persecution, in accordance with the procedure described in the previous paragraph".</p>
Costa Rica	Administrative precedents
Guatemala	<p>Law against Sexual Violence, Exploitation and Trafficking in Persons (2009)</p> <p>Article 2.h (Right of the trafficked persons to be provided with information on their rights and the services available to them, as well as "on the asylum procedure, tracing their family and the situation in their country of origin")</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2009/7047</p> <p>Migration Code (2016) Art. 17 (The process of repatriation for the trafficked persons must be carried out "without prejudice to the right of asylum").</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf</p>
Mexico	<p>Migration Law (2011)</p> <p>"Article 13. Migrants and their relatives who are in the territory of the United Mexican States shall have the right to be provided with information on: (...) III. The possibility of requesting recognition of refugee status, the granting of complementary protection or the granting of political asylum and statelessness determination, as well as the respective procedures for obtaining these statuses".</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2011/7525.pdf</p> <p>Memorandum No. 001/2010 that sets out the procedure for the care of unaccompanied migrant children and adolescents</p> <p>Article 7.-</p>

	<p>III (...) It shall be relevant to inform unaccompanied foreign migrant children or adolescents, in a language that is appropriate to their development and age, of their right to apply for refugee status.</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8931.pdf</p>
	<p>Regional Scope</p>
<p>Brazil Declaration, "A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean" (Brasilia, 3 December 2014)</p>	<p>The participating governments of the Brazil Declaration (2014) agreed to "highlight that victims or potential victims of trafficking could, in some circumstances, be subjects of international protection, and their access to refugee status determination procedures must be guaranteed, underlining the importance of their early identification on the grounds of their vulnerable situation, and recognising the complementarity between the asylum systems and the protection of victims of human trafficking".</p> <p>http://www.acnur.org/fileadmin/scripts/doc.php?file=fileadmin/Documentos/BDL/2014/9865</p>
<p>REGIONAL CONFERENCE ON MIGRATION</p>	<p>2009 REGIONAL GUIDELINES FOR THE ASSISTANCE TO UNACCOMPANIED CHILDREN IN CASES OF REPATRIATION</p> <p>"I. General Information"</p> <p>RCM member countries developed these Guidelines as a reference tool in carrying out a legal, prompt, dignified, safe, and orderly repatriation of unaccompanied children and adolescents. The contents of the Guidelines do not affect the rights, obligations, and responsibilities of countries and individuals stipulated under international law, including international humanitarian law, international human rights law and, particularly, the right to seek refugee status and protection from <i>refoulement</i>, when applicable, in accordance with the 1951 Convention Relating to the Status of Refugees, or its 1967 Protocol.</p> <p>http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/7348.pdf?view=1</p> <p>2007 REGIONAL GUIDELINES FOR SPECIAL PROTECTION IN CASES OF REPATRIATION OF CHILD AND ADOLESCENT VICTIMS OF HUMAN TRAFFICKING Regional Conference on Migration (RCM), April 2007</p> <p>http://www.unhcr.org/4bfd9179.pdf</p>