

TABLE 3.

SEXUAL ORIENTATION OF THE APPLICANT THE LAW ESTABLISHES NON-DISCRIMINATION

SEE ALSO TABLES 2, 4, 41

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| Why is it good practice? | Sexual orientation, whether or not expressed by the person concerned, should not hinder or undermine the right to seek and receive asylum or other forms of international protection |
| Country | Source |
| Argentina | <p>"Internal Protocol for Handling Applications for the Recognition of Refugee Status Involving Gender-Related Persecution" (2009).</p> <p>2.1. (Appointing of a lawyer. Based on the sexual orientation and gender identity expressed by the applicant, an attorney shall be appointed to take on the case)</p> <p>2.6. (If an interpreter is involved, the gender preference or sexual orientation of the applicant shall be respected)</p> <p>7.1. (In the case of detained persons applying for refugee status as a result of persecution on the grounds of gender, the gender identity or sexual orientation they declare before the defense attorney shall be respected)</p> <p>Available in Spanish at:</p> <p>http://www.acnur.org/t3/fileadmin/Documentos/BDL/2016/10304.pdf</p> |
| Brazil | <p>LAW Nº 13344, OF 6 OCTOBER, 2016. PROVISIONS ON THE PREVENTION AND SUPPRESSION OF DOMESTIC AND INTERNATIONAL HUMAN TRAFFICKING AND ON CARE FOR VICTIMS; AMENDMENTS TO LAW No. 6815, OF 19 AUGUST, 1980, OR DECREE-LAW NO. 3689, OF 3 OCTOBER, 1941 (CRIMINAL PROCEDURE CODE), AND DECREE- LAW Nº 2848, OF 7 DECEMBER, 1940 (CRIMINAL CODE); AND REPEALS INSTRUMENTS OF DECREE-LAW No. 2848, OF 7 DECEMBER, 1940 (CRIMINAL CODE)</p> <p>Art. 2 Procedures dealing with human trafficking shall comply with the following principles: (...)</p> <p>IV - non-discrimination related to gender, sexual orientation, ethnic or social origin, country of origin, nationality, profession, race, religion, age group, migratory status or other status;</p> |

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| | <p>V- mainstreaming of gender, sexual orientation, ethnic or social origin, country of origin, race and age in public policies;</p> <p>Article 6 Protection and care for the direct or indirect victims of human trafficking include:</p> <p>(...)</p> <p>III - Care for their specific needs, especially in relation to gender issues, sexual orientation, ethnic or social origin, country of origin, nationality, race, religion, age group, migratory situation, professional activity, cultural diversity, language, social and family ties or other status;</p> <p>Available in Portuguese at:</p> <p>http://pesquisa.in.gov.br/imprensa/jsp/visualiza/index.jsp?data=07/10/2016&jornal=1&pagina=2&totalArquivos=84</p> <p>Note:</p> <p>A Supreme Court ruling has created a better environment for the analysis of asylum applications based on sexual orientation. On 5 May 2014, the Supreme Court recognised the rights of same-sex partners to enter into a civil partnership. These couples now have the right to receive food, inheritance, and be included in health insurance schemes, adopt children, etc.</p> |
| <p>Costa Rica</p> | <p>Regulations for Refugees (2011)</p> <p>Article 6 - Principle of equality and non-discrimination. Irrespective of the migratory process that is initiated, immigration authorities must respect and guarantee the human rights of persons applying for refugee status, and refugees and stateless persons, without any discrimination whatsoever on the grounds of ethnicity, origin, nationality, gender, age, language, religion, sexual orientation, political opinions, economic status or any other social or migratory status.</p> <p>Available in Spanish at:</p> <p>http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2011/8171</p> <p>National Migration Council. Comprehensive Immigration Policy for Costa Rica (2013), p. 63.</p> <p>Vulnerable groups</p> <p>Goal: to expand the coverage of specific actions that provide care for migrants and refugees in conditions of vulnerability</p> <p>(...)</p> <p>Strategy:</p> <p>Prevent all forms of discrimination on the grounds of the sexual orientation of migrants and refugees.</p> |

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| | <p>Training on proper care for the LGTBI migrant and refugee population Available in Spanish at:</p> <p>http://www.migracion.go.cr/institucion/politica/Politica%20Migratoria.pdf</p> |
| <p>Ecuador</p> | <p>Organic Law on Human Mobility (2017)</p> <p>Article 2. This law includes the following principles: (...) Equality before the law and non-discrimination. All persons in human mobility who are in Ecuadorian territory enjoy the rights recognised in the Constitution, in international instruments ratified by Ecuador, and in the law. No person shall be discriminated against on account of his/her immigration status, national origin, sex, gender, sexual orientation or other social, economic or cultural status. (...) Non-refoulement. In no case may these persons be returned or deported to another country, regardless of whether or not it is their country of origin, in which their rights to life, liberty or integrity and those of their family run the risk of being violated due to their ethnicity, nationality, ideology, gender, sexual orientation, membership of a particular social group, political opinions, or when there are well-founded reasons for believing that they would be in danger of being subjected to serious human rights violations in accordance with this Law and international human rights instruments.</p> <p>Article 119. Principles of action regarding human trafficking and the smuggling of migrants. : (...) Non-discrimination. Victims of human trafficking or the smuggling of migrants shall not be discriminated against or receive less favourable treatment due to conditions of nationality, sex, sexual orientation, age or any other circumstance involving discrimination.</p> <p>Available in Spanish at:</p> <p>http://www.acnur.org/fileadmin/Documentos/BDL/2017/10973.pdf</p> |
| <p>Guatemala</p> | <p>Migration Code (2016)</p> <p>Article 9. Non-discrimination. Migrants must be treated equally and cannot be discriminated against on the basis of sex, sexual orientation, race, colour, language, religion or beliefs, political opinions or other opinions, ethnic or social origin, nationality, age, economic status, patrimony, marital status, birth or any personal characteristic</p> <p>Available in Spanish at:</p> <p>http://www.acnur.org/fileadmin/Documentos/BDL/2017/10978.pdf</p> |

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| <p>Mexico</p> | <p>Refugee Law and Complementary Protection (2011)</p> <p>Article 8. The Secretariat (...) shall take all measures within its reach to ensure that applicants, refugees and those receiving subsidiary protection are not discriminated against on the basis of ethnic or national origin, gender, age, disability, social or economic status, health conditions, pregnancy, religion, opinions, sexual preferences, civil status or any other reason that has the effect of preventing or nullifying the recognition or exercising of their rights</p> <p>Available in Spanish at: http://www.acnur.org/t3/fileadmin/Documentos/BDL/2010/8150.pdf</p> |
| <p>Peru</p> | <p>Decree implementing national migration policy (2017) 1.4.7. (...) (The definition of “discrimination” includes “sexual orientation, identity and gender expression”)</p> <p>Available in Spanish at: http://www.acnur.org/fileadmin/Documentos/BDL/2017/11191.pdf</p> |