

[Home](#) [Country of Origin Information](#) Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) are research reports on country conditions. They are requested by IRB decision makers.

The database contains a seven-year archive of English and French RIR. Earlier RIR may be found on the [UNHCR's Refworld website](#).

Please note that some RIR have attachments which are not electronically accessible here. To obtain a copy of an attachment, [please e-mail us](#).

Related Links

- [Advanced search help](#)

14 February 2018

BRA106054.FE

Brazil: Whether a permanent resident automatically loses permanent resident status if outside the country for more than two years; recourse available to contest cancellation of permanent resident status (2017-March 2018)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. 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). For further information on Law No. 6,815 of 1980, see Response to Information Request ZZZ105986 of October 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).

Article 135 of Decree No. 9,199 provides the following:

[translation]

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. (Brazil 2017)

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 same source stated that, in accordance with Law No. 13,445 of 2017, permanent residents of Brazil who are outside the country for more than two years lose their permanent resident status (Lawyer 30 Jan. 2018).

The lawyer explained that, according to Law No. 6,815 of 1980 [superseded by Law No. 13,445 of 2017], 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).

2. Available Recourse

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 has 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 the 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 Ministry of Justice and 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.

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.

References

Brazil. 2017. [Decreto Nº 9.199 de 20 de Novembro de 2017](#) (Decree No. 9,199 of 20 November 2017). Excerpt translated by the Translation Bureau, Public Services and Procurement Canada. [Accessed 6 Feb. 2018]

Ernst & Young Global Limited (EY). December 2017. Raquel Teixeira and Renata Porto. “[__ Brazilian Federal Government Published Decree Nr. 9.199 that Regulates the New Migration Law Nr. 13.445.](#)” Taxalert. [Accessed 6 Feb. 2018]

Lawyer, Pontes Vieira Advogados. 1 February 2018. Telephone interview with the Research Directorate.

Lawyer, Rio de Janeiro. 6 February 2018. Correspondence with the Research Directorate.

Lawyer, Rio de Janeiro. 30 January 2018. Correspondence with the Research Directorate.

Newland Chase. 23 November 2017. “[Brazil: New Immigration Law Takes Effect.](#)” [Accessed 31 Jan. 2018]

Newland Chase. 14 June 2017. “[Brazil: New Immigration Law Published.](#)” [Accessed 2 Feb. 2018]

PricewaterhouseCoopers (PwC). 9 November 2017. Global Mobility. “[__ Brazil: ‘New Migration Law’ to Affect Visa Types and Individual Tax Residence Rules for Foreigners.](#)” [Accessed 29 Jan. 2017]

Soter, Maria Luisa and Gabriela Lessa. July 2017. “[Brazil.](#)” *The Law Reviews*. The Corporate Immigration Review: Edition 7. [Accessed 31 Jan. 2018]

United States (US). 8 June 2017. Law Library of Congress. “[Brazil: New Immigration Law Enacted.](#)” [Accessed 31 Jan. 2018]

Veirano E Advogados Associados. 9 January 2018. “[Brazil: AILA GMS Spotlight Interview Series.](#)” [Accessed 6 Feb. 2018]

Additional Sources Consulted

Oral sources: Cáritas Arquidiocesana – Rio de Janeiro, São Paulo; consultant in Brazil specializing in immigration law; immigration consulting firm – Brazil office; Instituto Migrações e Direitos Humanos; law firms in Rio de Janeiro and São Paulo; legal advisor in Brazil.

Internet sites, including: Asylum Research Consultancy; Brazil – Ministério da Justiça e Segurança Pública; eoi.net; Human Rights Watch; International Organization for Migration; UN – Refworld.

Date modified:

2018-06-25

