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Responses to Information Requests

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21 June 2018

ZZZ106127.FE

Brazil and Haiti: Situation of Haitians in Brazil, including rights and obligations; permanent resident status; documents issued to Haitians, including Foreigner Identity Cards (Cédula de Identidade de Estrangeiro, CIE); treatment of Haitians in Brazil, including access to employment and education, state protection and support services (2010-June 2018)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview

Sources indicate that Brazil [translation] “decided to open its borders to all Haitian nationals” by granting a humanitarian residence visa valid for five years (*Le Nouvelliste* 7 Oct. 2015; Nofi 16 Oct. 2015). Sources cite Fernando Vidal, Brazil’s Ambassador to Haiti, as stating in 2015 that [translation] “there are no ceilings, no requirements, no restrictions” (*Le Nouvelliste* 7 Oct. 2015; Nofi 16 Oct. 2015). An

article published by the Migration Policy Institute (MPI), “an independent, nonpartisan, nonprofit think tank” in Washington (MPI n.d.), reports that after the 2010 earthquake in Haiti, Brazil granted humanitarian visas and permanent residence to approximately 98,000 Haitians (MPI 29 Mar. 2018).

2. Legislation

Sources report that on 24 May 2017, Brazil adopted new immigration legislation, Law No. 13,445 of 24 May 2017 (*Lei n° 13.445, de 24 Maio de 2017*) (Soter and Lessa July 2017; US 8 June 2017). According to sources, the 2017 law supersedes Law No. 6,815 of 19 August 1980 (*Lei n° 6.815, de 19 de Agosto de 1980*) (PwC 9 Nov. 2017; Newland Chase 14 June 2017). Sources indicate that Law No. 13,445 came into force on 21 November 2017 (Newland Chase 23 Nov. 2017; Veirano E Advogados Associados 9 Jan. 2018). According to sources, Decree No. 9,199 of 20 November 2017 (*Decreto no 9.199 de 20 de Novembro de 2017*) regulates Law No. 13,445 (Newland Chase 23 Nov. 2017; EY Dec. 2017).

The table below provides a summary of the visas and types of residence granted to Haitian nationals under Law No. 6,815 of 1980 and Law No. 13,445 of 2017:

Law No. 6,815 of 1980

Normative Resolutions (NR); Law No. 6,815 of 19 August 1980	Effective Date	Expiration	Visa granted / status in Brazil	Duration of visa	Number of visas granted	Conditions for obtaining permanent residence
NR 97	13 Jan. 2012	[13 Jan. 2014]	Humanitarian visa	5 years	Maximum of 1,200 visas per year	Obtain work; be domiciled in Brazil
NR 102 (extends the validity of NR 97)	29 Apr. 2013	---	Humanitarian visa	5 years	No limit	Identical to NR 97
NR 106 (extends the validity of NR 97)	25 Oct. 2013	[25 Oct. 2014]	Humanitarian visa	5 years	No limit	Identical to NR 97

Normative Resolutions (NR); Law No. 6,815 of 19 August 1980	Effective Date	Expiration	Visa granted / status in Brazil	Duration of visa	Number of visas granted	Conditions for obtaining permanent residence
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NR 113 (extends the validity of NR 97)	15 Dec. 2014	30 Oct. 2015	Humanitarian visa	5 years	No limit	Identical to NR 97
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NR 117 (extends the validity of NR 97)	17 Aug. 2015	30 Oct. 2016	Humanitarian visa	5 years	No limit	Identical to NR 97
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NR 123 (extends the validity of NR 97)	20 Sept. 2016	30 Oct. 2017	Humanitarian visa	5 years	No limit	Identical to NR 97
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NR 27	25 Nov. 1998	---	Permanent residence	Indefinite	---	---
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Family reunification

Visa granted	Duration of visa
Permanent visa	5 years

Law No. 13,445 of 2017

Interministerial Order No. 10 of 6 April 2018	Effective Date	Visa granted	Duration of Residence	Issuing Location	Conditions for obtaining permanent residence
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Interministerial Order No. 10 of 6 April 2018	Effective Date	Visa granted	Duration of Residence	Issuing Location	Conditions for obtaining permanent residence
	9 Apr. 2018	Temporary visa for humanitarian reasons	2 years	Exclusively by the Brazilian Embassy in Port-au- Prince	<ul style="list-style-type: none"> a. Have not been absent from Brazil for more than 90 days during each migratory year; b. Enter the national territory and depart only via Brazil's migratory checkpoint; c. Not have a criminal record; d. Have proof of available means of subsistence.
Family reunification		Visa for family reunification	Same as the family member		

2.1 Legislative Framework Under Law No. 6,815 of 19 August 1980

2.1.1 Recommended Resolution No. 08/06 and Normative Resolution No. 27

According to sources, between January 2010 and February 2011 [between 2010 and 2012 (IJDH and NWIRP 3 Apr. 2017, 1)], Haitian nationals arrived at the Brazilian border [via Tabatinga or Brasília (IPPDH and IOM Aug. 2017, 64)] to apply for refugee status (IJDH and NWIRP 3 Apr. 2017, 1; IPPDH and IOM Aug. 2017, 64). The same sources state that, at that time, the National Committee for Refugees (Comitê Nacional para os Refugiados, CONARE), the Brazilian organization

responsible for assessing and deciding on refugee claims (Brazil n.d.a), refused to grant Haitians refugee status (IJDH and NWIRP 3 Apr. 2017, 1; IPPDH and IOM Aug. 2017, 64), rendering the status of Haitians in Brazil [translation] “irregular” (IPPDH and IOM Aug. 2017, 65). According to a 2016 article in *Forced Migration Review (FMR)*, published by the Refugee Studies Centre at the University of Oxford (*FMR* n.d.), the Brazilian government does not consider environment crises a valid reason for granting refugee status (Jubilut et al. Oct. 2016, 77).

According to sources, under Recommended Resolution No. 08/06 [of 19 December 2006 (de Souza Rodrigues 2016, 173)], the National Immigration Council of Brazil (Conselho Nacional de Imigração, CNlg) was able to consider the asylum claims of Haitian nationals and allow them to stay in the country (IPPDH and IOM Aug. 2017, 64; de Souza Rodrigues 2016, 173), by granting them [translation] “authorization to reside in Brazil for humanitarian reasons” (IPPDH and IOM Aug. 2017, 64). A report on Haitian migration to Brazil, prepared in November 2014 by Carlos Nieto, holder of a doctorate in social and political sciences from the Université de Louvain in Belgium and consultant for the International Organization for Migration (IOM) (La RED n.d.), states that the Resolution No. 08/06 enabled Haitians to obtain [translation] “permanent residence [in Brazil] for humanitarian reasons” (Nieto Nov. 2014, 76).

An article published in January 2014 [1] on the website of the Institute of Migration and Human Rights (Instituto Migrações e Direitos Humanos, IMDH), a nonprofit organization in Brazil (IMDH 6 Jan. 2014), reports that, during a plenary meeting in March 2011, the CNlg, pursuant to Resolution 08/06, granted [translation] “permanent residence in Brazil for humanitarian reasons” to 199 Haitian nationals (IMDH 20 Jan. 2014). According to the same source, the applications for refugee status presented to CONARE by Haitians continued to be sent to the CNlg and, still based on Resolution No. 08/06, in September 2011, the CNlg had granted [translation] “authorization for permanent residence” to more than 600 Haitians (IMDH 20 Jan. 2014).

Recommended Resolution No. 08/06 provides the following:

[translation]

RECOMMENDED RESOLUTION N° 8 of 19 December 2006

To resolve on applications for refugee status presented to the National Committee for refugees (CONARE), and at the latter's discretion, on the possibility of being examined by the National Immigration Council (CNIg) as special situations.

MINISTRY OF LABOUR AND EMPLOYMENT

NATIONAL IMMIGRATION COUNCIL

The NATIONAL IMMIGRATION COUNCIL created by Law 8,490 of 19 November 1992, organized by Law No. 10,683 of 28 May 2003, under the authority granted to it by Decree No. 840 of 22 June 1993,

DECIDES:

Article 1. To recommend to the National Committee for Refugees (CONARE), an organization attached to the Ministry of Justice, that the admissible applications for refugee status be sent to the National Immigration Council (CNIg) and, at the discretion of CONARE, that foreign nationals be granted the opportunity to remain in the national territory for humanitarian reasons.

Sole paragraph. The situation of staying in the country, for foreign nationals whose application was sent by CONARE to CNIg, is examined under Normative Resolution No. 27 of 25 November 1998, which deals with missing and/or special cases.

Article 2. The present resolution becomes effective on the date of its publication.

NILTON FREITAS

Acting Chair of the National Immigration Council. (Brazil 2006, emphasis in original)

Normative Resolution No. 27, mentioned in the Recommended Resolution No. 08/06, provides the following:

[translation]

Normative Resolution No. 27 of 25 November 1998.

[...]

Art. 01 Special cases and other contingencies that are not set out in the legislation will be submitted to the National Immigration Council, on a case-by-case basis.

First paragraph. Special cases will refer to cases that, although they are not expressly defined in the resolutions of the National Immigration Council, will have elements that enable them to be considered satisfactory for obtaining the visa or permanency.

Second paragraph. The other contingencies not set out in the legislation will refer to conditions that are not described in the resolutions of the National Immigration Council.

Art. 02 For the assessment of applications based on this normative resolution, the immigration criteria, the principles and the reasons, as set out in the concerned legislation, must be respected.

Art. 03 The decision based on the above constitutes neither evocable precedents nor cases of jurisprudence for decisions from other organizations or agencies.

Art. 04 Resolution No. 32, of 19 October 1994, is therefore revoked.

Art. 05 This normative resolution will be effective as of its date of publication.

JOÃO CARLOS ALEXIM

Chair of the National Immigration Council. (Brazil 1998)

An undated document prepared by the CNlg, the Brazilian Ministry of Labour (Ministério de Trabalho, MTB) and the IOM on Haitian immigration in Brazil states that 51,124 [translation] “authorizations for residence” were issued to Haitian nationals from January 2012 to May 2016 under Normative Resolution No. 27 (Brazil and IOM n.d.a., 1).

2.1.2 Normative Resolution No. 97

Sources state that in January 2012 the CNlg adopted Normative Resolution No. 97 to grant for a period of five years, to Haitian nationals [whose asylum claim was rejected (Fernandes and de Castro July 2014, 53)], [translation] “a permanent humanitarian visa” (Fernandes and de Castro July 2014, 53) or a [translation] “‘permanent’ visa [...] for ‘humanitarian reasons’” (IJDH and NWIRP 3 Apr. 2017, 2). Normative Resolution No. 97 of January 2012 provides the following:

[translation]

CNlg Normative Resolution No. 97 of 12/01/2012

Resolves on the issuance of a permanent visa to Haitian nationals under article 16 of Law No. 6,815 of 19 August 1980.

The National Immigration Council, created under Law No. 6,815 of 19 August 1980, and organized by Law No. 10,683 of 28 May 2003, under the authority granted to it by Decree No. 840 of 22 June 1993,

Decides:

Article 1. A permanent visa set out in article 16 of Law No. 6,815 of 19 August 1980 may be granted to a Haitian national for humanitarian reasons, for a duration of five (5) years under article 18 of the same law, a circumstance that must be noted on the holder's ID card.

Sole paragraph. For the purpose of this resolution, humanitarian reasons are considered to be those that result from the deterioration of the living conditions of the Haitian population following the earthquake in Haiti on 12 January 2010.

Article 2. Under this Normative Resolution, the visa is granted on an ad hoc basis by the Ministry of Foreign Affairs through the Embassy of Brazil in Port-au-Prince.
(Paragraph written pursuant to CNlg Normative Resolution CNlg No. 102 of 26/04/2013)

[(Revoked by CNlg Normative Resolution No. 102 of 26/04/2013):

Sole paragraph. A maximum of 1,200 (one thousand two hundred) visas may be granted per year, which corresponds to an average of 100 (one hundred) visas per month, without prejudice to the other forms of visas set out in the legal provisions of the country.]

Article 3. In compliance with the legislation in effect, prior to the end of the period set out in paragraph 1 of this normative resolution, Haitian nationals are required to provide justification of their employment to validate their permanence in Brazil and be issued a new foreigner identity card.

Article 4. This normative resolution is in effect for a period of two (2) years. The length of validity may be extended.

Article 5. This normative resolution enters into effect on the date of its publication.

PAULO SÉRGIO DE ALMEIDA

Chair of the Council. (Brazil 2012, emphasis in original)

Sources explain that Resolution No. 97 limited to 1,200 the number of humanitarian visas granted per year to Haitian nationals, that is, 100 per month (IPPDH and IOM Aug. 2017, 64; Fernandes and de Castro July 2014, 53; Nieto Nov. 2014, 76), excluding visa applications for family reunification (IPPDH and IOM Aug. 2017, 64; Fernandes and de Castro July 2014, 53). Sources state that these humanitarian visas could only be issued by the Consulate of Brazil in Port-au-Prince (IPPDH and IOM Aug. 2017, 64; Nieto Nov. 2014, 76).

Sources report that the adoption of Normative Resolution No. 97 failed to decrease either the influx of Haitian immigrants at the Brazilian border or the number of visas issued in Port-au-Prince (Fernandes and de Castro July 2014, 53; Lois and Rodrigues 2015, 396). According to an article published in July 2014 in the IOM's *Migration Notebook No. 6*, [Fernandes and de Castro English version] "[i]n November 2012, the agenda for visa issuance for 2013 was already overbooked and the Consulate [of Brazil in Port-au-Prince] opened a waiting list" (Fernandes and de Castro July 2014, 53). A 2015 article on the protection of Haitian migrants in Brazil, written by Rivana Barreto Ricarte de Oliveira, who holds a doctorate in law from the University of São Paulo (Escavador 28 Aug. 2017), reports that some Haitians had been [translation] "isolated" for about three months in Inãpari, a Peruvian city on the border with Brazil (Ricarte de Oliveira 2015). A 2017 joint publication on Haitian migration, prepared by the Institute of Public Policy and Human Rights (Instituto de Políticas Pública en Derechos Humanos, IPPDH) of the Southern Common Market (Mercado Común del Sur, MERCOSUR), with the support of the IOM, states that in Brasiléia, in the Brazilian state of Acre, local authorities had established a camp for Haitians (IPPDH and IOM Aug. 2017, 66).

According to sources, the Brazilian government adopted Normative Resolution No. 102 in April 2013 (IPPDH and IOM Aug. 2017, 66; Fernandes and de Castro July 2014, 53). Sources explain that Normative Resolution No. 102 revokes the limit of visas granted and eliminates the requirement that the visas be processed only from Port-au-Prince (IPPDH and IOM Aug. 2017, 66; Fernandes and de Castro July 2014, 53-54), opening up the opportunity for them to be issued by, [translation]

“among others,” the Brazilian consulates in Ecuador, Bolivia and the Dominican Republic (IPPDH and IOM Aug. 2017, 66). Normative Resolution No. 102 of 26 April 2013 provides the following:

Normative Resolution No. 102 of 26/04/2013

Published in the Official Journal on 29 March 2013.

Modifies article 2 of Normative Resolution 97 of 12 January 2012.

The National Immigration Council, created under Law No. 6,815 of 19 August 1980, and organized by Law No. 10,683 of 28 May 2003, under the authority granted to it by Decree No. 840 of 22 June 1993,

Decides:

Article 1. The paragraph of article 2 of Normative Resolution No. 97 of 12 January 2012 enters into effect with the following wording:

“Article 2. Pursuant to this Normative Resolution, the visa is granted on an ad hoc basis by the Ministry of Foreign Affairs.”

Article 2. The sole paragraph of article 2 of Normative Resolution No. 97 of 2012 is repealed.

Article 3. This normative resolution enters into effect on the date of its publication.

PAULO SÉRGIO DE ALMEIDA

Chair of the Council. (Brazil 2013a)

The following normative resolutions extend the validity of Resolution No. 97 of 12 January 2012 for the periods indicated: Normative Resolution No. 106, which came into effect on 25 October 2013, extends the validity for twelve months (Brazil 2013b); Normative Resolution No. 113, which came into effect on 15 December 2014, extends the validity until 30 October 2015 (Brazil 2014); Normative Resolution No. 117, which came into effect on 17 August 2015, extends the validity until 30 October 2016 (Brazil 2015); and Normative Resolution No. 123, which came into effect on 20 September 2016, extends the validity until 30 October 2017 (Brazil 2016).

A 3 April 2017 document on Haitians in Brazil prepared by the Northwest Immigrant Rights Project (NWIRP), an organization that advances the rights of immigrants by, for example, providing legal services (NWIRP n.d.), in partnership with the Institute for Justice & Democracy in Haiti (IJDH), a non-profit organization in the United States (IJDH n.d.), explains that, to apply for permanent residence under Brazil's immigration law of 1980 [replaced by Law No. 13,445 of 2017], Haitians must go to the Federal Police Department (Polícia Federal) before the expiration of their fiveyear visa (IJDH and NWIRP 3 Apr. 2017, 2). Haitian nationals must prove that they are working and are domiciled in Brazil (IJDH and NWIRP 3 Apr. 2017, 2). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Legislative Framework Under Law No. 13,445 of 2017

Given the provisions of Law No. 13,445, Brazil adopted interministerial act No. 10 of 6 April 2018 which [translation] “[p]rovides that temporary visas and residence permits shall be granted for humanitarian reasons to Haitian nationals and stateless persons residing in the Republic of Haiti” (Brazil 2018). Under Article 13, the interministerial act came into effect on the day it was published, i.e. on 9 April 2018 (Brazil 2018).

2.2.1 Interministerial Order No. 10 of 6 April 2018

Interministerial Order No. 10 of 6 April 2018 provides the following:

[translation]

Article 1. This order sets out the procedures for processing applications for temporary visas and residence permits based on humanitarian reasons for Haitian citizens and stateless persons residing in the Republic of Haiti.

Sole Paragraph. The possibility of humanitarian acceptance under this order shall be without prejudice to the recognition of other provisions that Brazil could adopt in the future.

Article 2. A temporary humanitarian visa may be granted to Haitian citizens and stateless persons residing within the territory of the Republic of Haiti.

1. The temporary humanitarian visa granted to the individuals mentioned in the first paragraph shall be valid for ninety days.
2. The temporary humanitarian visa shall be granted exclusively by the Embassy of Brazil in Port-au-Prince.
3. The temporary humanitarian visa shall be granted without prejudice to the other visa conditions set out in Law No. 13,445 of 2017 and in Decree No. 9,199 of 2017.

Article 3. To apply for a visa, the immigrant must provide the consular authority with the following documents:

- I. a valid travel document;
- II. an international vaccination certificate, when requested by the Brazilian Health Regulatory Agency (ANVISA);
- III. the completed visa application form;
- IV. proof of the mode of transportation used to enter Brazilian territory;
- V. a criminal record certificate issued by the Republic of Haiti or, at the discretion of the consular authority, an equivalent document issued by a competent authority in that country.

Article 4. Immigrants benefiting from this order must register at a Federal Police office within ninety days of their arrival in Brazil.

Sole Paragraph. Temporary residence granted for humanitarian reasons to individuals who have registered as indicated above shall be valid for two years.

Article 5. Nationals of the Republic of Haiti and stateless persons residing in Haiti who arrived in Brazil before this order was published may apply to a Federal Police unit for a residence permit for humanitarian reasons.

Sole Paragraph. The duration of residence provided by the law is of two years.

Article 6. The following documents must be presented in order to formalize the residence permit application:

- I. a travel document or an official identity document;
- II. two photographs (3 x 4);
- III. a birth or marriage certificate or a consular certificate, provided it has not already been recorded as one of the documents mentioned in point I;
- IV. a criminal record certificate issued by the Brazilian state where the individual has been residing in Brazil for the past five years;

- V. a certificate of absence of criminal record from the countries in which the individual has resided in the past five years (failure to provide this certificate shall result in a fine as provided by law); and
- VI. proof of authorization to enter up to the date this order was published.
 - 1. Once the aforementioned documents have been submitted, an identity card shall be registered and issued.
 - 2. Should it be necessary to rectify or complete the documents presented, the Federal Police must notify the immigrant to that effect within thirty days.
 - 3. After this period has elapsed, if the immigrant has not appeared, or if documents are still incomplete, processing of the application shall be abandoned, without prejudice to the use of the documents submitted, which shall remain valid for the purposes of a new application.
 - 4. If the application is rejected, the provisions of article 134 of Decree No. 9,199 of 2017 shall apply. (Brazil 2018)

The website of the Brazilian Visa Application Center (BVAC) in Port-au-Prince states that temporary visas granted for humanitarian reasons are [translation] “single-entry” visas and can be “converted to permanent residence permits” at the end of the temporary two-year residency period (Brazil and IOM n.d.b). The same source provides the following information for Haitians who wish to obtain a temporary visa for humanitarian reasons:

[translation]

Upon arrival in Brazil, holders of a humanitarian visa must register at a Federal Police office within 90 days and present his or her original birth certificate or marriage certificate. In order for these documents to be valid in Brazil, visa recipients must have them legalized directly at the Embassy of Brazil in Port-au-Prince. (Brazil and IOM n.d.b)

Article 7 of the 2018 Interministerial Order provides the following:

[translation]

Article 7. Immigrants may submit an application at a Federal Police office within the ninetyday period prior to the expiration of the two-year period set out in articles 4 and 5. A residence permit that is valid indefinitely shall be granted provided that the immigrant:

- I. has not been absent from Brazil for more than 90 days during each migratory year;

- II. enters the national territory and exits only via Brazil's migratory checkpoint;
- III. has no criminal record in Brazil; and
- IV. has proof of available means of subsistence. (Brazil 2018)

According to BVAC's website, new humanitarian visas

[m]ay not be granted to those who have already had a permanent humanitarian visa under a former law, who have left Brazil with the intention of never returning or of residing in another country. (Brazil and IOM n.d.b)

Articles 8 to 10 of the 2018 Interministerial Order provide the following:

[translation]

Article 8. Haitian immigrants and stateless persons residing in the Republic of Haiti who have been granted a residence permit for humanitarian reasons are guaranteed to be able to freely carry on professional activities in Brazil, in accordance with the existing legislation.

Article 9. Immigrants to whom this order applies shall be exempt from the fees and emoluments charged for visas and migratory regularization.

Sole Paragraph. Without prejudice to the provision in the first paragraph, fees may be charged for consular services provided by third parties whom the Brazilian government has mandated to fulfill this role.

Article 10. An application for a visa or residence permit pursuant to this order may be made by the person concerned or his or her legal representative or defence lawyer (Brazil 2018).

The BVAC website indicates that all humanitarian visa applications will be subject to a US\$60 [translation] "service fee" (Brazil and IOM n.d.b).

2.3 Family Reunification

The BVAC website states the following:

[translation]

For the purposes of family reunification, an appropriate visa [which was a five-year “permanent visa” before the coming into force of Law No. 13,445] (Brazil and IOM n.d.c)] may be granted to dependants of any Brazilian citizen or foreign national over the age of 18 who are authorized to reside in Brazil.

The following are considered to be dependants:

- a. Spouse (husband/wife);
- b. Ascendants (father/mother), as long as the applicant (Brazilian citizen) proves their need for assistance;
- c. Single children under the age of 18, or over the age of 18 on the condition that they are unable to provide for themselves;
- d. Brothers/sisters, grandsons (granddaughters) or great-grandsons (greatgranddaughters) if orphans, single and under the age of 18, or over the age of 18 on the condition that they are unable to provide for themselves;

The aforementioned dependants shall be considered as such until they reach the age of 24, on the condition that they are enrolled in a higher training or doctorate curriculum, and that Brazilian nationals are treated in the same manner in the foreign national’s country of origin. (Brazil and IOM n.d.d)

According to the same website, family reunification visas are also available to Haitians, including those whose family members hold a humanitarian visa, and the only fee charged is the US\$60 [translation] “service fee” (Brazil and IOM n.d.d). According to the Federal Police website, residence permits granted for family reunification reasons shall be valid for the same length of time as the family member’s authorization for residence (Brazil 30 May 2018).

Article 45 of Decree No. 9,199 of 2017 provides the following:

[translation]

Art. 45. A temporary visa shall be granted for family reunification reasons to immigrants who meet one of the criteria listed below. They must:

- I. be the spouse or partner of a Brazilian citizen, without discrimination, in accordance with the Brazilian legal system;
- II. be the child of a Brazilian citizen or an immigrant to whom a residence permit has been granted;
- III. have a child with Brazilian citizenship;
- IV. have a child who is an immigrant and who has been granted a residence permit;

- V. be an ascendant up to the second degree of a Brazilian citizen or an immigrant to whom a residence permit has been granted;
 - VI. be a descendant up to the second degree of a Brazilian citizen or an immigrant to whom a residence permit has been granted;
 - VII. be the brother of a Brazilian citizen or an immigrant to whom a residence permit has been granted; or
 - VIII. assume the wardship, trusteeship or guardianship of a Brazilian citizen.
- 1. By way of an act, the minister of Foreign Affairs has the authority to determine the need for an in-person interview and for additional documents to prove the family relationship, if applicable.
 - 2. By means of a joint order, the ministers of state for Justice, Public Safety and Foreign Affairs may establish other family relationships for the purposes of granting visas mentioned in the first paragraph, as well as related requirements, durations, conditions and procedures.
 - 3. In accordance with the law, a visa holder mentioned in the first paragraph may perform any activity in the country, including paid activities, under the same conditions as Brazilian nationals.
 - 4. An application for a temporary visa for reasons of family reunification may be presented at the same time as a family member's application for a temporary visa.
 - 5. The visa mentioned in the first paragraph may not be granted if the applicant already has a family reunification visa or permit or a temporary residence permit. (Brazil 2017a)

Articles 65 and 66 of Law No. 13,445 of 2017 provide the following:

[translation]

Article 65. Ordinary naturalization shall be granted under the following conditions:

- I. having civil capacity, in accordance with Brazilian law;
- II. having resided within the national territory for at least four (4) years;
- III. being able to communicate in Portuguese, the conditions for acquiring naturalization having been taken into account;
- IV. having not been convicted of a criminal offence or received a pardon, as per the provisions of the law.

Article 66. The minimum duration of residence established in paragraph II of article 65 shall be reduced to a minimum of one (1) year when the naturalization applicant has met one of the following conditions:

- I. (REPEALED);

- II. The applicant has a Brazilian child;
- III. The applicant has a Brazilian spouse or partner and is not legally or de facto separated when naturalization is granted;
- IV. (REPEALED);
- V. The applicant provides or is able to provide valuable service to Brazil;
- VI. The applicant has been recommended for their professional, scientific or artistic skills.

Sole Paragraph. Compliance with the conditions listed in paragraphs V and VI of this chapter shall be assessed in accordance with the regulations. (Brazil 2017b)

A copy of the BVAC web page indicating the documents to provide to obtain the family reunification visa and the humanitarian visa is attached to this Response (Attachment 1). A copy of the BVAC web page, dated September 2017, indicating the documents to provide to obtain the family reunification visa and the humanitarian visa under Law No. 6,815 of 1980 is attached to this Response (Attachment 2).

Sources report that, according to Normative Resolution No. 108 of 2014 [under the law of 1980], foreign-born parents of a Brazilian child may obtain a permanent visa in Brazil [that is valid for five years] (EMDOC May 2015, 74–75; de Almeida and Viglino 2016, 4), or [translation] “permanent residence” (de Almeida and Viglino 2016, 4). A document published in May 2015 by EMDOC, an “advisory firm” in São Paulo that specializes in immigration (EMDOC n.d.), indicates that individuals who wish to obtain a permanent visa must submit their application to the Federal Police office in the area in which they reside (EMDOC May 2015, 75).

2.4 Loss of Permanent Resident Status

Sources report that permanent residence [under Law No. 6,815 of 1980, replaced by Law No. 13,445 of 2017] is valid indefinitely (IJDH and NWIRP 3 Apr. 2017, 8; *The Rio Times* 24 Aug. 2014). According to the website of Brazil's consulate in Montréal, which was accessed in September 2017, foreign nationals will lose their permanent resident status in Brazil [Brazil English version] “if absent from the national territory for a period exceeding two years” (Brazil n.d.b). The same source states as follows:

[Brazil English version]

The Consular Authority may grant a new VIPER [permanent visa valid for 5 years] to a foreigner who once lived in Brazil as a permanent resident and then left in order to pursue or complete:

- University studies (undergraduate or graduate level);
- Professional training;
- Research activity at an institution recognized by the Brazilian Ministry of Science and Technology;
- Professional activity for the Brazilian government.

The application should be submitted directly to the Consular Office which has jurisdiction over the applicant's place of residence. The following documentation is required:

- Proof of the activities developed abroad;
- Official proof of the prior permanent residence status in Brazil until the start date of the activities abroad;
- Certificate of absence of criminal record (Police clearance certificate (non-fingerprint name check) from RCMP or local police department for applicants), and other documents required by the Consular Office. (Brazil n.d.b)

Article 135 of Decree No. 9,199, on the loss of residency under law No. 13,445 of 2017, provides the following:

Article 135. A residence permit will be revoked in the following circumstances:

- I. the original basis for the residence permit no longer exists;
- II. a residence permit has been obtained on different grounds; and
- III. absence from the country for a period of more than two years with presentation of a justification.

Paragraph 1 – The immigrant must notify the Federal Police immediately if he or she ceases to meet the conditions of his or her residence permit during its validity period.

Paragraph 2 – The provision in point I of the introduction does not prevent the immigrant from applying for a residence permit on other grounds. (Brésil 2017a)

In correspondence with the Research Directorate, a lawyer in Rio de Janeiro practising in immigration law, among other fields, indicated that “if the person was away from Brazil for more than two years, he or she will not be able to reenter Brazil as a permanent resident” (Lawyer 6 Feb. 2018). The lawyer explained that, according to Law No. 6,815 of 1980, an individual with permanent resident status in Brazil would “automatically” lose this status if he or she was absent from Brazil for

more than two years, while Law No. 13,445 of 2017 provides that permanent resident status is lost when the individual is outside Brazil for more than two years “without justifying [his or her] absence” (Lawyer 30 Jan. 2018, emphasis in original). According to the same source, “there is nothing [in the 2017 law] that defines what type of justification would be acceptable” for being outside Brazil that would allow permanent residents to retain their status (Lawyer 30 Jan. 2018). Information on acceptable justification could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Article 11 of Interministerial Order No. 10 of 2018 provides the following:

[translation]

Article 11. The basis for the humanitarian acceptance provided for in this order will be considered null and void if the immigrant leaves Brazil permanently when there is information showing that the immigrant attempted to reside in another country. (Brazil 2018)

Information on the procedure for the application of article 11 of the 2018 Interministerial Order could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.4.1 Available Recourse

Article 134 of Decree No. 9,199 of 20 November 2017 provides the following:

[translation]

Art. 134. An immigrant may appeal a decision to refuse permanent residence within ten days following the date on which the immigrant is informed of the decision. The immigrant shall have access to any necessary assistance, and the adversarial principle shall apply to his or her defence, as shall the provisions of Law No. 9,784 of 29 January 1999. (Brazil 2017a)

In a telephone interview with the Research Directorate, a lawyer from Pontes Vieira Advogados, a São Paulo law firm specializing in, among other fields, immigration law, stated that if permanent resident status is lost, an administrative proceeding takes place, and the client retains the right to administrative recourse (Lawyer 1 Feb. 2018). Similarly, the lawyer from Rio de Janeiro explained that,

according to the 2017 law, permanent resident status can be lost only upon completion of an administrative proceeding in which the individual has the right “to the principles of contradictory debate and ample defence” (Lawyer 30 Jan. 2018).

The lawyer from Rio de Janeiro stated that an individual who has lost permanent resident status has 10 days to present his or her defence at the administrative proceeding (Lawyer 30 Jan. 2018). According to the same source, if permanent resident status is declared lost, the individual has 10 days to appeal this decision (Lawyer 30 Jan. 2018). The same source added that “the procedures for the administrative proceeding for loss of residence [status] have yet to be established in the norm to be issued by the Ministries of Justice and Labour” (Lawyer 30 Jan. 2018). The lawyer from Rio de Janeiro noted that these norms will also establish the conditions for appeal of judgments (Lawyer 6 Feb. 2018). Regarding the possibility of contesting the judgment rendered on appeal in the administrative proceeding, the same source stated that, “in principle,” there is no available recourse, but it remains to be seen whether the standards to be issued by the Ministries of Justice and of Labour will confirm this (Lawyer 6 Feb. 2018). Further and corroborating information on current practices regarding administrative recourse options could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Identity Documents for Foreign Nationals

3.1 Documents Issued to Asylum Seekers

The document by the IJDH and NWIRP explains that, according to article 21 of Brazil’s Law No. 9,474, an individual who applies for refugee status in Brazil will receive a provisional identity document (a “refugee protocol”), a temporary work permit and a taxpayer identification number (Cadastro de Pessoas Físicas, CPF) (IJDH and NWIRP 3 Apr. 2017, 1). [2] Similarly, an article published in July 2014 in the *Migration Notebook No. 6* of the IOM [3], states that applying for asylum in Brazil enables applicants to obtain a work permit and a CPF (Fernandes and de Castro July 2014, 53).

3.2 National Migration Registry Card

According to an article published by Iure Pontes Vieira, a lawyer at the

Pontes Vieira Advogados law firm, a

[translation]

new law [Law No. 13,445, regulated by Decree No. 9,199 of 2017] has renamed the card for foreign residents. The former foreigner identity card [*Cédula de identidade de Estrangeiro*, CIE), more commonly known as the National Registry of Foreigners [*Registro Nacional de Estrangeiro*, RNE][,] has been replaced by the National Migration Registry (RNM) [*Carteira de Registro Nacional Migratório*, CRNM (Fragomen 22 Nov. 2017)]. (Pontes Vieira 15 Dec. 2017)

Articles 73 and 74 of Decree No. 9,199 of 2017, which concern the CRNM, provide the following:

[translation]

Article 73. The national migration registry card includes the immigrant's period of residence in accordance with the provisions set out in the residence permit obtained.

1. For the purposes of a temporary visa, the immigrant's period of residence is calculated from the date of the immigrant's first entry into Brazil after being granted the visa.
2. For an immigrant who holds a Brazilian residence permit, the date from which the period of residence is calculated is the date of the immigrant's application for registration.
3. If an immigrant who has obtained a residence permit in Brazil does not apply for registration within the time limits provided for in paragraph IV of article 307, the residence period starts on the expiration of a period of thirty (30) days following the date on which the decision to grant the residence permit was issued.
4. In the case of temporary residence, the expiration date of the national migration registry card coincides with the expiration date of the residence permit.

Art. 74. In the case of indefinite residence, the national migration registry card is valid for nine years as of the registration date.

Sole Paragraph. In the situation set out in the first paragraph, the national migration registry card is valid for an indefinite period if the cardholder:

- I. has reached the age of 60 by the document's expiration date; or
- II. is a person with a disability. (Brazil 2017a)

3.3 Foreigner Identity Card

The website of the Federal Police of Brazil reports that the CIE [granted under Law No. 6,815 of 1980, replaced by Law No. 13,445 of 2017] [translation] “is the physical identity document for foreigners registered in Brazil ... valid throughout the country” (Brazil 13 Sept. 2017). The same source indicates that, under article 30 of Law No. 6,815 of 1980, foreigners admitted to Brazil temporarily, permanently or as refugees must register with the Federal Police within 30 days of their arrival or after being granted asylum and, once registered, they are issued a foreigner identity card (Brazil 13 Sept. 2017). Article 30 of Law No. 6,815 of 19 August 1980, which defines the legal status of foreigners in Brazil, states the following:

[traduction]

Art. 30. A foreigner who enters the country as a permanent resident, or temporary resident (sub-paragraphs I and IV to VI of art. 13) or as a political refugee shall be obliged to register with the Ministry of Justice within thirty days as of his/her entry, or of the granting of refugee status (asylum), and to identify himself or herself by fingerprinting in accordance with the regulatory provisions. (*Wording based on Law No. 6964 of 12/09/81*). (Brazil 1980, emphasis in parentheses in original)

Article 2 of Decree No. 2,236 of 23 January 1985 (*Decreto-lei no 2.236, de 23 janeiro de 1985*), concerning the [translation] “foreigner identity document,” provides the following: [translation] “The foreigner identity document shall be replaced every nine years, starting from the date of issuance or the date of extension of stay” (Brazil 1985). The EMDOC document indicates that CIEs always have a period of validity, “even in the case of [foreigners] who already have a permanent residence permit” (EMDOC May 2015, 78). The website of the Department of Justice of Brazil (Ministério da Justiça) indicates that foreigners with permanent status have a CIE valid for a period of nine years and that they must renew their CIE before it expires (Brazil n.d.d). The EMDOC document states that “as a rule,” the CIE must be changed and the registration renewal must be done, thereby allowing the government to monitor foreign nationals living in Brazil (EMDOC May 2015, 78).

According to the same source, the National Registry of Foreigners was created as a means to register all foreigners residing temporarily or permanently in Brazil, and enrolment in this registry is “what will prove the effective residence of the foreigner” in Brazil (EMDOC May 2015, 77-78). The same source indicates that the

purpose of registration in the RNE is to identify foreigners by their personal information, such as “name, nationality, date and place of birth, name of the parents,” and by their fingerprints (EMDOC May 2015, 77). According to the website of the Federal Police, the CIE contains the RNE [translation] “alphanumeric number” (Brazil 13 Sept. 2017).

Article 2, paragraph 1 of Decree No. 2,236 of 23 January 1985 provides the following:

[translation]

... Foreign nationals holding a permanent visa who have previously completed a registration renewal and who

- I. have reached 60 years of age by the date of expiration of the identity document; (Clause added by Law No. 9,505 of 15/10/1997)
- II. are physically disabled, (Clause added by Law No. 9,505 of 15/10/1997)

shall be exempt from the replacement required under this article (Sole paragraph added by Law No. 9,505 of 15/10/1997). (Brazil 1985)

In September 2017, the website of the Federal Police indicated the following:

[translation]

Foreign nationals holding a permanent visa, who previously completed a registration renewal and who have reached 60 years of age at the time of the card’s expiry date or who are physically disabled, shall be exempt from the requirement to replace the CIE, including after the card’s expiry date. (Brazil 13 Sept. 2017)

According to the website of the Federal Police, those individuals can, if they so wish, replace the CIE with a CIE valid for an indefinite period [translation] “by paying a fee” (Brazil 13 Sept. 2017).

The EMDOC document indicates that according to “Ordinance Number 2524/2008 of the Ministry of Justice,” foreigners aged 51 years and older at the time of registration and disabled persons of any age shall receive a CIE that is valid indefinitely (EMDOC May 2015, 78). An article published on the website of Rolim, Viotti & Leite Campos (RV&LC), a law firm whose offices are located mainly in Brazil (RV&LC n.d.) and which deals with the issuance of CIEs to foreigners aged 51 years and older and to disabled persons, reports that:

This Ordinance [No. 2524 of 2008] sets forth that CIE with unlimited validity shall be issued to foreigners permanently resident in Brazil (i) who are 51 or more years old at the time of the registration and (i) who are handicapped, of any age.

The Ordinance also allows foreigners permanently resident in Brazil, holders of CIE with limited validity and over 60 years old, to require, without any burden, the replacement of their CIEs in the nearest unity of the Federal Police. (RV&LC 2 Feb. 2009)

4. Permanent Residence Granted

A joint ministerial act from the Ministry of Labour and Social Security and the Ministry of Justice states that, considering that CNlg invoked, under Normative Resolution No. 97, [translation] “humanitarian grounds to justify the immigration of Haitians following the earthquake of 12 January 2010 in Haiti,” the Haitian citizens whose names are on the list attached to the communiqué are granted “permanent residence” (Brazil n.d.c). A copy of this ministerial act, which includes the list of the 43,781 Haitian nationals who were granted permanent residence in Brazil, is attached to this Response (Attachment 3). A list of Haitian nationals who were granted permanent residence in Brazil on 19 September 2017 under Normative Resolution No. 27 is also attached to this Response (Attachment 4).

According to the IJDH and NWIRP document of April 2017, the ministerial act was signed in November 2015 (IJDH and NWIRP 3 Apr. 2017, 2). Sources explain that the 43,781 Haitian nationals identified by the ministerial act arrived in Brazil in the last 5 years, but could not be accepted as refugees (HaïtiLibre 12 Nov. 2015) or applied for refugee status in Brazil between January 2011 and July 2015 (*Folha de S. Paulo* 11 Nov. 2015). An article from November 2015 in the newspaper *Folha de S. Paulo*, a Brazilian daily newspaper, reports that previously permanent residence could only be requested by Haitians who arrived in Brazil with the humanitarian visa created in 2012 and issued by the Embassy of Brazil in Port-au-Prince (*Folha de S. Paulo* 11 Nov. 2015).

However, the April 2017 IJDH and NWIRP document indicates that Haitians who applied for refugee status prior to 13 January 2012, the effective date of Normative Resolution No. 97, are also concerned by the ministerial act (IJDH and NWIRP 3 Apr. 2017, 2). According to the same source, in order to apply for

permanent residence through this process, Haitians must submit to the Brazilian authorities: “a photo, a birth or marriage certificate translated by a sworn translator, or a consular certificate, a negative certificate of criminal record issued in Brazil [showing that no crime was committed in Brazil], and a statement that they have not been prosecuted criminally in Haiti,” as well as proof of payment of the registration fee and the issuance of a CIE (IJDH and NWIRP 3 Apr. 2017, 2). The same source states that Haitians had one year from the effective date of the ministerial act to apply for permanent residence and that, according to the Ministry of Labour, 31,223 Haitians had completed the procedure as of January 2017 (IJDH and NWIRP 3 Apr. 2017, 2-3).

According to Agência Brasil, a national news agency, the Brazilian Ministry of Justice extended the deadline to 11 May 2017 for Haitians [translation] “who entered Brazil after the earthquake that devastated Haiti in 2010” [and were subject to the ministerial order] to apply for permanent residence (Agência Brasil 11 Nov. 2016). According to the same source, the individuals concerned must pay 106.45 Brazilian reais (BRL) [approximately C\$36] in administrative fees and 204.77 BRL [approximately C\$69] for the CIE issued to them (Agência Brasil 11 Nov. 2016).

5. Treatment of Haitians in Brazil

Sources indicate that, in 2016, Brazil experienced an economic downturn (Mawon 28 Mar. 2018; *Miami Herald* 27 Sept. 2016). In a telephone interview with the Research Directorate, a representative of the Mawon movement [4] said that in 2012, 2013 and 2014, Haitians in Brazil were a greatly appreciated source of labour in the civil construction and hotel industries, which were experiencing labour shortages (Mawon 28 Mar. 2018). According to the same source, Brazil and some companies used financial incentives to encourage Haitians to come and work in the civil construction industry, but [translation] “that all ended” after the 2016 Olympic Games and as a result of the recession (Mawon 28 Mar. 2018). The same source noted that, subsequently, [translation] “many Haitians left Brazil” (Mawon 28 Mar. 2018). An article published by Public Radio International (PRI), a nonprofit media company (PRI n.d.), reports that a large number of Haitian workers left Brazil for the United States after the 2016 Olympic Games because their jobs were finished

and Brazil had entered a recession (PRI 4 Oct. 2016). The MPI article reports that some 30,000 Haitians have since “relocated” partially because of the economic recession (MPI 29 Mar. 2018).

The Mawon representative stated, without providing further details, that Haitians were not socially accepted and that this is a reality across South America (Mawon 28 Mar. 2018). An article published in November 2017 in the French journal *Brésil(s)*, signed by Marie-Caroline Saglio-Yatzimirksy and Ana Grebim [5], reports that Haitians are [translation] “affected by the racist protests” in Brazil (Saglio-Yatzimirksy and Grebim 29 Nov. 2017, para. 3).

5.1 Access to Employment

According to *The World Factbook* published by the Central Intelligence Agency (CIA) of the US, Brazil’s unemployment rate was estimated at 13.1 percent in 2017 and at 11.3 percent in 2016 (US 4 June 2018a). By comparison, according to the same source, Canada’s unemployment rate was estimated at 6.5 percent in 2017 and at 7 percent in 2016 (US 4 June 2018b). A document published by the Observatory of International Migration (Observatório das migrações internacionais – OBMigra) [6] about the movements of foreign workers in Brazil’s formal labour sector reports that, based on data from Brazil’s Ministry of Labour, Haiti was the leading source country for foreign workers in 2015 and 2016 (OBMigra 2017a, 4). According to the same source, in 2016, out of a total of 39,961 foreign nationals, 18,742 Haitian nationals were hired, and out of a total of 50,810 foreign nationals, 26,466 Haitian nationals were dismissed; in 2015, out of a total of 56,678 foreign nationals, 29,737 Haitian nationals were hired, and out of a total of 48,934 foreign nationals, 22,176 Haitian nationals were dismissed (OBMigra 2017a, 4).

Another document published by the same source notes that Haiti was the leading source country with respect to the issuance of work and social security cards (*carteiras de trabalho e previdência social*) [7], as well as for hires and dismissals in Brazil’s formal labour market for the first quarters of 2016 and 2017 (OBMigra 2017b, 4–5). From January to March 2017, 3,017 work and social security cards were issued to Haitian nationals, and 3,397 were issued between January and

March 2016 (OBMigra 2017b, 4). From January to March 2017, 5,856 Haitian nationals were hired and 3,355 were dismissed; between January and March 2016, 6,248 Haitians were hired and 6,090 were dismissed (OBMigra 2017b, 5).

Sources report that Haitians find work in the following employment sectors:

- construction (Missão Paz 12 Apr. 2018; Mawon 28 Mar. 2018; Repórter Brasil 31 Jan. 2016), as masons or assistants (Missão Paz 12 Apr. 2018; Repórter Brasil 31 Jan. 2016);
- the hotel industry (Mawon 28 Mar. 2018);
- cleaning (Missão Paz 12 Apr. 2018; Repórter Brasil 31 Jan. 2016);
- refrigerator, recycling and waste plants (Mawon 28 Mar. 2018).

In correspondence sent to the Research Directorate, a representative of Missão Paz, a religious institution in São Paulo that works with immigrants (*Le Nouvelliste* 25 Aug. 2016), noted that Haitians are overqualified for the work they do in Brazil (Missão Paz 12 Apr. 2018). According to an interview conducted in January 2016 by the NGO Repórter Brasil [8] with two of the founders of the Social Union of Haitian Immigrants (União Social Dos(a) Imigrantes Hationaos, USIH), a group in São Paulo that provides social services to immigrants in Brazil (*Miami Herald* 27 Sept. 2016), many Haitians in Brazil [translation] “are well educated and have spent a lot of time in school,” but most “only have casual, odd jobs” (Repórter Brasil 31 Jan. 2016).

The Mawon representative said that, with respect to looking for employment in Brazil, [translation] “today, Haitians face problems in terms of language, especially women who have come to join their husbands; they do not speak Portuguese” (Mawon 28 Mar. 2018). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The interview conducted by Repórter Brasil notes that, according to one of the founders of USIH, Brazilians are paid three times as much as Haitians for doing the same job (Repórter Brasil 31 Jan. 2016). However, the Mawon representative said that, with respect to salaries, [translation] “Haitians are treated the same as other members of society” (Mawon 28 Mar. 2018).

According to the Repórter Brasil interview, the other USIH founder who was interviewed said that [translation] “cases of slave labour involving Haitians have been identified by the Ministry of Labour and Employment” (Repórter Brasil 31 Jan. 2016).

Similarly, the Mawon representative stated that [translation] “in terms of work [in Brazil], the reality is that it could be called slavery” (Mawon 28 Mar. 2018). She gave the example of certain factories where employees, including Haitians, have to sleep in the same place where they perform their work (Mawon 28 Mar. 2018).

One of the USIH founders told Repórter Brasil that despite legislative provisions in Brazil that state that an employee should receive their signed work card within 48 hours, Haitians have worked for five or six months without it being signed; during this time, these Haitian workers did not have access to [translation] “social insurance” from the National Social Security Institute (Instituto Nacional do Seguro Social, INSS) [9], or other rights (Repórter Brasil 31 Jan. 2016). Asked about work conditions in the construction industry, one of the USIH founders said that Haitians need to work extra hours to help their families back in Haiti, but that [translation] “some people take advantage of it, do not obey the laws and make them work until midnight”; companies “constantly pressure them, telling [them] that they can quit if they do not want to stay [late]” (cited in Repórter Brasil 31 Jan. 2016). The same source added that the use of [translation] “personal safety [e]quipment” is mandatory in the construction industry, but that certain companies do not have any, and because they are not aware of their rights, Haitians do not receive the equipment (Repórter Brasil 31 Jan. 2016). However, the Mawon representative said that in terms of [translation] “labour and safety laws, Haitians are treated the same as other members of Brazilian society. In 2014, they demanded their rights” (Mawon 28 Mar. 2018).

Sources report that Haitians obtain casual (Repórter Brasil 31 Jan. 2016) or temporary jobs with irregular schedules (Mawon 28 Mar. 2018). According to one of the USIH founders,

[translation]

[m]ost Haitians have casual, odd jobs, without a work permit, because they do not have papers or identity cards. ... Some only have a protocol [a temporary document given to immigrants until they receive their CPF, and a work permit]. Others have a tax identification number and work permit but do not have an identity card. ... The lack of documents is one reason for unemployment among Haitian immigrants. (quoted in Repórter Brasil 31 Jan. 2016, square brackets in original)

5.2 Access to Education

According to data from the Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística, IBGE) published by UNESCO, the net enrolment rate for primary school in Brazil was 92.19 percent in 2014 and 92.70 percent in 2015; in Canada, this rate was 99.40 percent in 2014 and 99.60 percent in 2015 (UN Feb. 2018). According to the same source, the net enrolment for secondary school in Brazil was 79.31 percent in 2014 and 78.06 percent in 2015; in Canada, this rate was 99.97 percent in 2014 and 99.95 percent in 2015 (UN Feb. 2018).

The information in the following paragraph was provided by the Mawon representative:

Access to education is [translation] “very complicated.” There are not enough spots in schools, and this is a “national problem.” The Mawon representative accompanied a number of immigrant women, including Haitians, to register their children in school and, after having spent the night in front of the school, they were told that there were no places left for their children. Those who can afford to send their children to a private school pay a very high price. In Haitian communities, [translation] “we have family daycares, which is a community-based approach, but it is still very precarious” (Mawon 28 Mar. 2018). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5.3 Access to Health Care and Other Services

The information in the following paragraph was provided by the Mawon representative:

There are two health care systems in Brazil: the public system and the private system. The private system requires onerous monthly payments, while the public system is precarious (doctors sometimes are not paid for months). There are communication problems between health care staff and Haitian nationals. For example:

[translation]

A pregnant Haitian woman went [to] the doctor's office and said that she was having stomach pains. "Stomach" means "lung" in Creole. She was therefore treated for a stomach ailment, when she really had a lung infection. She died a few months later, and doctors had to induce labour before she died. A Haitian man went to the doctor because he felt weak. The doctor understood that he had a fever. The man therefore received the wrong treatment. (Mawon 28 Mar. 2018)

5.3.1 Services for Migrants

The *Brésil(s)* article states that between 2013 and 2015, the Casa do migrante in São Paulo [translation] "regularly" offered psychological services to migrants (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017). The same source also notes that in Rio de Janeiro's Bixiga neighbourhood, the organization Caritas [10] receives asylum seekers wanting [translation] "psychotherapeutic listening" and that the "team of clinical psychologists and psychiatrists receives an average of 20 new cases a month" (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5.4 Incidents of Violence

Information on incidents of violence against Haitian nationals was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, in August 2015, six Haitian nationals were shot at in downtown São Paulo, in front of a church that welcomes foreigners (AlterPresse 13 Aug. 2015; Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 1); one of the Haitians allegedly died of his injuries (AlterPresse 13 Aug. 2015). According to the same sources, the assailants allegedly accused the Haitians of stealing their jobs before opening fire (AlterPresse 13 Aug. 2015; Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 1). The article published in *Brésil(s)* states the following:

[translation]

Act of xenophobia? Racism? Some people believe it was really a settling of scores relating to drug trafficking. A few days earlier, a Haitian refugee had allegedly helped a young women reclaim a purse that had been stolen by the network, encroaching on the area controlled by the traffickers. “Work” is apparently referring to drug deals. However, the incident prompted questions and unease in Brazil’s financial capital, especially since the victims testified about their problems getting treatment at the public hospital they had gone to because they are “black and have no papers.” The media criticized it as an act of discrimination, and the case was handed over to the Municipal Secretariat for Human Rights (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 14).

Information on the outcome of this matter could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5.5 State Protection and Support Services

The article published by *Brésil(s)* points out that [translation] “Brazil’s social network responsible for refugees is precarious” (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 13). The same source adds the following:

[translation]

The organization Caritas (archdiocese of São Paulo) is the main institution responsible for providing this service and the government’s main stakeholder in providing frontline reception services (guidance on filing an asylum claim, searching for housing, etc.). For decades it has received support from several associations with ties to the Catholic Church, such as Casa do Migrante run by the Scalabrinians. The network is limited by size and its ability to meet an increase in claims. (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 14)

The information in the following paragraph was provided by the Mawon representative:

The Catholic Church, with a marked presence in the favelas, meets the daily needs of Haitians in terms of access to food and searching for a job. It receives funding from charitable donations and from the government, receives assistance from large organizations such as the IOM and the UN, and is recognized politically. The Church’s response to immigrant issues aligns with Brazilian public policy. The

Federative Republic of Brazil established the Interdisciplinary State Committee for Refugee and Migrant Policies (Comitê Estadual Intersetorial de Políticas de Atenção aos Refugiados e Migrantes, CEIPARM), which brings together state authorities responsible for immigrant issues such as safety, public security and legal protection. There are also networks and associations that provide assistance to Haitians, some of which have ties to the Embassy of Haiti (Mawon 28 Mar. 2018).

The information in the following paragraph comes from the article published by *Brésil(s)*:

Since 2014, government authorities have taken concrete measures, [translation] “particularly [at the] municipal [level], to overcome the lack of housing and assistance services.” The Municipal Secretariat for Human Rights in São Paulo created the Policy Coordination for Migrants (Coordenação de Políticas para Migrantes), which established the Immigrant Reception and Referral Centre (Centro de Referência e Acolhida para Imigrantes, CRAI), a refugee reception centre that offers legal and psychological support, [translation] “as well as an employment office and centres specializing in providing reception services to migrant populations.” According to the same source, [translation] “the centres opened in the state and the training assistance provided ... confirmed the gradual mobilization of authorities” (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017, para. 15).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The article published on the IMDH website was written by Duval Fernandes, Coordinator of the Higher Studies Program in geography at the Pontifical Catholic University of Minas Gerais; Rosita Milesi, lawyer and director of IMDH; and Andressa Farias, who holds a master's degree in geography from the Pontifical Catholic University of Minas Gerais (IMDH 20 Jan. 2014).

[2] Article 21 of Law No. 9,474 of 22 July 1997, on refugee status, states the following concerning temporary residence in Brazil:

[translation]

Art. 21. After the application is submitted, the [Federal Police] Department will issue a receipt to the applicant and their family group located in the national territory, and consequently, they will have the right to stay until the final decision.

1. Having issued the receipt to the refugee, the Ministry of Labour may issue them the temporary permit in order to work in Brazil.
2. Minors, under the age of 14, will be included in the receipt issued to the refugees. (Brazil 1997)

[3] The article titled "La migration haïtienne au Brazil : résultat de l'étude à la destination" was written by Duval Fernandes, and Maria da Consolação Gomes de Castro, Researcher in the Higher Studies Program in geography at the Pontifical Catholic University of Minas Gerais and professor in the Department of Social Service at that same institution (Fernandes and de Castro July 2014, 51).

[4] Mawon is an organization that is active in welcoming and assisting immigrants in Brazil (IPS 2 Feb. 2018). The Mawon representative wrote her doctoral dissertation on Haitian mobility and migration networks in America (Mawon 28 Mar. 2018).

[5] Marie-Caroline Saglio-Yatzimirsky is a professor of social anthropology at the National Institute of Eastern Languages and Civilizations (Institut national des langues et civilisations orientales) of the Université Paris-Diderot and is a psychologist and researcher at the Centre for Social Science Studies on African, American and Asian Worlds (Centre d'études en sciences sociales sur les mondes africains, américains et asiatiques) at the Université Paris-Diderot (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017). Ana Grebim, a psychologist and sociologist, supervises teams of psychologists and psychoanalysts at Casa do Migrante, led a mental health team at Caritas in São Paulo and is currently writing a doctoral dissertation on care for refugees in Brazil (Saglio-Yatzimirsky and Gebrim 29 Nov. 2017).

[6] OBMigra was created through a cooperation agreement between the Brazilian government and the University of Brasilia and aims to increase knowledge about international migration flows to Brazil (University of Brasília n.d.).

[7] The Mawon representative explained that the work permit, also called the “CLT” card, is issued by the Ministry of Labour and consists of a booklet in which companies enter [translation] “the hourly wage, laws and labour codes” (Mawon 28 Mar. 2018).

[8] Repórter Brasil is a news organization in São Paulo that primarily documents situations related to labour rights (OECD Watch n.d.).

[9] The INSS is responsible for the [translation] “social security fund” funded by contributions from employers, employees, self-employed workers and voluntarily insured persons; it [translation] “provides cash benefits in the event of inability to work due to illness, accident, disability, old age, death, involuntary loss of employment, maternity leave or incarceration, as well as family benefits” (France 2017).

[10] Caritas is [Caritas English version] “an entity of the Brazilian Conference of Bishops” recognized as “a federal non-profit organisation” that works with immigrants and refugees and operates via 182 member organizations throughout Brazil (Caritas n.d.).

References

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Date modified:

2018-06-25

