

Law Number 9,474 of July 22, 1997

Establishes arrangements for the
implementation of the 1951 Status of Refugees
and related provisions

THE PRESIDENT OF THE REPUBLIC:

I make it known that The National Congress decrees and I ratify the following Law:

TITLE I On the Characterizing Aspects

CHAPTER I On Concept, Extension and Exclusion

SECTION I On Concept

Article 1. An individual shall be recognized as a refugee if:

I - due to well founded fears of persecution for reasons of race, religion, nationality, social group or political opinions, he or she is out of his or her country of nationality and cannot or does not wish to rely on the protection of such country:

II - having no nationality and being out of the country where he or she had previously retained permanent residence, cannot or does not wish to return to such country based on circumstances mentioned in item I above;

III - due to severe and generalized violation of human rights, he or she is compelled to leave his or her country of nationality to seek refuge in a different country.

SECTION II On Extension

Article 2. The effect of the refugee condition shall be extensive to his or her spouse, ascendants and descendants, in addition to other members of the family group who are economically dependent of the refugee, provided such members are within the national territory.

SECTION III On Exclusion

Article 3. An individual shall not benefit from the condition of refugee if:

I - He or she already enjoys protection or assistance from an United Nations organism or institution, except the United Nations High Commissioner for Refugees -- UNHCR;

II - he or she is a resident in the national territory and enjoys rights and obligations related to the condition of Brazilian nationals;

III - he or she has committed crime against peace, crime of war, crime against humankind, hideous crime, participated in terrorist acts or drug trafficking;

IV - he or she is considered guilty of acts contrary to the purposes and principles of the United Nations.

CHAPTER II On the Legal Condition of Refugees

Article 4. Recognition of a refugee condition, under the above definitions, shall subject its beneficiary to the provisions of this law, with no prejudice to the provisions of international instruments to which the Brazilian Government is a party, ratifies, or adheres in the future.

Article 5. A refugee shall enjoy the rights and be subject to the duties related to foreigners in Brazil, the provisions of this law, the 1951 Convention relating to the Status of Refugees, and the 1967 Protocol relating the Status of Refugees, and under the obligation of complying with the laws, regulations and provisions for the maintenance of public order.

Article 6. The refugee shall have the right, under the 1951 Convention Relating to the Status of Refugees, to an identity card evidencing his or her legal condition, labour card and travel document.

TITLE II On Entrance into National Territory; Request for Refuge

Article 7. A foreigner arriving in national territory may express his or her desire to request recognition as a refugee to any immigration authority at the border, who shall give the refugee the necessary information regarding the procedure for application.

Paragraph One. In no case his or her deportation shall be effected to the border of a territory where his or her life or liberty is threatened by reasons of race, religion, nationality, social group or political opinion.

Paragraph Two. The benefit envisaged in this Article may not be involved by a refugee considered to be dangerous to Brazilian security.

Article 8. Any irregular entrance into national territory shall not be an impediment for a foreigner to request refuge before competent authorities.

Article 9. The authority to whom the request shall have been submitted shall hear the interested party and prepare a statement containing the circumstances related to the refugee entrance in Brazil and to the reasons that made him or her leave the country of origin.

Article 10. A request, properly submitted under the previous Articles, shall suspend any administrative or criminal procedure caused by irregular entrance, brought against the requester and his or her accompanying family group.

Paragraph One. In case the condition of refugee is recognized, the procedure shall be canceled, provided it could be shown that the related infringement had been determined by the same facts justifying such recognition.

Paragraph Two. To the effect of Paragraph One above, the request for refugee and the decision on such request shall be communicated to the Federal Police, which shall transmit the information to the organization where the administrative or criminal procedure is in progress.

TITLE III **On the National Committee for Refugees**

Article 11. It is hereby established the National Committee for Refugees -- NCR¹, a body of collective deliberation within the Ministry of Justice.

CHAPTER I **On Competence**

Article 12. NCR shall, according to the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and other sources of refugees' rights under international law:

I - Analyze the request and state the recognition, on a first instance, of the condition of refugee;

II - decide on the cancellation, on a first instance, *ex-officio* or upon request by appropriate authorities, of the condition of refugee;

III - determine the loss, on a first instance, of the condition of refugee;

IV - provide guidelines and coordinate the actions necessary to the efficiency of protection, assistance and Legal support to refugees;

V - approve regulations to clarify the application of this law.

Article 13. The internal regulations of NCR shall be submitted to approval by the Minister of State of Justice.

Paragraph One. The scheduled times for the meetings of NCR shall be determined by its internal regulations.

CHAPTER II

¹Comitê Nacional para os Refugiados in the original.

On the Structure and Operation

Article 14. NCR shall be constituted by:

I - One representative of the Ministry of Justice, who shall be the NCR chairperson;

II - one representative of the Ministry of Foreign Affairs;

III - one representative of the Ministry of Labour;

IV - one representative of the Ministry of Health;

V - one representative of the Ministry of Education and Sports;

VI - one representative of the Federal Police Department;

VII - one representative of a non-governmental organization involved in assistance and protection of refugees in Brazil.

Paragraph One. The United Nations High Commissioner for Refugees -- UNHCR shall be always invited to be a member of the NCR's meetings, with a right to take the floor, but no right to vote.

Paragraph Two. Members of NCR shall be appointed by the President of the Republic, based on nominations made by the organisms and the entity participating in NCR.

Paragraph Three. NCR shall have a General Coordinator with the duty of preparing the proceedings of request for refuge and agenda of the meetings.

Article 15. Participation in NCR shall be deemed a relevant service and shall not imply compensation of any nature or kind.

Article 16. NCR shall meet with a quorum of four members with a right to vote, and decisions taken by majority vote.

Paragraph One. In case of a tie, the vote of the Chairperson of NCR shall decide.

TITLE IV On the Proceedings of Refugees

CHAPTER I On Procedure

Article 17. A foreigner shall appear before a competent authority and state his or her desire to request recognition of the condition of refugee.

Article 18. The competent authority shall notify the requester to give information and such notification shall set the date for commencement of procedures.

Paragraph One. The competent authority shall inform the United Nations High Commissioner for Refugees -- UNHCR on the existence of a proceeding for request for

refuge and shall enable UNHCR to offer suggestions to facilitate the development of the proceeding.

Article 19. In addition to the information, given if necessary with the assistance of an interpreter, a foreigner shall complete a request for recognition as a refugee, including a complete identification, professional qualification, schooling of the requester and members of his or her family group, as well as report on the circumstances and facts that form the basis of the request for refuge, indicating the appropriate evidences.

Article 20. The record of the information and supervision of the request form completion shall be effected by qualified officials and in condition to guarantee information confidentiality.

CHAPTER II

On the Authorization for Provisional Residence

Article 21. Upon receipt of the request for refuge, the Federal Police Department shall issue a ticket in favor of the requester and his or her family group already within the national territory, authorizing their entry until a final decision is reached in the proceedings.

Paragraph One. The ticket shall enable the Ministry of Labour to issue a provisional labour card for the effect of paid employment within the country.

Paragraph Two. In the ticket of the requester for refuge, any minors under fourteen years shall be mentioned by endorsement.

Article 22. While the proceedings related to the request for refuge are pending, the petitioner shall be under the legislation of foreigners and the specific provisions contained herein.

CHAPTER III

On the Finding of Facts; On Reports

Article 23. The competent authority shall proceed to any search requested by NCR, examining all facts the knowledge of which may be conducive to a fair and timely decision, at all times under the principle of confidentiality.

Article 24. Completed the finding of facts, the competent authority shall promptly prepare a report to be submitted to the Secretary of NCR for inclusion in the agenda of the subsequent meeting of that Collegiate Body.

Article 25. The persons intervening in proceedings related to requests for refuge shall keep in professional secrecy the information acquired in the performance of their duties.

CHAPTER IV
On Decision; Communication; Registration

Article 26. The decision for recognition of a condition of refugee shall be deemed a declaratory act and shall be duly founded.

Article 27. Reached a decision, NCR shall notify the requester and the Federal Police Department for the appropriate administrative measures.

Article 28. In case of a favourable decision, the refugee shall be registered with the Federal Police Department, sign a statement of responsibility and request an appropriate identity card.

CHAPTER V
On Appeals

Article 29. In case of an unfavourable decision, such decision shall be founded in the notice to the requester, who shall have a right to appeal before the Minister of State of Justice within fifteen days from the date of receipt of the notice.

Article 30. During the course of the appeal, the requester and his or her family shall be permitted to remain within national territory, under the provisions of Paragraphs One and Two of Article Twenty-one hereof.

Article 31. A decision of the Minister of State of Justice is final and not subject to appeal, and shall be notified to NCR, for information to the requester, and to the Federal Police Department for the due measures.

Article 32. In case of final refusal of refuge, the requester shall remain subject to the legislation of foreigners, and his or her transfer to the country of nationality or customary residence shall not occur while in effect the circumstances responsible for risking his or her life, physical integrity and liberty, except in cases determined in Article Three III and IV hereof.

TITLE V
On the Effects of the Refugees Statute on Extradition and Expulsion

CHAPTER I
On Extradition

Article 33. Recognition of a refugee condition shall cease the proceedings of any request for extradition based on the facts that have founded the granting of such refuge.

Article 34. A request for refuge shall cease, until its final decision, any proceedings for extradition pending in administrative or judicial courts, based on the facts that have founded the granting of such refuge.

Article 35. To the effect of compliance with Article Thirty-three and Thirty-four above, the request for recognition as a refugee shall be communicated to the body where the extradition proceedings are pending.

CHAPTER II On Expulsion

Article 36. A refugee regularly registered shall not be expelled from the national territory except for reasons of national security and public order.

Article 37. Expulsion of a refugee from the national territory shall not result in his or her withdrawal to a country where his or her life, liberty or physical integrity may be at risk, and shall only be effected upon satisfaction of his or her admission to a country where there are not risks of persecution.

TITLE VI On the Termination and Loss of Refugee Condition

CHAPTER I On the Termination of Refugee Condition

Article 38. A condition of refugee shall terminate in case the foreigner:

I - Resumes enjoying protection of his or her country of nationality;

II - recovers voluntarily his or her previous nationality;

III - acquires new nationality and comes to enjoy the protection of the country of the nationality so acquired;

IV - voluntarily settles in the country he or she has abandoned or out of which has remained for fear of persecution;

V - cannot continue refusing protection of his or her country of nationality based on the fact that the circumstances leading to his or her recognition as a refugee have ceased to exist;

VI - having no nationality, is in condition to return to his or her country of residence based on the fact that the circumstances leading to his or her recognition as a refugee have ceased to exist.

CHAPTER II On the Loss of Refugee Condition

Article 39. The following facts imply loss of a refugee condition:

I - Renunciation;

II - evidence that the facts alleged for recognition of the refugee condition are false, or existence of facts which, if known at the time of recognition, would have determined its denial;

III - practice of activities contrary to national security and public order;

IV - leaving the national territory without previous authorization of the Brazilian Government.

Paragraph One. Those refugees losing such condition based on clauses I and IV of this Article Thirty-nine shall be placed under the regulations applicable to permanence of foreigners within the national territory, and those losing such condition based on clauses II and III shall be subject to compulsory measures envisaged by Law 6,815, of August 19, 1980.

CHAPTER III On Competent Authority and Appeal

Article 40. NCR shall decide, in a first instance, on the termination or loss of the refugee condition, and any appeals of such decision shall be made before the Minister of State of Justice within fifteen days from the date of notification.

Paragraph One. The notification shall include a summary of facts and bases leading to the decision and shall inform the refugee of the term for appeal.

Paragraph Two. In case the refugee cannot be located to be notified as mentioned in this Article, the decision shall be published in the Federal Official Gazette for the purpose of determining the initial date of the term for appeal.

Article 41. The decision of the Minister of State of Justice shall be final and not subject to further appeal, and shall be notified to NCR which shall inform accordingly the foreigner and the Federal Police Department for applicable measures.

TITLE VII On Durable Solutions

CHAPTER I On Repatriation

Article 42. Repatriation of a refugee to his or her country of origin shall reflect the free will of the refugee, except in cases when the refugee could no longer refuse the protection of his or her country of nationality based on the cessation of circumstances determining the refuge.

CHAPTER II On Local Integration

Article 43. In the performance of his or her rights and duties, the atypical condition of refugee shall be taken into consideration when there is the need for submitting documents issued by the refugee's country of origin and its diplomatic and consular representatives.

Article 44. Recognition of certificates and diplomas, the requirements for obtaining the condition of resident, and entrance in academic institutions of any level shall be facilitated, taken into consideration the unfavorable situation faced by the refugee.

**CHAPTER III
On Resettlement**

Article 45. Resettlement of a refugee in other countries shall reflect, whenever possible, the free will of the refugee.

Article 46. Resettlement of a refugee in Brazil shall be planned, with the coordinated participation of state bodies and, whenever possible, of non-government institutions, identifying areas of cooperation and determination of responsibilities.

**TITLE VIII
On Final Provisions**

Article 47. The proceedings for recognition of a refugee condition shall be at no cost and shall bear an urgent character.

Article 48. The provisions of this Law shall be interpreted in accordance with the 1948 Universal Declaration of Human Rights, the 1951 Convention Relating to Status of Refugees, the 1967 Protocol Relating to Statute of Refugees and all provisions of applicable international instrument on the protection of human rights to which the Brazilian Government is bound.

Article 49. This Law shall be in force and effect upon its publication.

Brasília, July 22, 1997, 176th of the Independence and 109th of the Republic.

FERNANDO HENRIQUE CARDOSO
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