

NORMATIVE RESOLUTION 93 ISSUED ON DECEMBER 21, 2010.

Regulates the concession of a permanent or temporary residency visa to foreign citizens considered to be victims of human trafficking practices.

The **NATIONAL IMMIGRATION COUNCIL**, created by Law 6.819 from August 19, 1980 and organized through Law 10.683 from May 28, 2003, based on the competence conferred by Decree 840 from June 22, 1993, decides:

Art. 1 Permanent or one year long temporary residency visas may be granted to foreign citizens who are victims of human trafficking practices and whose situation in Brazil is considered vulnerable, according to the provisions of art. 16 of Law 6.815 from August 19, 1980.

§ 1. Foreign citizens granted a visa according to the above article may stay in Brazil and decide whether they wish to collaborate with the crime investigations or with eventual ongoing legal proceedings.

§ 2. The concession of a permanent or temporary visa can be extended to the victim's spouse or partner, relatives and dependents that can prove a close connection to the victim.

Art. 2 For the purpose of this resolution it is considered human trafficking, as defined by the Additional Protocol to the United Nations Convention against Transnational Organized Crime and for the Prevention, Repression and Punishment of Human Trafficking especially Women and Children: "the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."

Single Paragraph. The term "exploitation" is, for the all purposes, the verified exploitation of an individual for prostitution purposes and other forms of sexual exploitation, forced labor or services, slavery or similar practices, servitude or the removal of human organs.

Art. 3 The visa application for foreign victims, the subject of this Resolution can be initiated by the police, the judicial system or by the Public Ministry depending on which instance is responsible for the original criminal investigation, and will be forwarded to the Ministry of Justice which may grant, immediately, the right to remain in Brazil to individuals with a regularized stay in the Country.

Single Paragraph. The Ministry of Justice will, in cases related to individuals in an irregular visa situation, request the concession of the visa in Brazil by the Ministry of Foreign Affairs, according to the provisions of Normative Resolution 9 from November 10, 1997.

Art. 4 The foreign citizen must, up to thirty days before the end of the authorized stay period based in the provisions of art. 1, express to one public authority involved in the criminal prosecution case that he/she wishes to remain in Brazil and whether he/she agrees to voluntarily collaborate with the ongoing investigation or criminal process.

Single Paragraph. The respective authority will, in cases related to the heading of this paragraph, inform the expressed will of the foreign citizen to the Ministry of Justice which in turn will decide on the visa extension, conditioned by art. 18 of Law 6.819 from 1980.

Art. 5° The public institutions involved in the care of trafficking victims are entitled to forward their professional opinions to the Ministry of Justice and recommend the concession of a permanent or

temporary residence visa according to the provisions of this Resolution.

§ 1. Professional opinions, related to the heading of the above article, will be accepted from the bellow listed institutions, according to their respective competence:

- I – The Ministry' of Justice's National Secretariat;
- II – Centers for the Combat Against Human Trafficking;
- III – Main Reception Offices for deported Brazilians and non-admitted individuals at the main exit and entry locations;
- IV- The Presidency of the Republic's Human Rights Secretariat; and
- V – Organizations that provide assistance to victims of violence and human trafficking.

§ 2. The professional opinions mentioned in the heading of this article must be based on the policies set by the National Policy for the Combat Against Human Trafficking, approved by Decree 5.948 from October 26, 2006, and present the circumstantial evidence that may prove that the foreign citizen is a victim of human trafficking practices.

Art. 6 The request that is the subject of art. 5 must be immediately forwarded to the National Immigration Council which will decide on matters related to the concession of a temporary or permanent visa according to the provisions of art. 1 of this Resolution.

Single Paragraph. The above mentioned visa request that is the subject of the heading of this article will be analyzed according to the following principles:

I - the foreign citizen's social, economic or psychological vulnerability, among other, which may lead the victim to recurring victimization in his/her country, independently of whether he/she is willing to collaborate with the investigation or criminal process; or

II - the foreign citizen is, as a victim of human trafficking, coerced or exposed to a serious threat due to his/her willingness to collaborate with the investigation or criminal process in Brazil or any other country; or

III -the foreign citizen is in need care/services in Brazil due his/her victimization, independently of whether he/she is willing to collaborate with the investigation or criminal process.

Art. 7 The visa request provisioned by this Resolution must include the following documents, apart from other documentation that may be deemed as necessary for the assessment of the request:

I -passport or other valid travel document. Citizens of States that are Members or Associated Members of the MERCOSUL may present other documentation provisioned by the CMC 18/08 Agreement;

II -a legally binding declaration that he/she is not answering a legal process and does not have a criminal record in Brazil or abroad; and

III -a list declaring his/her dependents.

Art. 8. This Normative Resolution enters into effect on the date of its publication.

PAULO SÉRGIO DE ALMEIDA
President of the National Immigration Council

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