

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 [European Country of Origin Information Network](#) 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](#)

7 August 2020

ZZZ200262.E

Brazil and Haiti: Rights and responsibilities of permanent residents in Brazil; requirements and procedures to obtain permanent residence in Brazil through family reunification (2017-July 2020)

Research Directorate, Immigration and Refugee Board of Canada

1. Rights and Duties of Foreign Residents

The Constitution of the Federative Republic of Brazil provides the following:

Article 5. All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property ...

Article 6. Education, health, food, work, housing, transportation, leisure, security, social welfare, protection of motherhood and childhood, and assistance to the destitute, are social rights, as set forth by this Constitution.

...

Article 12.

...

Paragraph 3. The following offices are exclusive for born Brazilians:

- I. those of president and vice-president of the Republic;
- II. that of president of the Chamber of Deputies;
- III. that of president of the Federal Senate;
- IV. that of justice of the Supreme Federal Court;
- V. those of the diplomatic career;
- VI. that of officer of the Armed Forces;
- VII. that of minister of Defence.

...

Article 14.

...

Paragraph 2. Foreigners cannot register as voters ... (Brazil 1988)

According to a migration governance overview from July 2018 by the International Organization for Migration (IOM),

[i]mmigration and emigration are regulated by the new Migration Law (No. 13,445 of 2017), which aggregates and reformulates previous legislation concerning migration policy. ...

The Migration Law establishes the conditions and procedures for the entrance, stay and departure of non-nationals in Brazilian territory. It also outlines immigrants' rights, as well as different types of visas (including humanitarian visas) and residence permits for different migrant types. (UN July 2018, 3)

The same source also states the following:

[r]ights of access to health-care services, education and social security are universal and encompass all immigrants, regardless of migratory status. These rights are protected by the new Migration Law (No. 13,445 of 2017) and by the Federal Constitution, besides the specific legislation of each area. ...

Immigrants can access all levels of care in the public health services, which are free and covered by the Brazilian State, with some exceptions applying to prescription medicine. Similarly, all immigrants, regardless of their legal status, have access to both levels of public education: basic education (kindergarten, elementary and high school) and higher education (undergraduate, graduate and postgraduate).

Immigrants also have access to a range of social assistance benefits, including *Bolsa Familia*, which is the main federal cash transfer programme. ...

Brazil guarantees access for immigrants to social security benefits and to the labour market in a non-discriminatory way. (UN July 2018, 2, italics in original)

The same source also adds that

[i]mmigrants who have been living in the country on a temporary visa are free to apply for an indefinite residence permit. Immigrants can apply for citizenship after four years of residence in the country, provided they fulfil certain requirements (civil capacity, knowledge of Portuguese and a clean criminal record).

Non-nationals with a residence permit have the right to work. Residents have the same rights as nationals to access private sector employment and self-employment, but there are some restrictions to access public sector employment. (UN July 2018, 3)

For an English translation of Law No. 13,445 of 24 May 2017 (*Lei n° 13.445, de 24 de maio de 2017*), also known as the Law on Migration (*Lei de Migração*), see Response to Information Request BRA106321 of June 2019.

2. Temporary Visa

According to the IOM, the Brazilian Federal Police "is responsible for border controls and for overseeing the entrance, duration of stay and exit of foreigners in national territory" (UN July 2018, 7). An article on migration law in Brazil by Deloitte,

a "global provider of audit and assurance, consulting, financial advisory, risk advisory, tax, and related services" (Deloitte n.d.a), regarding the new legislation, states that

[t]he Ministry of Justice has recently published new Ordinances to regulate the procedures for the application of residence permits through the Federal Police, for example: health treatment, study, work holiday, family reunion, Agreement or Treaty of Residence, renewal of the Immigrant ID Card, among others. (Deloitte n.d.b)

Sources indicate that, in accordance with Law 6,815 of 1980, a permanent visa could be authorized (Brazil and ICMPD 2013, 71; EMDOC Oct. 2009, 210). However, sources indicate that the concept of a "permanent visa" no longer exists under Law 13,445 (Deloitte n.d.b; Soter and Lessa June 2020), rather that the options are a temporary visa or a residence permit, "for either a definite or indefinite term" (Soter and Lessa June 2020). According to the consular portal of the Brazilian Ministry of Foreign Affairs (Ministério das Relações Exteriores), foreigners in Brazil may receive a visit visa, diplomatic visa, official visa, courtesy visa, or a temporary visa; the latter is granted in the following situations:

- I. Temporary Visa I: research, teaching or academic extension;
- II. Temporary Visa II: health care visa;
- III. Temporary Visa III: humanitarian visa;
- IV. Temporary Visa IV: as a student;
- V. Temporary Visa V: paid work visa;
- VI. Temporary Visa VI: Working-Holiday Visa: for those who travel primarily for purposes of tourism, with the possibility of undertaking paid employment. Visa granted on the basis of bilateral agreements. There are currently agreements with New Zealand, France and Germany;
- VII. Temporary Visa VII: as a minister of a religious confession or as a member of an institute of consecrated life and of a congregation or religious order;
- VIII. Temporary Visa VIII – voluntary work visa;
- IX. Temporary Visa IX – investor visa;
- X. Temporary Visa X – visa for activities of economic, scientific, technological or cultural relevance;
- XI. Temporary Visa XI – family reunification visa;
- XII. Temporary Visa XII – artistic or sports activities visa;

- XIII. Temporary Visa XIII – temporary visas due to international agreements;
- XIV. Temporary Visa XIV – temporary visas due to the Brazilian immigration policy;
- XV. VICAM – Temporary Visa for foreign doctors (medical training). (Brazil n.d.a)

According to the website of the Consulate General of Brazil in Vancouver, foreigners "will lose their permanent resident status in Brazil if absent from the national territory for a period exceeding two years" (Brazil n.d.b).

3. Family Reunification

Article 45 of Decree No. 9,199 of 20 November 2017 (*Decreto no 9.199 de 20 de novembro de 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, 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 sibling 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 Security 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 the family member's application for a temporary visa.
5. The visa mentioned in the first paragraph cannot be granted if the applicant already has a family reunification visa or permit or a temporary residence permit. (Brazil 2017)

According to the IOM migration governance overview,

[i]mmigrants with temporary or permanent visas can apply for family reunification, which includes (a) spouses or partners, without any discrimination, under the terms of the Brazilian legislation; (b) children; (c) stepchildren or siblings (provided that they are under 18 years of age, students under 24, or of any age if economically dependent); (d) relatives of ascending or descending line up to second degree; or (e) the guardian of a Brazilian citizen. (UN July 2018, 2-3)

An article by Gabriela Lessa, a senior counsel at Veirano e Advogados Associados (Soter and Lessa June 2020), a Brazilian legal firm, states the following:

[a]s to family reunion processes, the new legislation no longer limits ages for dependents, allowing processes for ascendants, descendants, irrespective of age. It is possible to apply for [f]amily reunion processes for married couples, in a civil union, or in a stable union. In Brazil, there are no restrictions, nor any sort of discrimination on same sex relationships, therefore it was already possible to apply for a family reunion process in the former law, as it is in the current legislation. (Lessa 14 May 2019)

3.1 Procedure for Haitian Citizens to Obtain a Brazilian Family Reunification Visa

According to the IOM Haiti's Brazilian Visa Application Center (BVAC),

[translation]

[f]or family reunification, an appropriate visa may be granted to the dependents of any Brazilian citizen or foreigner over the age of 18, having an authorization to reside in Brazil.

The following are considered dependents:

- a. Spouse (husband/wife);
- b. Ascendants (father/mother), provided that the applicant (Brazilian citizen) proves their need for assistance;
- c. Unmarried children under the age of 18 or over, provided they are unable to provide for their own subsistence;
- d. Brothers/sisters, grandson (granddaughter) or great-grandson (great-granddaughter) if orphans, single and under the age of 18, or over if unable to provide their own subsistence;

The above-mentioned dependents will be considered as such until the age of 24, provided they are enrolled in a higher education or doctorate course, and that Brazilian nationals are treated in the same way in the country of origin of the foreign national.

...

To apply for a family reunification visa (humanitarian reception – VITEM XI) with families holding humanitarian visas:

- Passport valid for a minimum of six (6) months on the day of departure of the person concerned, with at least two (2) blank pages;
- One (1) recent passport size photo (3 x 4 cm);
- Extract from the criminal record issued by the Central Directorate of the Haitian Judicial Police (Direction centrale de la police judiciaire d'Haïti, DCPJ) (less than three months), for adults;
- Original extract of marriage and birth certificate issued by the National Archives (Archives nationales) (duly legalized by the Ministry of Foreign Affairs (Ministère des Affaires étrangères), Public Prosecutor's Office (Parquet) and Ministry of Justice (Ministère de la Justice)). In the absence of the Marriage Certificate Extract, the original of the deed of cohabitation will be accepted (duly legalized by the Ministry of Foreign Affairs);
- Legible copy of the Brazilian document proving that the person living in Brazil has a residence permit in Brazil;
- Affidavit that the person lives in Brazil and holds an authorization proving that they have Brazilian residency[;]
- An invitation letter[;] [and]
- Original receipt for payment of BVAC fees, in the amount of US\$60.00 per visa, to the IOM account at SOGEBANK no. 2616027989[.]

For minors (under 18), it is also necessary to have:

[translation]

- Authorization to apply for a visa for Brazil for the minor. The authorization must be signed by the parents and be authenticated by a [n]otary in Brazil and/or legalized with the Ministry of Foreign Affairs, in Haiti. Note that the name of the person who will present themselves must be mentioned in the authorization;
- Original extract of the Birth Certificate for applicants over 3 years old issued by the National Archives (duly legalized by the Ministry of Foreign Affairs) and copy; [b]irth certificates issued by the Courts of Peace (Tribunaux de paix) or Civil Status (État civil) for those over 3 years old will not be accepted;
- Copies of identity documents (passport or identity card) of both parents. In the event of divorce, copy of the judgment conferring custody. In the event of the death of one of the parents, original of the death certificate (duly legalized by the Ministry of Foreign Affairs) and a copy;
- An invitation letter. (UN n.d.)

Information on timelines to process requests, frequency and grounds for refusal, as well as information on reacquisition of permanent resident status, 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 5 June 2018]

Brazil. 1988 (amended 2019). Constitution of the Federative Republic of Brazil. [Accessed 28 July 2020]


Brazil. N.d.a. Ministério das Relações Exteriores. "Vistos para viajar ao Brasil." [Accessed 28 July 2020]

Brazil. N.d.b. Consulate General of Brazil in Vancouver. "Permanent Visa (VIPER)." [Accessed 28 July 2020]

Brazil and International Centre for Migration Policy Development (ICMPD). 2013.  Brazil - Europe Migration. The Situation of Brazilian Immigrants in Spain and Portugal, and Portuguese and Spanish Immigrants in Brazil: Legal Aspects and Experiences. By Cláudia Finotelli, et al. [Accessed 5 Aug. 2020]


Deloitte. N.d.a. "About Us." [Accessed 29 July 2020]

Deloitte. N.d.b. "New Migration Law: Important Highlights for Foreign Workers in Brazil." [Accessed 28 July 2020]

EMDOC. October 2009. Daniela Lima, et al.  The Foreign National in Brazil: Legislation and Comments. Edited by João Marques da Fonseca Neto. 4th edition. [Accessed 5 Aug. 2020]

Lessa, Gabriela. 14 May 2019. "Brazil: Recent Immigration Legislative Changes in Brazil." [Accessed 28 July 2020]

Soter, Maria Luisa and Gabriela Lessa. June 2020. "Brazil." The Corporate Immigration Review – Edition 10. [Accessed 28 July 2020]

United Nations (UN). July 2018. International Organization for Migration (IOM).  Migration Governance Snapshot: The Federative Republic of Brazil. [Accessed 28 July 2020]

United Nations (UN). N.d. International Organization for Migration (IOM), Brazilian Visa Application Centre (BVAC). "Renseignements sur la demande de visa." [Accessed 28 July 2020]

Additional Sources Consulted

Oral sources: Aetna International; Botinha & Cabral; Brazil – Federal Police; Conectas; EMDOC; Ernst & Young; Establish Brazil; Mattos Filho; Oliveira Lawyers; Veirano e Advogados Associados; Visto Brasil.

Internet sites, including: Aetna International; Botinha & Cabral; Brazil – Brazilian Institute of Geography and Statistics, consulate generals in Montreal and New York, embassies in Ottawa, Port-au-Prince, and Washington, Government of Brazil,

Observatory of International Migration; The Brazilian Report; Conectas; ecoi.net; Ernst & Young; Establish Brazil; EU – European Commission; International Centre for Migration Policy Development; International Law Office; J&D Immigration Advisers; Mayer Brown; Migration Policy Institute; Oliveira Lawyers; Organisation for Economic Co-operation and Development; Organization of American States; UN – Refworld; US – Library of Congress; Veirano e Advogados Associados; Visto Brasil.

Date modified:

2020-06-01