

Residence Permit: A Guide to Getting Regularized in Brazil

Ícaro Dias Galama

Faculdades Integradas Espírito-Santenses, Vitória, Brazil, galama.dias@gmail.com

Abstract. This article presents an analysis of Brazilian legislation on migration, as well as an analysis of the interpretation of Law nº 13.445/2017 and Decree nº 9.199/2017, an experience report of the author's work at the Migration Office of the Federal Police. The main objective of this research is to prepare a guide for foreigners who intend to regularize their situation in Brazil, exposing the necessary documentation, thus facilitating access to legal procedures. The hypotheses presented in the law, international agreements and treaties, documentation for the cases listed in the scope of this research are considered, dealing mainly with Mercosur. Obviously, natives of South American countries have easier access to Brazil, although the Brazil also welcomes foreigners from African, Asian, and European countries, as well as North America and Oceania, many with the intention of studying, working or even living with their families. It is expected that access to the list of documents, such as the necessary requirements for each case, in an organized manner, will provide the necessary subsidies for those interested in living legally in Brazil, and the document processing process, with information on translations and the Hague Apostille, which becomes relevant if the foreigner wants to naturalize as Brazilian after following certain requirements.

Keywords. Brazil; Migration; Agreements; Residence Permit; Mercosur.

1. Introduction

The Brazilian legislation concerning the migration process, is challenging for those interested in living in Brazil. The disclosure of the legal documents required is not fairly clear.

As an intern of the Federal Police, working at the Migration Office, the difficulty noted for general foreigners, in relation to get the residence permit, specially the documentation, is very clear.

The purpose of this research methodologically focused on legislation, aims to describe the necessary documentation for the most common cases and scope that covers each case itself, due to the fact that only in 2022, 243.2 thousand foreigners obtained residence permit in Brazil, according to *Conselho Nacional de Migração (CNIG)*. The hypotheses presented in this work, presented in the Brazilian migration law by themselves justify the need to facilitate access to information abroad and, consequently, facilitate the regularization in national territory.

With this research, it is concluded that the demarcation of each case provided throughout the

text facilitates the understanding of the main hypotheses in which the foreigner can regularize and live legally in Brazil.

2. Residence permit

In 2017 the Brazil's new migration law came into force. The law, which establishes the requirements for immigrants to be able to regularize themselves in Brazil and remain legal, is the Law nº 13.445/2017, regulated by Decree nº 9.199/2017.

The new legislation specifies cases in which a foreigner can live in Brazil by following some legal rules to obtain the residence permit in the country.

2.1 Mercosur residence agreement

For this hypothesis the foreigner needs to be native of the following countries: Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay.

Although Argentina, Brazil, Paraguay and Uruguay are the only official members of Mercosur, the other South American countries can participate in the economic block's reunions when they have common interests, as in the case with the agreement to obtain a residence permit.

For this agreement the immigrant will need the following documents: passport (or the identity card of the respective country), birth certificate (must be accompanied by the Hague Apostille), criminal record of the home country (also must be accompanied by the Apostille) and criminal record issued in Brazil. All the documents above do not require the translation in this agreement.

In this situation, when a foreigner manages to obtain a residence permit, the law offers 2 years as temporary resident. Then, before the expiration of this deadline, the applicant will be able to convert the temporary residence permit into a permanent residence permit, which is, for an indefinite period.

2.2 Brazil and Argentina residence agreement

In addition to the Mercosur residence agreement, Argentines can choose by Brazil and Argentina residence agreement, which can be more beneficial, since in this case the Argentine already obtains permanent residence permit.

Likewise the Mercosur agreement, Brazil and Argentina agreement also exempts the translation of foreign documents. In this case, the immigrant must presents the following documents: passport (or Argentina identity card), birth certificate (must be accompanied by the Hague Apostille) and the criminal records of the countries where the immigrant has lived in the last 5 years (also must be accompanied by the Apostille).

2.3 Brazil and Uruguay residence agreement

Uruguay is another country that signed a specific residence deal with Brazil, in addition to the Mercosur agreement. In this case, as in the agreement between Brazil and Argentina, the immigrant also obtains a residence permit with an unlimited period.

For this agreement the Uruguayan will need the following documents: passport (or Uruguayan identity card), birth certificate (there is no need to be accompanied by the Hague Apostille), and criminal records from the countries where the immigrant has lived in the last 5 years (there is no need to be accompanied by the Apostille). Both foreign documents will not require the translation in this agreement.

2.4 Residence agreement for study purposes

Many foreigners intend to stay in Brazil to study, mainly at Brazilian federal universities. To do this, the immigrant needs to obtain a specific residence permit for studies.

At first, the immigrant must be enrolled in a Brazilian educational institution, and then gather the following

documents: passport (or the identity card if the foreigner is a native of a country included in the Mercosur agreement), birth certificate or other relevant document containing details about affiliation (must be accompanied by the Apostille and translation), criminal records from where the immigrant has lived in the last 5 years (must be accompanied by the Apostille and translation), some document that proves that the foreigner has financial capacity to stay in the country, and document proving the registration of the foreigner at the intended educational institution.

If the foreigner is enrolled to a foreigner university and is coming to Brazil for an internship, exchange or research purposes, the student must present a document that proves the enrollment in a foreigner institution.

This hypothesis requires that the immigrants renew their residence permit every year, and must present their National Migration Registration Card, criminal record issued in Brazil, proof of educational achievement and, again, a document that proves that the immigrant has the financial capacity to live in the country.

2.5 Residence permit for family reunion

This residence permit hypothesis is probably the most complicated in terms of regulation in relation to the others agreements previously mentioned.

It is applied to foreigners who have a family relationship with a Brazilian, or with foreigners who already have a residence permit in Brazil (considering that his residence permit was not obtained through a family reunion either). This permit can be obtained through the following hypothesis: through marriage or civil union; for having a Brazilian child; for having a Brazilian father or a Brazilian mother, or even for having a father or mother permanently residing in Brazil; for having a child who has a residence permit; for being a second degree ascending of a Brazilian or immigrant who has a residence permit; for being a second degree descendant of a Brazilian or immigrant who has a residence permit; for being a sibling of a Brazilian or immigrant who has residence permit (in this case, a foreigner over 18 years old only can be able to obtain a residence permit if proves that financially depends on the siblings); if the foreigner has a Brazilian under his guardianship, conservatorship or custody.

To obtain this residence permit, the foreigner will need the following documents: passport (observing the rules of the Mercosur agreement), birth certificate (must be accompanied by the Hague Apostille and translation), or another document that demonstrates affiliation data, criminal records from where the foreigner lived in the last 5 years (must be accompanied by the Apostille and translation), document proving the relationship with the Brazilian or with the immigrant who has the residence permit, identification document of the Brazilian or immigrant who has a residence permit and

documents that prove financial dependency, when applicable.

2.6 Residence permit for immigrants previously regularized based on family reunion

If the foreigner loses the residence permit based on a family reunion, Brazilian immigration law provides that the immigrant will be able to keep the residence permit, considering the observancy of certain requirements, mentioned ahead. This is to ensure that the foreigner does not lose everything achieved and built during the period, as a resident in Brazil, simply because the reunion bond was dissolved.

In this case, the foreigner will need the following documents: the National Migration Registration Card, criminal record from where the applicant has lived in the last 5 years, proof of means of subsistence and proof of residence in Brazil for a minimum period of 4 years. It may be understandable that the National Migration Registry itself proves whether the immigrant has been resident in the country for 4 years or not.

2.7 Residence permit for Venezuela, Suriname and Guyana

This is a possibility of residence permit for immigrants from countries that do not have any agreement with Brazil, neither are part of the Mercosur agreement, but share a border with Brazil.

Due to the crisis in Venezuela, many Venezuelans are choosing to migrate to Brazil, where they request refuge or request a residence permit. Therefore, the documentation required for either a Venezuelan or immigrant from Suriname or Guyana, to be able to regularize in Brazil is not complicated, and is basically the following documents: passport or identity card from the respective country and birth certificate or other document in which the names of the foreigner's parents are included (there is no need to be accompanied by the Hague Apostille or translation).

2.8 Other options for obtaining a residence permit in Brazil

Brazilian legislation also predict for other very specific hypotheses in which an immigrant can obtain the residence permit in Brazil, for example, residence permit as a form of humanitarian reception for Ukrainians, Afghans, Syrians and Haitians, or even for Cubans who have been part of the *Programa Mais Médicos* (program created by the Brazilian government in 2013 to improve medical care in inner cities of Brazil).

3. The Hague Convention

On October 5, 1961, the Hague Convention was signed. It intends to eliminate the requirements for diplomatic or consular legalization of foreign public acts, between the signatory countries.

According to the Hague Convention, a document issued by a foreign public body will only be accepted in Brazilian territory if it is accompanied by the Hague Apostille, including to obtain a residence permit, except in the situations mentioned above.

Annex to the Convention
Model of certificate
The certificate will be in the form of a square with sides at least 9 centimetres long

APOSTILLE (Convention de La Haye du 5 octobre 1961)	
1. Country:	
This public document	
2. has been signed by	
3. acting in the capacity of	
4. bears the seal/stamp of	
Certified	
5. at	6. the
7. by	
8. N°	
9. Seal/stamp:	10. Signature:

Fig. 1 – The Hague Apostille illustration.

But what if the immigrant's country is not part of the Hague Convention? In this case, the document will need to be legalized by the Brazilian embassy or consulate in the respective country.

It is also possible that Brazil does not have diplomatic representation in a specific country, such as in Latvia. In this case the immigrant must seek the Brazilian embassy in another country (preferably in a neighbouring immigrant's country) so that the document can be legalized.

4. Translation of foreign documents

The translation of foreign documents must be carried out in Brazil by sworn public translators, who can be found at the Commercial Boards of each Brazilian state.

Some languages may be so rare that there may not be a public translator available to translate certain documents that contain that language. In this case, it is possible for the translation to be done by translators called *Ad Hoc*. If there is also no *Ad Hoc* translator for that language, it will be possible for the translation to be carried out by the embassy or consulate of the immigrant's country in Brazil.

5. Naturalization

After obtaining the residence permit, the immigrant will be able to request Brazilian naturalization if he meets certain requirements. In this sense, and following the Ordinance nº 623/2020, there are four forms of naturalization, namely: ordinary, extraordinary, provisional and definitive.

5.1 Ordinary naturalization

Ordinary naturalization is the most common procedure for an immigrant to become Brazilian. To apply for this type of naturalization, the applicant will need to have at least 4 years as a permanent resident in Brazil, or 1 year if has a relationship with a Brazilian (child, marriage or civil union), or if the foreigner is a national of a country that has Portuguese as an official language.

To request this naturalization, the foreigner will need the following documents: National Migration Registration Card, proof of registration status of his *Cadastro de Pessoa Física (CPF)*; criminal record from the Federal and State Courts of each state in which the foreigner lived in Brazil in the 4 years prior to the application for naturalization; criminal record from the country of origin (must be updated, accompanied by the Apostille and translated); proof of residence, passport (or identity card if the foreigner is a native of a country that is part of the Mercosur agreement); document that proves the foreigner's ability to communicate in Portuguese. If the foreigner requests naturalization after only 1 year as a permanent resident and is not as native of a country that has Portuguese as its official language, the applicant must present a birth certificate of a Brazilian child, or a marriage certificate with a Brazilian, or documents that prove a civil union with Brazilian.

It is important to highlight that in order to apply for naturalization, a foreigner can not spend more than 90 days outside Brazil within the last 365 days (or 1 year within the last 4 years) prior to the naturalization request.

5.2 Extraordinary naturalization

Extraordinary naturalization is an option for foreigners who have lived in Brazil for at least 15 years as a permanent resident. In this case, the foreigner will basically need the same documents required for ordinary naturalization, except that the applicant will not need to present a document proving that the person can communicate in Portuguese.

5.3 Provisional naturalization

Provisional naturalization can be granted to immigrants who obtained permanent residence permit before reaching 10 years of age.

This is a very simple procedure, considering the documents required are only the National Migration Registration Card of the immigrant and their legal guardian, and proof of residence.

5.4 Definitive naturalization

Definitive naturalization is exclusive to foreigners who obtained provisional naturalization as children. It can be requested after the foreigner turns 18 years old, with a period up to 2 years to request it, otherwise, they will lose their Brazilian nationality until they can obtain it again, through ordinary or extraordinary naturalization, when applicable.

For this naturalization, the foreigner will need the following documents: Brazilian identity document, criminal record from the Federal and State Courts of the states where the person lived from 18 years old and proof of residence.

6. References

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