

Call for Input: Report on how to expand and diversify regularization mechanisms and programs to enhance the protection of the human rights of migrants

Brazilian legislation and practice regarding regularization has proved to be propitious to migrants seeking to stay in Brazil. It is relevant to outline that national legislation ensures the access of migrants to all education, health and social protection services regardless of their nationality and even their migration status.

In 2017, Brazil adopted the [Migration Law](#) (Law n. 13,445)¹ which introduced a comprehensive framework establishing legal mechanisms for migration management and reinforcing the human rights of immigrants as enshrined in the Brazilian Constitution. The Migration Law has strengthened legal solutions promoting documentation and regularization of migrants in vulnerable situation. Since then, Brazil moved away from a tradition of issuing ad hoc measures based on immigration amnesties to address robust migratory flows arriving in Brazil towards a new era of legal alternatives and policies that aim to contribute to a humanitarian and rights-oriented management of migration. Overall, these norms and policies regards the vulnerable condition and special needs of certain groups of persons that seek Brazil as the destination of their migratory journey.

The enactment of the Migration Law in 2017 (Law No. 13,445, of May 24, 2017) expanded the hypotheses and conditions for granting visas and residence permits, which are regulated in detail in [Decree 9.199/2017](#).² The residence permit is the permission for the migrant to reside temporarily or permanently in Brazil. Residence permits can be issued for a determined period (also known as “temporary” and valid for 2 years) or indefinitely (referred to as residence permit for undetermined period). The temporary residence permit may be converted into one with indefinite validity period. The migrant may request it within the period of ninety days prior to the expiration of the two-year residence permit upon meeting specific requirements indicated in interministerial ordinances that regulate the issuance of visa and residence permits for specific nationalities. Some groups, due to their degree of vulnerability, are granted direct access to residence permits for an indefinite period, such as statutory refugees, stateless people, victims of human trafficking and labour exploitation and, in the case of unaccompanied or separated children and adolescents, the temporary residence is granted until full age (18 years), when they can decide to apply for a residence permit without determined period if they want to remain in the country.

The Migration Law (art. 14, § 3) provides for a humanitarian visa and residence permit for humanitarian reasons. They may be granted to a stateless person or a person from any country of origin in a situation of serious or imminent institutional instability, armed conflict, major calamity, environmental disaster or serious violation of human rights or international humanitarian law. Humanitarian visas are used in specific contexts and the Ministries of Justice and Public Security, Foreign Affairs and Labour are the authorities responsible for determining the requirements for the nationals of the specified countries. Humanitarian visa and residence have been granted to

¹BRAZIL, Lei de Migração n. 13.445/2017. Available at: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/lei/l13445.htm

²BRAZIL, Decree n. 9.199/2017. Available at: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/decreto/d9199.htm

[Syrians](#)³ and [Haitians](#)⁴ and more recent examples include [Ukrainians](#)⁵ and Afghans and people affected by the instability in [Afghanistan](#)⁶.

Since 2010, Brazil has received a migratory flow of Haitians arriving by land. To respond to this influx, Brazil established a humanitarian admission policy (as mentioned above) and created an office in Port-au-Prince to facilitate visa issuance for Haitians affected by the crisis.

Regarding the reception and response to Venezuelan nationals' influx in the region, Brazil has stood out for adopting a policy of welcoming and broad integration to Venezuelans who arrived in the country. Venezuelan men and women have access to the residence permit, as well as to asylum claim, being at their discretion the decision of which regularization pathway to choose.

The management of the Venezuelan migratory flow also counts with a good practice regarding the establishment of facilitated ways for migratory regularization. As of [December 2022](#), 345,320 residence permits were issued to Venezuelans in Brazil and 53,284 Venezuelans were recognized as refugees.⁷ The Normative Resolution CNIG nº 126, of 2017 allowed the granting of residence permits for Venezuelans (and nationals of other bordering countries that are not members of Mercosur). This resolution was replaced and improved by Interministerial Ordinance No. 09, of March 14, 2018, which made the documentary requirements for requesting a residence permit more flexible, facilitating regularization in this way. In March 2021, a new [Interministerial Ordinance MJSP/MRE No. 19](#), of March 23, 2021, was published, which simplifies residence authorization for Venezuelans.⁸ Recognizing the severe humanitarian situation in Venezuela and also that the norm was created to respond to the arrival of Venezuelans in Brazil, although it is not applicable only for nationals of Venezuela⁹, the Interministerial Ordinance enables the residence claimants to present alternative documentation, such as:

- Birth and marriage certificates can be accepted by Brazilian authorities even without legalization, apostille certification and sworn translation, if the migrant present a self-declaration of authenticity.
- For the purpose of proving affiliation in the case of indigenous migrants, an identification document issued by the country of origin may be accepted, jointly with a self-declaration of affiliation. (Article 3, § 4).

3BRAZIL, MJSP/MRE Interministerial Ordinance No. 09, of October 8, 2019. Available at: https://portaldeimigracao.mj.gov.br/images/portarias/PORTARIA_INTERMINISTERIAL_9.pdf

4BRAZIL, Interministerial Ordinance MJSP/MRE nº 33, of December 29, 2022. Available at: https://dspace.mj.gov.br/bitstream/1/8585/1/PRI_GM_2022_33.pdf

5BRAZIL, Interministerial Ordinance No. 28, of March 3, 2022. Available at: https://dspace.mj.gov.br/bitstream/1/6220/4/PRI_2022_28.pdf

6BRAZIL, Interministerial Ordinance No. 24, of September 3, 2021. Available at: https://portaldeimigracao.mj.gov.br/images/portarias/PORTARIA_INTERMINISTERIAL_MJSP.MRE_N%C2%BA_24_DE_3_DE_SETEMBRO_DE_2021.pdf

7OIM, Informe de Migração Venezuelana, December 2022. Available at: https://brazil.iom.int/sites/g/files/tmzbd11496/files/documents/Informe_Migracao-Venezuelana_Jan2017-Dez2022.pdf

8BRAZIL, Interministerial Ordinance MJSP/MRE No. 19, of March 23, 2021. Available at: https://portaldeimigracao.mj.gov.br/images/portarias/PORTARIA_INTERMINISTERIAL_MJSP.MRE_N%C2%BA_19_DE_23_DE_MAR%C3%87O_DE_2021.pdf

9 The Ordinance is valid to nationals of neighboring countries that did not sign the Mercosul Residence agreement.

- Non-indigenous migrant person: if the migrant is in a vulnerable situation and does not have documents to prove his or her affiliation, a self-declaration of affiliation will be accepted (article 3, paragraph 3).
- Children under nine years old may apply to a residence permit without showing a travel document, using only a Venezuelan birth certificate (Article 3, § 6).¹⁰

On June 14, 2019, the National Committee for Refugees (CONARE) recognized the scenario of serious and widespread violation of human rights in Venezuelan territory, a decision sufficient for objectively granting the status of refugee to Venezuelan nationals, under the terms of Law No. 9,474, of July 22, 1997. In October of the same year, CONARE Normative Resolution No. 29, of June 14, 2019, was published, which allowed the adoption of differentiated procedures in the instruction and evaluation of requests for recognition of the refugee status manifestly founded.

The combination of these mechanisms allowed the recognition of 53,284 Venezuelan refugees¹¹, through collective processing of the cases, from December 2019 to the present date. In addition to speeding up the process, this outcome is the result of the usage of BI (Business Intelligence) tools, systems intelligence that, through data crossing, maps the requests of nationals from the neighboring country. Without this strategy, reaching a decision about the cases could take over three to four years.

Another good practice adopted by Brazilian authorities regarding migratory regularization was implemented due to the COVID-19 pandemic. The Federal Police (PF) issued three regulations that extended the deadline for migratory regularization of immigrants who are in the country and whose migratory documents expired between March 2020 and September 2022.¹² This [measure](#) enabled migrants to have access to public services presenting documentation that expired in the mentioned period considering the limited capacity of the authority responsible for assessing and expediting residence permits during COVID-19 pandemic.

¹⁰ More information regarding residence permit procedures according to the Brazilian legislation can be found in the publication “Cartilha para Orientação sobre Regularização Migratória”, published in 2022 by the Brazilian Defender’s Office and IOM. Available at: <https://brazil.iom.int/sites/g/files/tmzbd11496/files/documents/cartilha-regularizacao-migratoria.pdf>

¹¹ OIM, Informe de Migração Venezuelana, December 2022. Available at: https://brazil.iom.int/sites/g/files/tmzbd11496/files/documents/Informe_Migracao-Venezuelana_Jan2017-Dez2022.pdf

¹² The last Ordinance enacted by the Federal Police extended until 15 September 2022 the deadline for refugees and migrants to regularize their situation in the country. Ordinance 28/2022 of the Federal Police, enacted in 11 March 2022. Available at: <https://in.gov.br/en/web/dou/-/portaria-n-28/2022-direx/pf-de-11-de-marco-de-2022-386096092>.