

ACCESS

The Role of Courts in Shaping Access to Asylum

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INTRODUCTION: OBJECTIVES OF ACCESS

The research project “Gatekeepers to International Refugee Law? – The Role of Courts in Shaping Access to Asylum” [ACCESS](#) investigates the role of courts in shaping access to asylum. It seeks to understand how courts globally interpret State-developed barriers in light of the Refugee Convention (RC) and other international norms, what socio-legal factors influence asylum access adjudication, and how the emerging jurisprudence shapes international refugee law (IRL) and migration governance.

ACCESS adopts a comparative approach as it relies on data collected from 19 countries, theoretically selected to cover all geographical regions, various legal systems and adjudication models, and different forms of participation in the international refugee law regime.¹

Given the comparative and socio-legal approach of the project, our goal is to collect data through multiple methods that guarantee comparability, comprehensiveness, and reliability of the data.

The data collection template, along with the explanatory guidance used for the preparation of this National Report, can be found at: Lacchei, Alice; Lambertini, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara (2026) National Report ACCESS Project Template. DOI: 10.6092/unibo/amsacta/8984

In addition, the summaries of the judicial decisions analysed in Part II of this National Report and cited throughout this document can be found at: Lacchei, Alice; Lambertini Martinez, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara; Jesudoss, Loretta Mary (2026) ACCESS Mid-Term Dataset: The Role of Courts in Shaping Access to Asylum. University of Bologna. DOI 10.6092/unibo/amsacta/8962. [Dataset]

DEFINING TERMS

‘Asylum’ denotes the protection a state grants on its territory to non-citizens who seek it. It includes a legal status that protects against refoulement and provides a right to stay. In several jurisdictions, e.g. those that do not have domestic asylum legislation, this status might not be labelled ‘asylum’. The research nevertheless includes such equivalent protection under the term ‘asylum’. Similarly, if a national system that includes an asylum status provides additional protection statuses that include a set of rights closely similar to those the 1951 Convention provides for refugees lawfully staying, the research includes those statuses under ‘asylum’.

‘Accessing asylum’ describes using legal and practical avenues to move towards the territory of potential host states, or to enter procedures and other arrangements for obtaining such status (labelled as asylum or not) implemented by a state or on its behalf. Territorial asylum processing (sometimes referred to as refugee status determination or RSD) itself or equivalent practices, however, are not studied here.

‘Barriers to accessing asylum’ refers to measures, arrangements, approaches, implementation practices, or structures that impede access to asylum. They can be implemented by state actors and others (if tolerated by the state); be of a practical or legal character; incorporate socioeconomic and cultural elements; and pertain to administrative or judicial spheres. Barriers implemented after the formal start of territorial asylum processing can be considered, if the processing is conducted as a sham or pretence rather than allowing effective access to asylum.

‘Pushbacks’ denote the removal or non-admittance of individuals trying to access asylum, without a substantive assessment of risks or potential rights violations. They can occur both on land and sea, including on international waters.

¹ Australia; Kenya, South Africa, Tunisia (Africa); Austria, Greece, Italy, Poland, Spain (Europe); India, Malaysia, Pakistan, Turkey (Asia); Argentina, Brazil, Chile, Ecuador, Mexico (Latin America), USA.

‘Pullbacks’ are the dragging back of individuals approaching a destination state to the territory of a state from which they had departed without a substantive assessment of risks or potential rights violations. Such practices are often implemented in cooperation between two or more countries. While typically practiced at sea, such as in the territorial waters of the state of departure, pullbacks can also occur on land.

‘Walls and fences’ include physical barriers that prevent access to territory at or near borders, irrespective of the specificities of the construction or the materials used.

‘Detention’ is the imprisonment or other limitations of the right to liberty and security of person of individuals, territorially or extraterritorially, in connection with their asylum accessing.

‘Externalization of asylum processing’ denotes outsourcing procedures and transferring individuals to other jurisdictions to assess protection claims. Under such a practice, for example, potential destination states disallow asylum procedures on their territory, dismiss the corresponding applications, and deport individuals to cooperating countries. Externalized asylum processes can be based on formal and informal agreements between states.

‘Procedural barriers’ refers to any administrative practice or arrangement which, after individuals (attempt to) claim asylum, impedes the formalization of the application or the commencing of a procedure for obtaining asylum. This barrier can, for example, take the form of sham processes or (fast-track) processes based on the safe third country or safe country of origin concept, or a lack of mechanisms for ensuring appointments at registration offices.

‘Judicial or quasi-judicial body’ is the body that reviews/assesses the legality of the decisions, actions, or omissions of state authorities. This term encompasses the wide range of institutions adjudicating asylum barriers, including government/executive bodies, UNHCR, etc.

‘First instance judicial or quasi-judicial body’ is a court, tribunal, or other quasi-judicial body that hears appeals against administrative or executive decisions. **‘Second instance judicial or quasi-judicial body’** is a court or tribunal or other body that hears appeals against decisions made by a first instance judicial or quasi-judicial body. **‘Third instance judicial or quasi-judicial body’** is a court or tribunal (possibly a constitutional court) or another body that hears onward appeals, i.e., appeals against decisions already made by a judicial or quasi-judicial body of at least a second instance. In some jurisdictions there might be further levels of appeal.

‘Legal system’ refers to deeply rooted, historically conditioned attitudes about law’s nature and role, the legal system’s organization and functioning, and how the law is developed, applied, and interpreted (Merryman, 1985). The most common legal systems are the common law, civil law, Islamic, indigenous and socialist legal traditions (*idem*).

‘Asylum access adjudication’ refers to judicial examination and review by courts or quasi-judicial bodies of administrative decisions made by executive or immigration authorities regarding asylum.

‘Socio-legal factors’ refer to macro, meso, and micro factors influencing asylum access adjudication in the selected jurisdictions. They can originate at the macro level (state), at the meso level (judicial or quasi-judicial body), and at the micro level (individual). For example, adjudication may be influenced by the level of independence of the judiciary (macro factor) or the specialization of the asylum adjudication system (e.g., specialized courts); or availability of judicial or quasi-judicial bodies resources such as time, funds, human resources (meso factors); or individual characteristics of the actors involved, such as background or gender of adjudicators (micro factors).

‘Judicialization of politics’ refers to the increasing reliance on courts and judicial means for addressing core moral, political, and public policy questions (Hirschl 2013). For an overview of the meanings of judicialization, please refer to Hamlin and Sala (2018), who trace various forms in which judicialization of politics can occur (e.g., expanding the jurisdiction of courts, judicial activism, or due to the large number of cases decided by courts).

'Forced migration' refers to 'a migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion' (IOM, 2019:77). Although it is not an international legal concept and the use of the term is debated because of the controversial dichotomy of voluntary/forced movements, in this report we refer to forced migration including the movement of refugees and asylum seekers, as well as other displaced persons (including those displaced by disasters or victims of human trafficking) who will not attempt to lodge an asylum application. When referring to 'other displaced persons', we mean those forced migrants who are not registered as asylum seekers or refugees, etc., despite being present in the country.

1. **Functioning:** What is the barrier's specific functioning? How does it prevent individuals from accessing asylum?
2. **Time:** What is the implementation period of the barrier? Is it still in use? Is there a time frame for its planned termination?
3. **Place:** Where is the barrier implemented?
4. **Actors:** Who are the key institutional and other actors implementing the barrier? Are there relevant actors from other jurisdictions or international actors?
5. **Interaction:** How does the barrier interact with other barriers and the country's asylum system?
6. **Development:** What has been the historical and political context for introducing the barrier, and how have its implementation and its character developed over time? (Please consider e.g. corruption, economic or human resources available to implement the barrier, resistance or support by local actors - officials or local community)
7. **Rationale:** What are the stated purposes (e.g., in legislative preambles, government/executive, or judicial statements) the barrier is designed to serve?
8. **Legal Status:** What legal status does the national legal framework provide to individuals prevented by this barrier from accessing asylum? For example, do they fall under a specific (protected or unprotected) category within national law, such as asylum seekers or refugees before formal recognition, or are they treated under the general framework for non-citizens?
9. **Specific Impact:** What is the impact of the barrier on specific groups, such as children, women, LGBTQ+ individuals, or people with disabilities? How does it differ from the barrier's general impact?
10. **Reach:** How many individuals have been affected by this barrier since 2010, both in absolute numbers and relative to the number of procedures for determining protection status in the same period? Has the barrier contributed to less movement of displaced persons towards the country? Please provide an informed estimate if reliable statistics or studies are unavailable.
11. **Source:** What is the legal basis or source of the barrier? Is it grounded in or approved by domestic, international, or supranational law (even if its legality might be contested)?
12. **Justification:** What justifications have the government/executive branch provided for the barrier? Are there official statements or documents that outline these justifications?
13. **Domestic and International Reactions:** What have been the reactions or interventions from domestic actors, international bodies, or other countries?
14. **Externalization:** How does the barrier outsource migration control functions to actors outside the jurisdiction?
15. **Technology:** How does the barrier draw on technological infrastructure or tools to fulfil its functioning?
16. **Other:** Any further information considered crucial for understanding this barrier to accessing asylum and its relevance.

PART 1: BARRIERS TO ACCESSING ASYLUM

I. IDENTIFYING BARRIERS

A. Barriers of general relevance

Pushbacks:

Detention:

Procedural barriers:

II. UNDERSTANDING BARRIERS

A. Barriers of general relevance

Pushback at land borders:

Summary: The primary barrier implemented by Brazilian authorities at its borders, particularly in the northern and western regions, involves the denial of entry and summary expulsion of individuals deemed to lack lawful immigration status. This barrier functions by preventing individuals from entering Brazilian territory or by immediately removing those present at the border without individualized assessments, effectively obstructing their access to asylum procedures, which require being within Brazil. This practice, while having roots before 2020, intensified significantly during the COVID-19 pandemic due to Ministerial Ordinances (*Portarias*) that facilitated immediate deportations based on irregular status, often without consideration for potential protection needs, and was primarily enforced by the Federal Police, sometimes in conjunction with state forces. Despite Brazilian law prohibiting collective expulsions, these practices have continued, drawing condemnation from human rights organizations and international bodies who cite violations of due process and potential harm to vulnerable populations, even as legal challenges have occasionally halted deportations.

1. Functioning: The primary objective of this barrier is the denial of entry into Brazilian territory or the summary expulsion of individuals present at the border without lawful immigration status. During the period under study, instances have been identified wherein Brazilian authorities have refused entry without conducting individualized assessments, thereby precluding access to asylum, as the application process necessitates submission within Brazilian territory. Similarly, cases have been documented involving the summary expulsion of groups of foreign nationals without due consideration of their potential protection needs.

2. Time: While the precise starting point of the pushback is unclear, records of collective expulsions exist from as early as 2014. However, the COVID-19 pandemic declaration triggered a shift. Moreover, Ministerial Ordinances (*Portarias*) issued between February 2020 and September 2022 authorized the deportation or immediate repatriation of foreigners who had entered the country irregularly, violating the entry restrictions dictated to contain the pandemic.

3. Place: Instances of collective rejections of entry and expulsions of people have been identified in various parts of the country. These measures have been conducted predominantly in northern Brazil, notably in the state of Roraima (adjacent to the Venezuelan border), and in western Brazil, within the state of Acre (adjacent to the Peruvian border).

4. Actors: The Federal Police is the competent body for the border control, detention, and expulsion of foreigners, according to [Decree No. 86.715, 10/10/1981](#) (It regulates [Law No. 6.815, 19/08/1980](#), which defines the legal situation outside Brazil, creates the National Immigration Council, and gives other

provisions), art. 110(I). Id. art. 98(§1), revoked by Decree No. 9.757, of 2019. In the State of Roraima, the Federal Police acts in collaboration with the State Civil Police to carry out the deportation of foreigners.

5. Interaction: Denials of entry at the border and summary expulsions have been exacerbated by bureaucratic impediments established through Ministerial Ordinances (*Portarias*). These ordinances effectively precluded lawful entry into the territory and asylum applications from individuals who had entered irregularly during the COVID-19 pandemic restrictions, facilitating their immediate deportation² without individual assessment. Authorities exploited the absence of lawful entry to deny access to refugee procedures, as will be explained in the section concerning “procedural barriers”. Additionally, this barrier can be facilitated by the use of technology such as facial recognition cameras and drones at the country’s main borders, as will be seen in point 15 of this section.

6. Development: In Brazil, domestic legislation has criminalized specific conduct to prevent or repress situations that could compromise the State’s duty to safeguard its borders.³ In this sense, the evolution of administrative and security measures in Brazil, facilitating forced returns and summary expulsions, is rooted in a conceptualization of migration as a matter of national security.

The legislation in force until 2017, the Foreigner’s Statute ([Law No. 6.815](#), of 19 August 1980), approved during the dictatorship, heavily emphasized immigration as a security concern, reflecting a view of supposed foreign threats and immigrants as potential enemies of the country.⁴ Under its articles 57 et seq., the Foreigner’s Statute mandated the immediate deportation of foreign nationals based on specified factual predicates, including, but not limited to, irregular entry or stay within the national territory. This perspective persisted through to the enactment of [Law No. 13.445/2017](#) (the current Migration Law), resulting in a legal framework that embodies a dichotomy between a security-centred approach and humanitarian considerations, recognizing as a principle the non-criminalization of migration, at least formally (Art. 3, III). This inherent tension has characterized the implementation of Brazilian migration policy since the mid-1990s.⁵ The prevailing [Migration Law](#) expressly prohibits collective expulsions or deportations, as stipulated in Articles 61 and 62. However, the same law allows for the denial of entry, following an individual interview and a reasoned decision, for instance, due to the lack of a valid travel or identification document (Article 45). Furthermore, it designates irregular entry into the national territory as an administrative infraction, potentially resulting in expulsion contingent upon the failure to regularize immigration status within the prescribed timeframe, as delineated in Article 109.

The escalation of the Venezuelan crisis, the resulting increase in migration to Roraima (northern border) and Acre (northeast border), as well as the increase in asylum applications as an alternative strategy for temporary migratory regularization, deepened this security-centred approach, which coexisted with the humanitarian model.⁶ Initially, the Brazilian authorities’ response appears to have been improvised, with deportations rising due to pressure from local populations and businesses overwhelmed by the visible presence of migrants, particularly those begging or perceived to be undocumented. However, with the

² Medina Araújo N. and Ramos Barros B. (2023). Country Report Brazil. Final Country Report. ASILE Project, p. 21

³ Gomes Bezerra C. (2010). *A criminalização da imigração irregular e os direitos humanos. Os casos específicos de Brasil e Itália*, Revista da FARN, Natal, V. 9, n. 1/2, pp. 105-106.

⁴ Lora Alarcón P. & Silva dos Reis Simões R. (2021). *Constituição e refúgio: o fortalecimento dos direitos dos refugiados, o judiciário e os objetivos da nova Lei de Migração*, in Carvalho Ramos A. (ed.) 70 anos da Convenção relativa ao Estatuto dos Refugiados: (1951-2021) perspectivas de futuro, p. 139. See also Filomeno F. & Vicino T. (2021) The Evolution of Authoritarianism and Restrictionism in Brazilian. Immigration Policy: Jair Bolsonaro in Historical Perspective, in Bulletin of Latin American Research, Vol. 40, No. 4, p. 599.

⁵ I. J. de Renó Machado (2020), Securitization (Re)Turn: Analysis of the New Brazilian Migration Laws (2016-2019), Middle Atlantic Review of Latin American Studies, Vol. 4, No. 2, pp. 217-219

⁶ See Ruseishvili S., Carvalho R.C., Nogueira M.F.S. (2018). *Construção social do estado de emergência e governança de migrações: o decreto estadual n. 24.469-E como divisor de águas*. In: Zuben C., et. al (Ed.). *Migrações venezuelanas*, p. 58; Jarochinski J., Castro A. & Sampaio C. (2021). How the Venezuelan Exodus Challenges a Regional Protection Response “Creative” Solutions to an Unprecedented Phenomenon in Colombia and Brazil, in Jubilit L. et al. (Ed.) Latin America and Refugee Protection: Regimes, Logics, and Challenges, p. 358.

renewed influence of “securitist” actors⁷ -who championed policy proposals prioritizing the detention and deportation of irregular migrants, selective immigration criteria, border militarization, and the obstruction of policy liberalization- these measures were later expanded. It should be noted that in 2010, Brazil received only four asylum applications from Venezuelans. Since 2013, the number of applications has steadily increased, primarily in border cities (northern Brazil), characterized by low development and scarce resources. According to the Federal Police, between 2017 and 2018, 111,581 Venezuelans entered through the northern border crossing in the municipality of Pacaraima (Roraima state). Of this total, 9,466 requested residency, 29,202 requested asylum, and 9,978 scheduled appointments to request international protection.⁸

In 2016, Brazil conducted five collective expulsions of irregular migrants along its northern border, totalling 445 Venezuelans by November, a substantial rise from 54 in 2015.⁹ The most significant event took place in December: an attempted deportation of 450 Venezuelans, including 180 minors, was halted by a court-granted collective habeas corpus requested by the Federal Public Defender’s Office (hereinafter DPU- *Defensoria Pública da União*).¹⁰ In 2017, the authorities of the State of Roraima declared the “state of social emergency”, and in April 2018, they requested an order to “compel the Union to close the border between Brazil and Venezuela temporarily or limit the entry of Venezuelan immigrants into Brazil”.¹¹ The State argued this was necessary due to the strain the influx of immigrants placed on the State’s resources and public services. However, this request was ultimately denied by the National High Court of Brazil (STJ), emphasizing that within a democratic State, solutions must be compatible with the constitutional and international standards for the protection of fundamental human rights.¹²

With the declaration of the COVID-19 pandemic, pushbacks and summary expulsions increased in Brazil. The Ministerial Ordinances published between March 2020 (*Portaria No. 120/2020*, 17 March 2020) to September 2022 (*Portaria No. 678/22, 12 September 2022*, exceptional and temporary measures for entry into the country, within the scope of Law No. 13.979), established the immediate repatriation or deportation of foreigners who violated the law: These ordinances were based on *Law No. 13.979, 6 February 2020* (Provides for measures to face the public health emergency of international importance resulting from the coronavirus), in which article 3, VI, established the possibility of restricting entry and exit from Brazilian territory during the pandemic. These measures have been characterized as illegal, unconstitutional, and unconventional.¹³

In 2020, the DPU was informed of actions carried out by the Federal Police of Pacaraima (Roraima state) against Venezuelan migrants, who entered the country after the date on which the exceptional and temporary restriction on entry into the country came into effect.¹⁴ According to data from the Federal Police, Brazil deported 2,901 people in 2020, an increase of 5,708% compared to 2019, when 36 foreigners were deported from the country.¹⁵ Law enforcement authorities indicated that the growth was a

⁷ Brumat L. & Geddes A. (2023). Refugee recognition in Brazil under Bolsonaro: the domestic impact of international norms and standards, *Third World Quarterly*, 44:3, p. 485; Brumat L. & Vera M. (2024). Actors, Ideas, and International Influence: Understanding Migration Policy Change in South America, in *International Migration Review*, Vol. 58(1), p. 323.

⁸ Chamber of Deputies, External Commission destined to treat the crisis in Venezuela, in particular the border with Brazil, *1º Relatório da Comissão Externa. Crise na fronteira da Venezuela com o Brasil*, July 2019, pp. 7-8.

⁹ See Ruseishvili S., Carvalho R.C., Nogueira M.F.S. (2018). *Construção social do estado*, Cit., p. 59.

¹⁰ See Federal Regional Court of the 1st Region, Judicial Section of the State of Roraima, N° 6447-87.2016.4.01.4200, 31 March 2017.

¹¹ Vedovato L. (2018). *Ação Civil Originária entre Venezuela e Brasil: A construção do direito de ingresso*. In Zuben C., et. al (eds.). *Migrações venezuelanas*, p. 46.

¹² Supremo Tribunal Federal, Ação Cível Originária 3.121, 13 October 2020.

¹³ Moreira T. (2020). A (In)Convencionalidade da política migratória brasileira diante da pandemia do Covid-19, in *Migrações internacionais e a pandemia de Covid-19*, p. 278.

¹⁴ Federal Public Defender’s Office (DPU). (2021), *1er Informe Defensorial: Informe sobre el monitoreo de los derechos humanos de las personas migrantes y refugiadas en RR*, p. 14.

¹⁵ Sousa V. and Leite I., *Deportações de estrangeiros crescem 5.708% no Brasil em 2020*. 21/02/2021, <https://g1.globo.com/mundo/noticia/2021/02/21/deportacoes-de-estrangeiros-crescem-5708percent-no-brasil-em-2020.ghtml>

consequence of ministerial ordinances that restricted the entry of foreign nationals into Brazil in response to the COVID-19 pandemic. At the end of July 2020, the DPU reported that a group of 14 Venezuelan nationals was on the Brazil-Peru Integration Bridge, a cross-border region in the State of Acre, unable to enter Brazil and return to Peru, from where they left, due to restrictions imposed in the context of the COVID-19 pandemic. The Brazilian authorities reportedly denied their entry due to health restrictions; however, the DPU requested, on an exceptional basis, to grant authorization to enter Brazilian territory.¹⁶ Moreover, in August 2020, a group of 18 foreigners (12 Venezuelans, five Colombians, and one Cuban) entered Brazil through the border with Peru. After being interviewed by the Federal Police in Epitaciolândia/AC, they were summarily deported by the Federal Police, put in a van, and left on the “*Ponte de Integração*”, in a “prison without bars”.¹⁷ The Peruvian authorities also prevented them from re-entry into their territory, so they remained without any type of protection on the bridge that divides both countries (Brazil and Peru), until a judicial action in Brazil allowed them to enter legally.¹⁸ That same month, the DPU was informed that another group (two women and six minors) had entered Acre without immigration regularization. This group was also deported immediately, being transported the same day to the Assis Brazil bridge. In the three cases mentioned above, the judges ruled in favour of allowing the persons to enter Brazilian territory, so that they could regularize their immigration status, including requesting asylum.

In January 2021, the judicial decision in the *Civil Action No. 1000073-62.2021.4.01.4200*¹⁹ prevented the immediate and collective expulsion of 55 indigenous people from Venezuela, including 32 minors of the Warao ethnic group in the state of Roraima.²⁰ And in March 2021, during an operation in Roraima, the Federal and Civil Police identified and tried to immediately deport roughly 70 irregular migrants, a group that included 21 women, some of whom were pregnant, and 40 minors. The operation also led to the arrest of a nun who ran a shelter for vulnerable people, based on allegations of violating COVID-19 safety protocols. The Federal Public Ministry and the Federal Public Defender’s Office filed a lawsuit, alleging the incident was an intimidating policy targeting religious entities, social organizations, human rights defenders, and the Venezuelan population.²¹

Furthermore, there are indications of a lack of transparency and possible misappropriation of funds in the first expulsions in Roraima. The initial payment of daily allowances in US dollars to municipal guards involved in the deportations raised suspicions, particularly given the subsequent revocation and change of payment into real (local currency).²²

¹⁶ 3rd Federal Civil and Criminal Court of SJAC, *Public Civil Action, No. 1004501-35.2020.4.01.3000*, 17 August 2020.

¹⁷ Ivi, p. 6; Prazeres L., *Barrados por portaria, imigrantes se abrigam em ponte na fronteira entre Brasil e Peru enquanto tentam entrar no país*, 06/08/2020, <https://oglobo.globo.com/mundo/barrados-por-portaria-imigrantes-se-abrigam-em-ponte-na-fronteira-entre-brasil-peru-enquanto-tentam-entrar-no-pais-24570622>

¹⁸ 3rd Federal Civil and Criminal Court of Acre, process No. 1004332-48.2020.4.01.3000, interim relief adjudicated on 06 August 2020.

¹⁹ Judicial Section of Roraima, *Civil Action No. 1000073-62.2021.4.01.4200*, adjudicated on 08 January 2021. In this decision, the judge ruled that Ministerial Ordinance No. 648/2020 (*Portaria*), did not pass the control of legality and collided frontally with the Constitution of the Republic.

²⁰ Fernandes V., *Justiça Federal suspende deportação de 55 indígenas venezuelanos que andaram por 18 dias até RR*, 08/01/2021, <https://g1.globo.com/rr/roraima/noticia/2021/01/08/justica-federal-suspende-deportacao-de-55-indigenas-venezuelanos-que-andaram-por-18-dias-em-rr.ghtml>

²¹ Fernandes V. and Oliveira V., *PF invade abrigo com mais de 50 mulheres e crianças venezuelanas em RR e ação cobra indenização por danos morais*, 18/03/2021, <https://g1.globo.com/rr/roraima/noticia/2021/03/18/pf-tenta-deportar-mais-de-50-mulheres-e-criancas-venezuelanas-de-abrigo-em-rr-e-acao-cobra-indenizacao-por-danos-morais.ghtml>; Migramundo, *Justiça barra deportações de venezuelanos em Roraima e novas invasões a abrigos*, 22/03/2021, <https://migramundo.com/justica-barra-deportacoes-de-venezuelanos-em-roraima-e-novas-invasoes-a-abrigos/>

²² Brasil K. *Crise na Venezuela: população de Boa Vista pediu deportação de índios Warao em Roraima*. Amazonia Real, 13/06/2016, <https://amazoniareal.com.br/crise-na-venezuela-populacao-de-bo-a-vista-pediu-deportacao-de-indios-warao-em-roraima/>

Economic resources were clearly strained, as evidenced by the state of emergency declaration and the strain on health services in Roraima.²³ Human resources were also stretched thin, with the Federal Police admitting they were overwhelmed and resorting to expulsions as a primary, albeit ultimately ineffective, measure.²⁴

Local actors in Roraima were divided. Businesses and some residents of Boa Vista (Roraima state) pushed for stricter measures, complaining about the impact of the migrant influx.²⁵ Conversely, humanitarian organizations like the Centre for Migration and Human Rights of the Diocese of Roraima provided aid and advocated for the rights of migrants.²⁶ This division highlights the complex socio-political dynamics at play. In the State of Acre, which shares a border with Peru, the influx of Haitian migrants commenced after 2010. It is estimated that between 2010 and 2016, around 50,000 foreigners, mostly Haitians, entered the state of Acre. Like the situation in Roraima, the local population exhibits a division of sentiment regarding the presence of foreign nationals, with some expressing rejection and others acceptance.²⁷ Furthermore, the authorities of Acre filed the *Original Civil Action No. 3.113*, requesting the federal government to take responsibility for the extraordinary expenses generated by this massive influx of immigrants and refugees. More recently, restrictive immigration measures implemented by Peru and Chile have resulted in an increased flow of foreign nationals across the Brazilian border. Notably, the number of Venezuelan nationals entering Brazil via the Peruvian border has surpassed that of Haitian migrants, with an estimated 3,375 Venezuelan nationals entering in 2022.²⁸

7. Rationale: In Roraima, the stated reason for trying to stop people from entering or removing irregular migrants was to address the concerns of the local population regarding the perceived negative impacts of Venezuelan migration, including begging, undocumented individuals, and too much pressure on public services. The Federal Police explicitly stated they increased deportations in response to “demands from Roraima society”.²⁹ The Public Health Emergency declaration emphasized that the healthcare system was under a lot of pressure. Essentially, the rationale was one of managing the perceived negative consequences of a large-scale influx of migrants, driven by a combination of public pressure and concerns about resource scarcity.

8. Legal Status: People affected by pushback at land borders and summary expulsions are not protected by legislation in Brazilian territory. Only by initiating legal action can they obtain protection.

9. Specific Impact: Human rights organizations have raised concerns regarding its potential for disproportionate adverse impacts on vulnerable populations, including, but not limited to, children, women, and indigenous communities.³⁰ These groups face a high risk of harm due to being denied entry into Brazilian territory or being removed, sometimes leaving them stranded at the border without being able to re-enter the country they passed through. Illustrative examples include the eviction of women and

²³ Brandão I., RR *decreta emergência na Saúde por causa da imigração de venezuelanos*, 07/12/2016, <https://g1.globo.com/rr/roraima/noticia/2016/12/rr-decreta-emergencia-na-saude-por-causa-da-imigracao-de-venezuelanos.html>

²⁴ Estarque M. *PF aumenta deportações em RR por “cobrança da sociedade”*. 12/12/2016. <https://www.dw.com/pt-br/pf-aumenta-deportacoes-em-rr-por-cobranca-da-sociedade/a-36735273>

²⁵ Brasil K. *Crise na Venezuela*. cit.

²⁶ Instituto Humanitas Unisinos, *A cronologia da crise migratória em Pacaraima, na fronteira entre Brasil e Venezuela*, 20/08/2018. <https://www.ihu.unisinos.br/categorias/188-noticias-2018/581983-a-cronologia-da-crise-migratoria-em-pacaraima-na-fronteira-entre-brasil-e-venezuela>

²⁷ See Borges Delfim R. *Imigrantes no Acre: alarmante ou alarmismo?*, 18/04/2013, <https://migramundo.com/imigrantes-no-acre-alarmante-ou-alarmismo/>; Federal Public Prosecutor’s Office, Attorney General’s Office, *Original Civil Action 3.113/AC*, 12/05/2020, https://www.mpf.mp.br/pgr/documentos/ACO3113_ACxUnio.pdf

²⁸ Cowie S. *Brasil teme nova crise de imigrantes no Acre após Peru e Chile aumentarem controles*. 27/09/2023. <https://www.bbc.com/portuguese/articles/cv234k0y9p1o>

²⁹ Estarque M. *PF aumenta deportações em RR*. cit.

³⁰ See Federal Public Defender’s Office (DPU). *1er Informe Defensorial*, cit.

children in 2021 and the repatriation of the Warao Indigenous people in 2014, 2015, 2016, and 2021 to a territory to which they lack legal or customary affiliation.

10. Reach: Statistical data from the Federal Police reveals a disproportionate increase in deportations within border regions during the period of the pandemic. Specifically, between January 2020 and April 2021, a total of 3,170 individuals were deported, comprising 1,079 deportations in 2021 and 2,091 in 2020. In contrast, the Federal Police recorded a significantly lower figure of thirty-six deportations in the entirety of 2019.³¹

While precise figures on those affected by summary expulsions are unavailable, relying instead on media reports and court cases, the number of deportations is significantly lower than the number of international protection applications. For instance, in Roraima state during 2016, Venezuelan nationals submitted 2,327 applications. That December, a reported attempted mass deportation of 450 Venezuelans (approximately 19% of that year's asylum seekers in Roraima, based on official data [OBMigra](#)) was brought before the judiciary.³² Moreover, in August 2020, Venezuelan nationals submitted 48 asylum applications in the state of Acre. That same month, authorities ordered at least two collective expulsions of Venezuelans, affecting 20 people.³³ The 20 people affected by the measure represent nearly 42% of all Venezuelan asylum seekers in Acre during that period (This analysis utilizes data obtained from [OBMigra](#)). Furthermore, the implemented barrier has not demonstrably reduced the influx of individuals into Brazil.

11. Source: The Foreigner's Statute ([Law No. 6.815](#), of 19 August 1980), articles 57 et seq. The [Migration Law](#) (No. 13.445, 24 March 2017), articles 45 and 109. The Ministerial Ordinances published between March 2020 ([Portaria No. 120/2020](#), 17 March 2020) to September 2022 ([Portaria No. 678/22](#), 12 September 2022), exceptional and temporary measures for entry into the country, within the scope of Law No. 13.979), established the immediate repatriation or deportation of foreigners who violated the law: [No. 120/2020, 17 March 2020](#), for nationals from the Bolivarian Republic of Venezuela (article 6, II, immediate deportation); [No. 125/2020, 19 March 2020](#), for nationals from Argentina, Bolivia, Colombia, French Guyana, Guyana, Paraguay, Peru and Suriname (article 6, II, immediate deportation); [No. 126/2020, 19 March 2020](#) (article 5, II, immediate deportation); [No. 133/2020, 23 March 2020](#) (article 5, II, immediate deportation); [No. 152/2020, 27 March 2020](#) (article 5, II, immediate deportation); [No. 158/2020, 31 March 2020](#) (which renewed the provisions of Ordinance No. 120/2020); [No. 8/2020, 2 April 2020](#) (which renews the measures Ordinance No. 125/2020); [No. 195/2020, 20 April 2020](#) (which extended Ordinance N° 133/2020); [No. 204/2020, 29 April 2020](#) (article 6, II, immediate deportation); [No. 255/2020, 22 May 2020](#), article 7, II (immediate deportation); [CC-PR/MJSP/MINFRA/MS N° 1/2020, 29 July 2020](#) (article 7, II, immediate deportation); [No. 419/2020, 26 August 2020](#) (article 7, II, immediate deportation); [N° 655/2021, 23 June 2021](#), (article 8, II, immediate deportation); [No. 657/2021, 2 October 2021](#) (article 8, II immediate repatriation or deportation), [No. 658/2021, 05 October 2021](#) (article 8, II immediate repatriation or deportation); [No. 678/22, 12 September 2022](#), exceptional and temporary measures for entry into the country, under Law No. 13.979 (article 11, II, immediate repatriation or deportation).

12. Justification: Faced with an unprecedented influx of migrants, Brazilian authorities presented the border measures as a necessary response to protect public health, manage scarce resources responsibly, and ensure the safety and well-being of communities receiving the newcomers. Driven by public calls for action, these stricter controls aimed to regulate the flow of people and bring order to a challenging situation.

In 2016, the state government of Roraima declared a Public Health Emergency of National Importance in Pacaraima and Boa Vista (Official Gazette No. 2897, [Decree No. 22.199, 06/12/2016](#)). The authorities justified this measure, given that “the continuous and uncontrolled migration on the Brazil/Venezuela

³¹ Ruseishvili S. & Fernandes C. (2022). Brazilian Migration Regime and Differential Control of International Mobility during the COVID-19 Pandemic, *Revue européenne des migrations internationales*, Vol. 38/1.

³² Judicial Section of the State of Roraima, case *No. 6447-87.2016.4.01.4200*.

³³ 3rd Federal Civil and Criminal Court of Acre, process *No. 1004332-48.2020.4.01.3000* (interim relief adjudicated on 06 August 2020) and *No. 1004376-67.2020.4.01.3000* (adjudicated on 10 August 2020).

border” significantly contributes to a public health emergency³⁴ by directly impacting socioeconomic and environmental vulnerability in Roraima and consequently affecting morbidity and mortality rates in both populations. Furthermore, in 2018, [Decree No. 25.681-E, dated 01/08/2018](#), established special actions “by public security forces and other public agents of the State of Roraima due to the migratory flow of foreigners in the territory of the State of Roraima and provides other measures”. The aforementioned Decree referred to “the inefficiency of federal actions in border control” that allows “people who do not qualify as refugees to enter the national territory indiscriminately and without health precautions or criminal records”. As well as to the “increase in cases of invasions of public buildings and private properties by immigrants” and the “increase in criminality involving immigrants” (§§ 3, 5, 6).

Moreover, in an interview, the head of the Immigration Police Department of the state of Roraima said:

“We were deporting because it was causing a great social impact (...). Then there was a demand from the population of Roraima for the Federal Police to take some measure against that. The only measure we had at our disposal was to deport” (...). “And now everyone has discovered the magic word of refuge, so it is not even possible to carry out so many deportations anymore”.³⁵

Furthermore, regarding summary expulsions based on COVID-19 restrictions, the Federal Police reported that:

“[...] Before being deported/repatriated immediately, the foreigner is subjected to an individualized analysis and, if the Migration Police Agency (Federal Police) determines that the foreigner is at risk of death (mention, for example, deserter), the immediate deportation/repatriation is not carried out. However, there is also no immigration regularization, since currently the Federal Police does not carry out the initial immigration regularization of foreigners from the Bolivarian Republic of Venezuela who entered the Federative Republic of Brazil after the date on which the exceptional and temporary entry restriction into the country for foreigners from Venezuela came into force (Ordinance No. 652 of 01/25/2021 and prior). Immediate deportation/repatriation is based on Law No. 13.979/2020 and Ordinance No. 652 of 01/25/2021. These norms do not give the Federal Police any power to decide who should or should not be deported. After analysis of the foreigner and individual identification, once non-compliance with the Ordinance is verified, the foreigner is returned to the country of origin, unless a judicial decision is made”.³⁶

13. Domestic and International Reactions: In Brazil, various national human rights organizations and institutions publicly criticized governmental actions, such as deportations and collective expulsions of migrants, arguing these violated international commitments and national laws, and advocated for a more humanitarian approach focused on due process and the rights of vulnerable individuals seeking protection. Internationally, human rights bodies expressed concerns and issued condemnations regarding these Brazilian practices, highlighting the country’s obligations under international human rights law to protect migrants, ensure due process, prevent collective expulsions, and respect the right to seek asylum. Some of the most important pronouncements are presented below:

The Federal Prosecutor’s Office for Citizen’s Rights, along with eleven other human rights organizations, including Conectas and Caritas Arquidiocesana, publicly condemned the 2016 deportations of Venezuelan migrants from Roraima. These organizations, dedicated to protecting indigenous and refugee/asylum

³⁴ Brandão I., *RR decreta emergência na Saúde por causa da imigração de venezuelanos*, 07/12/2016, <https://g1.globo.com/rr/roraima/noticia/2016/12/rr-decreta-emergencia-na-saude-por-causa-da-imigracao-de-venezuelanos.html>; Brito, D. *Governo de Roraima decreta emergência com aumento de fluxo de venezuelanos*, Agência Brasil, 08/12/2016, <https://agenciabrasil.ebc.com.br/geral/noticia/2016-12/governo-de-roraima-decretaemergencia-com-aumento-de-fluxo-de-venezuelanos>

³⁵ Estarque M. *PF aumenta deportações*, *cit.*

³⁶ Federal Public Defender’s Office (DPU). *1er Informe Defensorial*. *cit.*, pp. 8, 14.

seeker rights, criticized the action as inconsistent with Brazil's international commitments and urged the country to adopt a stronger humanitarian approach, particularly regarding those seeking refuge. They highlighted the estimated 10,000 Venezuelans in Roraima, many of whom were women and children potentially in need of international protection, and noted that deportations of this nature were not unprecedented. They argued that such actions contradicted Brazil's stated policy of shared responsibility regarding migrants and refugees, referencing initiatives like humanitarian visas. While acknowledging the limitations of such programs, they emphasized the need for a humanitarian approach that respects the human rights, cultural specificities, and vulnerabilities of migrants and asylum seekers. The organizations deemed the Roraima deportations unacceptable, characterizing them as a setback and a restriction of the rights of migrants and those seeking asylum.³⁷

Furthermore, the National Council for Human Rights, in a 2021 "Recommendation", directed the Federal Police in Pacaraima to cease collective expulsions without individual assessments and due process, mandating notification of the DPU as required by law, specifically to safeguard the rights of potential refugees and asylum seekers.³⁸ Additionally, 121 civil society organizations protested against police actions in Pacaraima (Roraima state) in March 2021 and requested that collective and immediate expulsions be halted without guaranteeing due process, especially of migrants considered hyper-vulnerable.³⁹ Likewise, the Diocese of Roraima repudiated the police action and demanded respect and protection of the rights and lives of migrants and refugees.⁴⁰

Internationally, in 2014, the Working Group on Arbitrary Detention alerted that the limited capacity of Brazilian border agents and immigration authorities to identify individuals with international protection needs could lead to the detention of asylum seekers, their prevention from entering the country, or their return to their country of origin, especially in the Amazon region.⁴¹ Likewise, the Inter-American Commission on Human Rights (IACHR) expressed serious concerns regarding Brazil's 2016 deportation of approximately 450 Venezuelan migrants, primarily Warao indigenous people, including numerous children, from Boa Vista, Roraima. The IACHR emphasized Brazil's international human rights obligations to protect the life, integrity, and safety of all migrants under its jurisdiction, particularly those in transit or at borders. This includes providing non-discriminatory, culturally appropriate assistance such as medical care, food, water, and shelter, and ensuring immigration control operations are free from racial profiling. The IACHR stressed the necessity of identifying and protecting migrants requiring special protection, including asylum seekers, refugees, victims of trafficking, and others. It further underscored the importance of due process, judicial protection, the right to family unity, the right to seek asylum, the principle of *non-refoulement*, and the prohibition of collective expulsions. Specifically, the IACHR mandated that immigration proceedings, especially those leading to deportation, must be conducted on an individual basis with full respect for minimum guarantees.⁴²

With respect to the border closure in the State of Roraima (northern border), the IACHR condemned in 2018. The IACHR deemed the closure a violation of the rights of individuals to depart Venezuela and to seek asylum or other forms of protection within Brazil.⁴³ Furthermore, in 2021 the IACHR "noted with concern that the Armed Forces being increasingly used in various countries in the region, including Brazil", and highlighted the National Council for Human Rights, Recommendation No. 5, dated 18 March 2021,

³⁷ Federal Prosecutor's Office for Citizen's Rights, PGR-00365469/2016, 20/12/2016, <https://www.mpf.mp.br/pfdc/manifestacoes-pfdc/notas-publicas/nota-publica-sobre-deportacao-de-venezuelanos-em-roraima-2016>

³⁸ National Council for Human Rights, Recommendation No 5, 18 March 2021

³⁹ *Nota Pública por Justiça e Dignidade, Contra a Violência*, 19/03/2021, <https://ihu.unisinos.br/categorias/607703-121-entidades-denunciam-violencia-policial-contra-migrantes-venezuelanos-e-trabalhadores-humanitarios-em-pacaraima-rr>

⁴⁰ Roraima. *Nota pública por justiça e dignidade contra a violência*, 19/03/2021. <https://www.ihu.unisinos.br/categorias/607719-nota-publica-por-justica-e-dignidade-contra-a-violencia>

⁴¹ Human Rights Council, 2014, Report of the Working Group on Arbitrary Detention, Addendum, Mission to Brazil, § 57.

⁴² IACHR Concerned about Situation of Venezuelan Migrants and Calls on States in the Region to Implement Measures to Protect Them, 25/01/2017, https://www.oas.org/en/iachr/media_center/PReleases/2017/006.asp

⁴³ IACHR, Situation of Human Rights in Brazil, Country Report, 2021, p. 93

on the adoption of measures to manage migration in the municipality of Pacaraima, on the border with Venezuela, in response to reports of a possible intensification of immigration controls to locate irregular migrants and deport them.⁴⁴

14. Technology: Brazil's Integrated Border Monitoring System, known as SISFRON, represents a major technological leap in the country's border control strategy. This project is centred on using technology to strengthen the state's presence and operational capabilities along its borders. The system incorporates an advanced network of sensors, including optical and optronic sensors, land and low-altitude air surveillance radars, and electromagnetic signal sensors. It also heavily relies on Unmanned Aerial Vehicles (UAVs), or drones, which have been a key part of the system since their acquisition in 2010. These technologies are linked by an extensive "inforvia" network, allowing for the connection of command centres and monitoring posts, and providing a real-time, comprehensive view of the border area. By collecting and transmitting data from various sources, SISFRON supports decision-making and operational planning, enabling both defence and security actions to combat cross-border crimes and environmental offences.⁴⁵ Furthermore, along its southern border with Argentina and Paraguay, Brazil is deploying border control technology through the "Muralha Inteligente" (Smart Wall) project since 2019. While framed as a strategy to combat trafficking and smuggling, the project's use of facial recognition cameras and drones has sparked debate concerning the implications and utilization of the data gathered, raising questions about privacy and surveillance in the border region.⁴⁶ Moreover, in 2021, Brazilian authorities invested approximately US\$ 618,000 (around € 530,000) in the "Border Tech Project" to improve surveillance along the Brazil-Venezuela border. The initiative equipped the border town of Pacaraima (Roraima state) with advanced technologies, including dimmable smart lights, smart lights with integrated cameras and surveillance, facial recognition software, speed dome cameras, a data centre to store and process images and data, video wall displays, license plate recognition cameras, license plate recognition software, and a drone with a thermal camera.⁴⁷ This digitalization involves the collection of basic and complex data from arriving people, raising concerns about data security and a lack of transparency in its use.⁴⁸

15. Other: It is critical to highlight the promulgation of Ordinance (*Portaria*) [No. 666](#) by the Ministry of Justice and Public Security in 2019, which established mechanisms for the prevention of entry, repatriation, and summary deportation of individuals classified as "dangerous" or who have violated constitutional principles. As amended by Ordinance [No. 770](#) in October 2019, the legislation broadly defines a "dangerous person" to include individuals suspected of participating in terrorism ([Law No. 13.260/2016](#)), armed organized crime ([Law No. 12.850/2013](#)), and the trafficking of drugs, persons, or firearms. Furthermore, it encompasses those involved in the sexual exploitation of minors or those with a documented history of stadium violence. By authorizing the summary deportation or repatriation of anyone categorized as such, this ordinance severely compromises the protective guarantees of the *non-refoulement* principle.⁴⁹

⁴⁴ IACHR, Calls on States in the Americas to adopt migration and border management policies that incorporate a human rights approach, 21/04/2021 https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/082.asp

⁴⁵ Rego Monteiro L.C. (2020), *Segurança de fronteiras no Arco Central: dos espaços de exceção ao Estado securitário*, Nunes J. and Rodrigues, L.C. (eds) *Crise e reinvenção dos espaços da política*, Rio de Janeiro: Consequência, pp. 187-194.

⁴⁶ E. Carillo et al. (2023). *Technologies and Human Rights in the Triple Border Area*, Data Privacy Brasil Research Association.

⁴⁷ A. Lemos, (2021). *Brazil Installs Intelligent Border Control Systems*, <https://dialogo-americas.com/articles/brazil-installs-intelligent-border-control-systems/>

⁴⁸ J. Camargo and A. Alencar (2024). *Exploring Venezuelans' perspectives on border technologies*, *Forced Migration Review*, No. 23/2024.

⁴⁹ See Ruseishvilia S. and Chaves J. (2020). *Deportabilidade: um novo paradigma na política migratória brasileira?*, PLURAL, Revista do Programa de Pós -Graduação em Sociologia da USP, São Paulo, No. 27(1); Carvalho Ramos A. (2022). *O Princípio do Non Refoulement Absoluto e a Segurança Nacional*, in Carvalho Ramos A. et al. (eds.), *25 anos da Lei brasileira do Refúgio: perspectivas e desafios*, UNHCR, p. 16; Defensoria Pública da União. (2023), *Nota Técnica No. 20 - DPGU/SGAI DPGU/GTMAR DPGU*, 28 February 2023, [SEI DPU - 5942051 - Nota Técnica.pdf](#)

Pushback at the Airport:

Summary: Starting in August 2024, Brazilian authorities implemented a barrier preventing transit passengers from submitting asylum claims during their stopover at Guarulhos International Airport, arguing that possession of a one-way ticket to a third country demonstrates a lack of intent to seek international protection in Brazil. This policy disproportionately affects foreigners who require a visa to enter Brazil, preventing them from accessing asylum at airport facilities and exposing them to the risk of immediate expulsion and potential *de facto* detention in restricted areas of the airport. This measure has drawn criticism for its potential circumvention of international and national refugee law, potentially constituting collective expulsions that contravene the principle of *non-refoulement*. Brazilian authorities justify its implementation as a necessary measure to prevent abuse of the asylum system as a means to circumvent immigration regulations amid a sudden increase in asylum claims at the aforementioned airport, allegedly linked to migrant smuggling.

1. **Functioning:** The purpose of this barrier is to prevent transit passengers at Brazilian airports, in particular the International Airport of Guarulhos, from lodging asylum claims during their layover. Individuals expressing a desire for refugee status are at risk of having their request unprocessed by immigration authorities, who may instruct them to continue their journey to their ticketed final destination. Brazilian authorities assert that possession of an onward ticket indicates a lack of intent to remain in Brazil or seek international protection therein. However, as nationals requiring entry visas cannot board flights to Brazil without one, this effectively precludes visa-less individuals from seeking airport-based asylum. Furthermore, their location within the airport's restricted zone limits immediate access to legal aid, increasing the risk of immediate removal from the country.
2. **Time:** This measure took effect on 26 August 2024. There is no expected deadline for its completion. Prior attempts to implement it were unsuccessful. On at least two occasions, the Federal Regional Court ruled in favour of individuals detained at the airport, ordering that their applications for international protection be processed through standard procedures.
3. **Place:** Rejections have been identified predominantly at São Paulo International Airport (Aeroporto Internacional Governador André Franco Montoro - Guarulhos/SP), commonly referred to as Guarulhos International Airport, situated in Guarulhos, Brazil.
4. **Actors:** The Federal Police are the primary institutional actors responsible for enforcing this policy. Airport immigration agents also play a key role. Airlines have a secondary, albeit necessary, function in ensuring that transit passengers continue their journeys and do not remain in the airport. No other jurisdictional or international actors are involved in the implementation of this policy.
5. **Interaction:** The barrier could use a bureaucratic obstacle to expand its scope. Individuals unable to obtain a Brazilian visa in their home country, which would permit legal entry, are forced to purchase airfare to a third country with a layover in Brazil. Despite their physical presence in Brazil, their transit passenger status precludes them from applying for asylum. Consequently, denial of entry can result in prolonged *de facto* detention within the airport's restricted area, effectively depriving them of freedom of movement. Furthermore, it may be favoured by “structural problems” identified by the Parliament and the civil society⁵⁰ in Brazil, such as “the instability of the electronic platform of the National System for Processing Requests for Asylum (hereinafter SISCONARE), which has a form only in Portuguese for requesting asylum. This fact brings additional difficulties in understanding or communication and contributes to making the request “more difficult” for people who are at the airport. Furthermore, an important factor to highlight is that since 2006, an Advanced Post for Humanized Assistance to Migrants (*Posto Avançado de Atendimento Humanizado ao Migrante- PAAHMs*) has been operating at Guarulhos Airport. The Guarulhos city hall is in charge of this assistance post, which aims to serve refugees and migrants arriving in Brazil

⁵⁰ Missão Paz et al., *Refúgio no Brasil: o que está em jogo com a nova decisão do governo para a situação dos migrantes inadmitidos no Aeroporto Internacional de Guarulhos?*, 24/09/2024, https://fronteiras cruzadas.com.br/wp-content/uploads/2024/10/24set24_Manifestacao_sociedade-civil_refugio_mudanca-aeroportos_-1.pdf

through Guarulhos International Airport. However, this post is located in the Domestic Flights Terminal, which makes access difficult for people arriving on international flights.⁵¹

6. Development: São Paulo/Guarulhos International Airport (GRU), Brazil's largest airport complex, registered a record 43.6 million passengers in 2024.⁵² The combined increase in passenger traffic and asylum applications at the airport appears to have led to more frequent detentions of individuals deemed inadmissible and their immediate return, affecting a greater number of people. From 69 applications in 2013, the number soared to 4,239 in 2023. In July 2024, 9,082 asylum applications were filed, exceeding the total for the entire previous year by over 100%. Between January 2023 and June 2024, 8,327 individuals sought refuge at GRU, but only 117 (1.41%) pursued the process within Brazil, suggesting that 8,210 applicants (99.59%) had either left the country or were in an irregular situation. The Federal Police confirmed that of the over 8,300 applications received between 2023 and June 2024, only 117 individuals applied for the National Migration Registry, a card available to all asylum seekers. This has been used by the Brazilian authorities to justify the implementation of the measure, arguing that asylum is being misused to violate immigration policies.⁵³ In August 2024, the head of the Federal Police informed the Permanent Joint Parliamentary Committee on International Migration and Refugees (CMMIR) that asylum applications at the GRU for 2024 were expected to reach 10,000, an increase of more than 130% compared to the previous year. The director of the Migration Department of the Ministry of Justice acknowledged that the presence of 300 rejected admissions at the airport, although previously considered exceptional, had become commonplace, referring to the need to implement measures to contain this situation.⁵⁴

In October 2024, the DPU filed a collective habeas corpus petition to prevent the expulsion of 104 individuals at the Guarulhos airport. In the first instance, the court rejected the action but recognized that the situation was “collective, since it involves 104 people, all subject to the same act of authority”. In the second instance, the deportation was blocked, and at the end, the National High Court of Brazil (STJ) upheld the deportation of people “crowded” at the airport.⁵⁵ For the Federal Prosecutor's Office for Citizens' Rights, the effect that migrants in transit are not granted the possibility of filing requests for recognition of refugee status, and that transit to the country of the final destination of the flight is carried out, represents, in practice, a “collective expulsion”.⁵⁶

7. Rationale: This measure has been implemented to prevent the application for international protection from being used as “a mechanism to circumvent immigration policies”, allowing the person to enter Brazilian territory. The Brazilian authorities argued that this measure safeguards this important institution from “bad faith, fraud, and international organized crime”, limiting its application to cases where the protection of individuals is clearly the sole and essential objective.⁵⁷

⁵¹ Parliament, *Comissão Mista Permanente para Migrações Internacionais e Refugiados – CMMIR, Relatório de 2024*, https://legis.senado.leg.br/sdleg-getter/documento?dm=9854952&ts=1734550790451&rendition_principal=S&disposition=inline, 10.

⁵² GRU Airport, *GRU Airport bate recorde histórico na movimentação de passageiros em 2024*, 01/01/2025, <https://www.gru.com.br/en/passenger/noticias-detalle?code=336>

⁵³ Ministry of Justice and Public Security, *NOTA TÉCNICA N° 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ*, *Process No. 08018.041170/2024-42*, p. 5.

⁵⁴ Chamber of Deputies. *Pedidos de refúgio no aeroporto de Guarulhos devem crescer mais de 130% este ano*, 14/08/2024, <https://www.camara.leg.br/noticias/1088793-%20pedidos-de-refugio-en-el-aeroporto-de-guarulhos-deben-crecer-m%C3%A1s-de-130-este-ano/>

⁵⁵ In the first instance, the court rejected the action but recognized that the “situation is collective, since it involves 104 people, all subject to the same act of authority”. In the second instance, the deportation was blocked. The Supreme Court upheld the deportation of people “crowded” at the airport. National High Court of Brazil (STJ), *No. 3522 - SP (2024/0452510-2)*, 01/12/2024.

⁵⁶ Federal Prosecutor's Office for Citizen's Rights, 2024, *Recomendação PGR-00417236/2024*, 15/10/2024, p. 20.

⁵⁷ National High Court of Brazil (STJ), *No. 3522 - SP (2024/0452510-2)*, adjudicated on 01 December 2024.

8. Legal Status: People who are prevented from accessing asylum by this measure are treated in the general framework for non-citizens. They are not protected in Brazilian territory and must continue their journey or return to their countries of origin.

9. Specific Impact: In principle, this barrier applies broadly to all transit travellers and does not explicitly target specific demographics, such as women, children, LGBTQ+ individuals, or persons with disabilities. However, because inadmissible travellers may be held “in custody” within airport facilities while pursuing legal remedies to enter the country and seek asylum, this lack of adequate human conditions disproportionately impacts vulnerable groups—particularly children, women, and individuals with chronic illnesses or disabilities.⁵⁸

10. Reach: This newly implemented barrier lacks sufficient data to determine its impact on individuals seeking international protection. In 2024, the Guarulhos jurisdiction received a total of 7,571 asylum applications (Data from [OBMigra](#)), and there is one documented case involving 104 people who were denied entry to Brazil and the opportunity to apply for protection. The collective expulsion of these 104 individuals in December of that year, while representing 1.37% of formal asylum applicants, likely understates the barrier’s actual impact by excluding those prevented from even applying due to airport returns. Given the historical volume of asylum seekers at Guarulhos Airport, the true number affected is reasonably presumed to be substantially higher.

Regarding the measure’s effectiveness in limiting asylum applications at the airport, official figures reveal a significant reduction. In Guarulhos municipality, 994 asylum applications were lodged during January and February 2024, primarily by individuals from India and Somalia. However, for the same period in 2025, this number plummeted to only 114 applications, mainly from Bangladesh, indicating a dramatic decrease of over 88.5% in asylum applications in Guarulhos during the first two months of 2025. (Data from [OBMigra](#))

11. Source: Ministry of Justice and Public Security, [Technical Note No. 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ](#), Process No. 08018.041170/2024-42 I, 2024, taking into considerations provisions of Article 45, VII, of the [Migration Law](#) (No. 13.445, 24 May 2017): “The following persons may be prevented from entering the country, after an individual interview and by means of a reasoned act: (...) VII - whose reason for travel is not consistent with the visa or the reason given for visa exemption; (...)” Article 13 of the aforementioned Law establishes the hypothesis of exemption from the specific visit visa related to the purpose of transit: “The visit visa will not be required in case of stopover or connection in national territory, as long as the visitor does not leave the international transit area.”

12. Justification: Brazilian authorities assert that the surge in asylum applications at Guarulhos Airport demonstrates an abuse of the refugee system, facilitating irregular migration. They allege a well-established irregular migration route involving migrant smuggling and potential human trafficking, coupled with fraudulent asylum claims. Authorities have reported that many migrants’ airline tickets are for destinations in other South American countries. Unlike Brazil, these countries don’t require visas for these migrants’ nationalities, allowing them to board flights without difficulty. However, during layovers or connections in Brazil, these migrants abandon the final leg of their journey (often discarding their original boarding passes) and remain in Brazil illegally. Once in the restricted area, they request refugee status as a means of gaining entry into the country. Federal Police investigations suggest that these migrants are not seeking protection from Brazil through refugee status. Instead, their goal is to continue traveling north, primarily to the United States and/or Canada.⁵⁹ The position of the Brazilian authorities partially coincides with the findings of previous investigations that analysed the migration routes from Asia and Africa to Brazil, with

⁵⁸ See Parliament, *Comissão Mista Permanente para Migrações Internacionais e Refugiados – CMMIR, Relatório de 2024*, p. 14.

⁵⁹ Ministry of Justice and Public Security, *NOTA TÉCNICA*, cit., pp. 2-3; Ministry of Justice and Public Security, *Brasil vira rota de contrabando de migrantes e MJSP muda regras para a entrada no país*, 22/08/2024, <https://www.gov.br/mj/pt-br/assuntos/noticias/brasil-vira-rota-de-contrabando-de-migrantes-e-mjsp-muda-regras-para-a-entrada-no-pais>

the aim of continuing the journey to the United States or Canada.⁶⁰ Moreover, the authorities indicate that migrants are largely using the well-known and extremely dangerous route from, for example, São Paulo to Acre, and from there crossing into Peru to traverse Central America and ultimately reach the southern border of the United States (US).⁶¹ This route was also identified in the report of the Public Defender's Office on migrants trapped at the border between Brazil and Peru in March 2021.⁶² In this regard, the authorities advocate for urgent measures to combat these “abuses” and safeguard national laws. Moreover, it has been mentioned that Brazil has become a key transit point for Asian and African refugees and migrants seeking to reach the US, “due to its role as a migrant smuggling hub”,⁶³ particularly through São Paulo.

The Federal Police reports another common scenario where individuals, after being denied entry to a third country after transiting through Brazil, subsequently seek asylum in Brazil. This, they contend, constitutes an abuse of Brazil's transit visa exemption. Federal Police data indicates that only 1.4% of asylum seekers between January 2023 and 2024 remain within the system, with the “vast majority” departing the country, often through criminal networks, or remaining in an irregular status.⁶⁴

Likewise, the Federal Prosecutor has called for legislative changes to distinguish genuine refugees from economic migrants, thereby mitigating risks associated with criminal organizations. He emphasized the need to differentiate “who is a refugee and who is a migrant”.⁶⁵ Brazilian authorities further argue that enforcing transit procedures does not violate the principle of *non-refoulement*. They maintain that this process is not deportation or repatriation to the individual's country of origin, but rather transit to their intended destination country,⁶⁶ where they can pursue protection if needed. They assert that it is impossible to initially assess the existence of an imminent risk to life or liberty in the destination country, or the risk of repatriation from that country to the country of origin.⁶⁷ Likewise, in December 2024, a judge concluded that the aforementioned action did not violate the principle of *non-refoulement*, arguing that Brazil served as a transit point and not as the intended destination. Furthermore, the judge affirmed that the destination country did not pose a risk of harm to the individual. Therefore, the individual retains the option to proceed to their final destination, wherein they may pursue an application for refugee status, should they so elect.⁶⁸ The restrictive position of the judiciary with regard to applications for asylum by airport transit passengers is systematically reflected in a number of judicial decisions, as will be explained later in Part II of this National Report.

13. Domestic and International Reactions: No international reactions had been identified until December 2025. Domestically in Brazil, the measure faced opposition from various actors. These included legal advocates who argued its illegality under refugee law, organizations concerned about restricted access for vulnerable migrants seeking refuge, academic institutions worried about the integrity of the asylum process, and civil society groups highlighting potential violations of international norms against

⁶⁰ Sprandel A., et al. (2013), *Migración extracontinental en Brasil: el caso de los ciudadanos africanos y asiáticos*, in OIM, *Migrantes extrac Continentales en América del Sur: Estudio de casos, Cuadernos Migratorios No. 5*, pp. 136 ss; Freier L. (2013), *Migración contemporánea de África, Asia y el Caribe hacia Ecuador*, in *Migrantes extrac Continentales en América del Sur: estudio de casos*, in OIM *Cuadernos Migratorios*, N° 5, p. 103; Rojas R. (2020), Latin America's Lucrative People Smuggling Networks, Organized Crime and Corruption Project, <https://www.occrp.org/en/project/the-cruel-road-north/latin-americas-lucrative-people-smuggling-networks>

⁶¹ Ministry of Justice and Public Security, *NOTA TÉCNICA*, cit., p. 3.

⁶² See Federal Public Defender's Office (DPU), Working Group on Migration, Statelessness and Refuge. *Informe Defensorial: Personas migrantes retenidas en la frontera entre Brasil y Perú*, 2021, p. 8; S. Priya Morley et al. (2021), *A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico*, p. 53.

⁶³ Tines N. (2021). Getting it together: Extra-regional migration in South, Central and North America and the need for more coordinated responses, MMC Research Report, pp. 18, 19.

⁶⁴ Chamber of Deputies. *Pedidos de refugio*, cit.

⁶⁵ Permanent Joint Committee on Migration and Refugee, 4th Meeting– CMMIR, 14/08/2024, <https://legis.senado.leg.br/atividade/comissoes/comissao/2301/reuniao/12890>

⁶⁶ Ministry of Justice and Public Security, *Brasil vira rota*, cit.

⁶⁷ Ministry of Justice and Public Security, *NOTA TÉCNICA*, cit., p. 13.

⁶⁸ Regional Federal Court of the 3rd Region, 6th Chamber, Habeas Corpus (1269) No. 5025838-92.2024.4.03.0000, 19/12/2024.

refoulement. And the Federal Prosecutor's Office, which also concluded the measure was unlawful for creating unwarranted impediments to asylum applications. Some of the most important pronouncements are presented below:

The DPU has publicly opposed the measure.⁶⁹ In fact, in a public note, the DPU indicated that the decision to suspend new asylum applications “is illegal because it violates international refugee law, the Brazilian Refugee Law, and the principle of *non-refoulement* or the prohibition of rejection”. Adding that, “the right to asylum should not be granted to everyone automatically, but everyone has the right to have their application received, analysed and decided after an interview”.⁷⁰ Moreover, in September 2024, the DPU cautioned that recent executive measures gravely violate migrants' rights, the right to asylum, and the principle of *non-refoulement*. The DPU argues that these measures create a legal anomaly: an unregulated removal procedure that operates outside the parameters of Brazil's Migration Law (Law No. 13.445/2017). This extra-legal framework strips immigrants of their fundamental rights to due process by denying them an individualized assessment of their claims or the opportunity to present evidence. As a result, critical vulnerabilities—such as grounds for family reunification, medical emergencies, or well-founded fears of persecution—are entirely disregarded. In practice, the enforcement of these measures by the Federal Police institutionalizes summary deportations (or “hot returns”) in Brazil, categorically denying migrants the legal right to have their asylum claims individualized, evaluated, and adjudicated.⁷¹

In August 2024, the Adus Instituto, expressed its concern about the decision “to block the entry of migrants without a visa into the country”, emphasizes that this measure goes against the principle of international protection for refugees, “closing borders to visa-free migrants could effectively prevent vulnerable individuals from seeking refuge in our country due to conflict, persecution or other situations that threaten their lives and dignity”.⁷² Furthermore, 29 Brazilian universities sent an open letter to the National Committee for Refugees (hereinafter CONARE), in which they expressed their concern about the changes implemented by the Brazilian government in the procedures for requesting recognition of refugee status, applicable to persons entering Brazil through international airports, according to Technical Note No. 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ. For the signatories, the measure puts at risk the integrity of the refugee protection process and other humanitarian aid situations.⁷³ In addition, four civil society organizations published an open letter in which they state that “the Government positioned itself in the press to prevent travellers in transit from requesting asylum”, a decision that “directly and explicitly contradicts Article 8 of Law 9.474/97 and the 1951 Convention on the Status of Refugees”, among other international instruments. Restricting access to refuge can be seen as a direct violation of the principle of *non-refoulement*, “as it puts at risk the lives and integrity of people who are already in a situation of extreme vulnerability”.⁷⁴ Finally, in October 2024, the Federal Prosecutor's Office for Citizen's Rights analysed the situation at Guarulhos Airport and the illegality of the Technical Note. The Office concluded that the technical note contravenes the law by imposing restrictions not contemplated within the legal framework, thereby “negatively innovating the legal system and creating a substantial impediment to the asylum application.” In its analysis, the Federal Prosecutor's Office reiterated the established legal principle in Brazil that irregular entry does not constitute an impediment to an asylum application. It also stated that

⁶⁹ Bocchini B., Agência Brasil, *DPU alerta para situação de imigrantes no Aeroporto de Guarulhos*, 20/08/2024, <https://agenciabrasil.ebc.com.br/direitos-humanos/noticia/2024-08/defensoria-alerta-sobre-violacao-de-direitos-no-aeroporto-de-guarulhos>

⁷⁰ Federal Public Defender's Office (DPU), *DPU divulga nota sobre nova interpretação de regras de solicitação de refúgio no Aeroporto de Guarulhos (SP)*, 22/08/2024, <https://direitoshumanos.dpu.def.br/dpu-divulga-nota-sobre-nova-interpretacao-de-regras-de-solicitacao-de-refugio-no-aeroporto-de-guarulhos-sp/>

⁷¹ Federal Public Defender's Office (DPU), Nota Técnica No. 29 - DPGU/SGAI DPGU/GTMAR DPGU, 29 September 2024.

⁷² Adus Instituto, *Nota de posicionamento sobre a decisão do governo brasileiro de barrar a entrada de imigrantes sem visto*, 22/08/2024, <https://adus.org.br/nota-de-posicionamento-sobre-a-decisao-do-governo-brasileiro-de-barrar-a-entrada-de-imigrantes-sem-visto/>

⁷³ Carta aberta das Universidades brasileiras que compõem a Cátedra Sérgio Vieira de Mello/ACNUR, 28/08/2024.

⁷⁴ Missão Paz et al., *Refúgio no Brasil*. cit., pp. 7, 9

the inability to file an asylum application and the obligation to continue to the destination country constitute, in practice, a “collective expulsion”.⁷⁵

Detention (*de facto* detention)

Summary: The stated objective of this measure is to discourage individuals arriving without valid entry visas from lodging asylum applications upon arrival at the International Airport of Guarulhos. To achieve this, authorities incentivize onward travel, requiring those lacking the necessary visas to continue their journeys. Refusal to do so results in confinement within restricted airport areas. While the precise commencement date of this practice is unclear, evidence indicates it has been occurring since at least 2010, with the Federal Police as the primary enforcing actor. More recently, beginning in 2024, Brazilian authorities have intensified these restrictive measures at Guarulhos Airport, specifically obstructing transit passengers from requesting asylum and compelling them to proceed to their final destination or return to their point of origin. Individuals not complying with these directives have faced protracted *de facto* detention, sometimes lasting for several months. This situation, which has implications for airport returns, has drawn criticism from domestic actors concerned about its impact on migrants and asylum seekers, many of whom have endured extended stays in inadequate conditions despite expressing intentions to seek international protection.

1. **Functioning:** The stated purpose of the implemented barrier is to restrict the freedom of movement of persons deemed inadmissible upon their arrival at the international airport. This restriction serves to encourage the continuation of their journey, thus preventing the possibility of filing an application for international protection in Brazilian territory. Consequently, access to the asylum procedure at the airport, after immigration control, is limited to individuals possessing a valid visa. Those lacking the requisite visas for admission are required to proceed with their journey, and refusal to embark on the designated onward flight results in their *de facto* detention within the airport’s restricted zones.
2. **Time:** The practice of *de facto* detention at the airport lacks a defined commencement or termination date. Evidence indicates that the *de facto* detention of foreign nationals at Guarulhos Airport has occurred since 2010.
3. **Place:** International airports in Brazil, particularly in São Paulo International Airport (Aeroporto Internacional Governador André Franco Montoro -Guarulhos/SP), also known as Guarulhos International Airport, located in Guarulhos, Brazil.
4. **Actors:** The Federal Police is the primary institutional actor responsible for enforcing this policy. Airport immigration agents also play a key role. Airlines have a secondary, although necessary. No other jurisdictional or international actors are involved in the implementation of this policy.
5. **Interaction:** This barrier interacts with airport pushbacks. Individuals denied entry to Brazilian territory are compelled to continue their journey to the destination specified on their ticket or are returned to their countries of origin, either forthwith or following a period of *de facto* detention within the airport’s restrictive zone. It may also intersect with the bureaucratic impediments outlined in the section concerning airport returns.
6. **Development:** Migrants and asylum seekers arriving at Guarulhos International Airport in São Paulo, Brazil, could face *de facto* detention.⁷⁶ Denied both entry and transit, they are held in a designated holding area under “arbitrary and precarious conditions” for periods exceeding the legal limit of 96 hours, often extending to weeks or even months. This practice persists despite asylum applications and the possible

⁷⁵ Federal Prosecutor’s Office for Citizen’s Rights, 2024, *Recomendação*, cit., pp. 7, 20.

⁷⁶ See Severo F. (2015) *O procedimento de solicitação de refúgio no Brasil à luz da proteção internacional dos direitos humanos*, Defensoria Pública da União, No. 8. Brasília, p. 49; and Cortinovis R. & Rorro L. (2021). Country Note BRAZIL International protection issues and recommendations from international and regional human rights mechanisms and bodies, ASILE, p. 7.

need for international protection, and there have been reported cases of people being returned to their countries of origin.⁷⁷

Since 2010, civil society organizations and the DPU have reported that asylum seekers were detained for extended periods in the restricted area of Guarulhos International Airport. Notable instances of prolonged detention at Guarulhos Airport include the case of a Cuban national in April 2013, who was held for five months pending resolution of their immigration status.⁷⁸ In 2014, several emblematic incidents occurred, including the case of an Eritrean national, seven months pregnant, who was *de facto* detained in the facility known as the “Connector” for two weeks and subsequently deported to her country of origin, notwithstanding her expressed intent to seek refuge. Similar cases involving nationals of Bangladesh, Ghana, Nigeria, and Cameroon, among others, ensued, wherein police authorities obstructed their attempts to seek refuge, despite their stated intentions.⁷⁹ A Ghanaian national and a Bangladeshi national were detained for 25 days while their asylum applications were under review. In December 2014, over 20 individuals reported being held within the restricted area of Guarulhos Airport for a period of 48 days. Upon their arrival, these individuals were denied entry into Brazilian territory and subsequently detained in the “Connector”, despite claims by some that they were asylum seekers awaiting an answer by Brazilian authorities.⁸⁰ In January 2015, a cooperation agreement was signed between the Brazilian authorities, CONARE, and the United Nations High Commissioner for Refugees (hereinafter UNHCR) to ensure that people at the airport had adequate information, could request asylum when necessary, and were guaranteed the right to defence in cases of deportation.⁸¹ However, the situation has worsened, and there are still migrants who have endured weeks, sometimes months, in a space with inadequate infrastructure for long-term stays. Under the airlines’ responsibility, they experienced restricted freedom, limited access to belongings, and often insufficient food until repatriation or resolution of their immigration status. This area, initially a connecting corridor between terminals, became known as the “connector” and later, the “inads room”, reflecting the travellers’ status.⁸²

According to the Permanent Joint Parliamentary Committee on International Migration and Refugees (CMMIR), the detention of people at Guarulhos airport awaiting an assessment of their personal situation is a “recurring problem”. It said that in “April 2023, it was a Nepalese; in December 2023, a Vietnamese; in June 2024, Indians and others”.⁸³ In December 2023, the DPU confirmed the detention of 485 immigrants at Guarulhos airport and criticized this situation. In June 2024, a parliamentary visit to the GRU international area revealed that approximately 400 people from India, Pakistan, Afghanistan, as well as other Asian and African countries, were being held in a room located in a restricted area, inside the Departure Terminal, after the immigration barrier. These people were either seeking refuge or were being assessed for admissibility⁸⁴. In August 2024, it was reported that at least 666 migrants without visas were

⁷⁷ Furquim A. & Miguel Carmen, *Ferramentas Eurosocial N° 93, Protocolo de Assistência Jurídica a Pessoas Migrantes e Refugiadas em Áreas de Fronteira Modelo Regional de Defesa de Pessoas em Contexto de Mobilidade*, 2021, p. 10

⁷⁸ Missão Paz et al., *Refúgio no Brasil*, cit., pp. 2, 3

⁷⁹ Severo F. (2015). *O procedimento de solicitação*, cit., pp. 49-50.

⁸⁰ Conectas Direitos Humanos, *Migrantes em Guarulhos. Pessoas são privadas de liberdade no aeroporto de SP por tempo indeterminado*, 18/12/2014, <https://www.conectas.org/noticias/migrantes-em-guarulhos/>

⁸¹ Conectas Direitos Humanos, *Barrados no aeroporto. Acordo para atender migrantes inadmitidos no aeroporto de Guarulhos é renovado*, 17/03/2017, <https://www.conectas.org/noticias/barrados-no-aeroporto/>

⁸² Missão Paz et al., *Refúgio no Brasil*, cit., p. 2

⁸³ National Congress, General Secretariat of the Board, Report of the 4th Meeting of the Permanent Joint Committee on International Migration and Refugees (CMMIR) of the 2nd Ordinary Legislative Session of the 57th Legislature, held on 14/08/2024, p. 8; Agência Senado, *Audiência pública sugere visto de trânsito e melhorias para refugiados em Guarulhos*, 15/08/2024, <https://www12.senado.leg.br/noticias/materias/2024/08/15/audiencia-publica-sugere-visto-de-transito-e-melhorias-para-refugiados-em-guarulhos>

⁸⁴ Permanent Joint Committee on International Migration and Refugees (CMMIR), Report on the investigation carried out at Guarulhos International Airport on 14 and 15 June 2024, CMMIR-2024 Report, 2024, p. 6; Rafael Saldanhada, CNN, *Quase 400 imigrantes aguardam refúgio no aeroporto de Guarulhos*, 12/06/2024, <https://www.cnnbrasil.com.br/nacional/quase-400-imigrantes-aguardam-refugio-no-aeroporto-de-guarulhos/>; Federal Public Ministry (MPF), *MPF busca soluções para liberação de quase 400 imigrantes retidos no Aeroporto de Guarulhos (SP) Grupo formado majoritariamente por indianos enfrenta problemas para registrar*

in the restricted area of the airport waiting to enter Brazil, before the entry into force of the new rules that seek to curb the flow of foreigners using Brazil as a stopover to reach the United States and Canada.⁸⁵ On a technical visit conducted in October 2024 by the Federal Prosecutor’s Office for Citizens’ Rights at Guarulhos International Airport in São Paulo, it was ascertained that on the date of the visit, 109 foreign nationals seeking refuge, who had arrived in the country holding transit tickets, were being held within the airport premises.⁸⁶

7. Rationale: The barrier was implemented to preclude individuals deemed inadmissible at the airport from lodging requests for international protection at that location, thereby preventing “the use of asylum as a mechanism to circumvent immigration policies and gain entry into Brazilian territory”.

8. Legal Status: People who are prevented from accessing asylum by this measure are treated in the general framework for non-citizens. They are not protected in Brazilian territory and must continue their journey or return to their countries of origin.

9. Specific Impact: As with airport pushbacks, this barrier is generally applied to all transit travellers and is not explicitly targeted at specific demographic groups, such as women, children, LGBTQ+ individuals, or people with disabilities. However, because inadmissible travellers can be held in custody within airport facilities while they seek legal recourse to enter the country and apply for asylum, this lack of adequate humane conditions disproportionately affects vulnerable groups, particularly children, women, and people with chronic illnesses or disabilities.⁸⁷

10. Reach: There is no specific public data to determine how many people have been detained in the restricted area of Guarulhos airport since 2010. According to available information, 358 people were detained in the restricted zone in December 2023, waiting to “return to their place of origin, go to a third country that will accept them, or enter the country (Brazil) as asylum seekers”.⁸⁸ Between June and August 2024, more than 400 foreigners remained in the restricted area of the aforementioned airport⁸⁹.

To establish a correlation elucidating the scope of the challenges at Guarulhos Airport, and to quantify the impact of this barrier, data from August 2024 reveals that the airport processed 45,666 transit passengers (Data obtained from OBMigra, *Sistema de Tráfego Internacional (STI)*). During that same month, as reported in news sources, 466 individuals were *de facto* detained within the airport’s restricted area⁹⁰. Consequently, this indicates that approximately 1.02% of transit passengers in August of that year were subject to detention at that airport. Concerning asylum applications, the figures are notably more pronounced. In August 2024, the Guarulhos jurisdiction received 1,763 asylum requests. Therefore, the 466 individuals detained at the airport during that period represent approximately 26.43% of the total asylum applications filed.

pedido de refúgio no Brasil, 12/06/2024, <https://www.mpf.mp.br/sp/sala-de-imprensa/noticias-sp/mpf-busca-solucoes-para-liberacao-de-quase-400-imigrantes-retidos-no-aeroporto-de-guarulhos-sp>

⁸⁵ Brito R. and Boadle A. Asian migrants trapped for weeks in Brazilian airport limbo, 24/08/2024, <https://www.reuters.com/world/asian-migrants-trapped-weeks-brazilian-airport-limbo-2024-08-23/>

⁸⁶ Federal Prosecutor’s Office for Citizen’s Rights, 2024, Recomendação PGR-00417236/2024, cit., p. 24.

⁸⁷ See Parliament, *Comissão Mista Permanente para Migrações Internacionais e Refugiados – CMMIR, Relatório de 2024*, p. 14.

⁸⁸ Agência Brasil, *Vietnamitas lotam área restrita de aeroporto com pedidos de refúgio. Ministério da Justiça diz que acompanha aumento do fluxo de pessoas no Aeroporto Internacional de São Paulo, em Guarulhos*, 13/12/2023, <https://www.brasil247.com/mundo/vietnamitas-lotam-area-restrita-de-aeroporto-com-pedidos-de-refugio>

⁸⁹ Lin N., *Cerca de 400 estrangeiros estão retidos no Aeroporto de Guarulhos*, Agência Brasil, 13/06/2024, <https://agenciabrasil.abc.com.br/radioagencia-nacional/geral/audio/2024-06/cerca-de-400-estrangeiros-estao-retidos-no-aeroporto-de-guarulhos>; Molina T., “Nova crise humanitária”: 400 imigrantes esperam refúgio em aeroporto, in *Metropoles*, 12/06/2024, <https://www.metropoles.com/sao-paulo/nova-crise-humanitaria-400-imigrantes-esperam-refugio-em-aeroporto>; Sales B., *Retido em área restrita, imigrante morre após passar mal em Aeroporto*, in *Metropoles*, 20/08/2024, <https://www.metropoles.com/sao-paulo/retido-em-area-restrita-imigrante-morre-apos-passar-mal-em-aeroporto>

⁹⁰ Cruz F. et al., *TV Globo & g1, Defensoria Pública da União alerta órgãos sobre violação de direitos humanos de imigrantes retidos no Aeroporto Internacional de SP*, 20/08/2024, <https://g1.globo.com/sp/sao-paulo/noticia/2024/08/20/defensoria-publica-da-uniao-alerta-orgaos-sobre-violacao-de-direitos-humanos-de-imigrantes-retidos-no-aeroporto-internacional-de-sp.ghtml>

11. Source: The *de facto* detention of migrants within the restricted area of the airport lacks a legal basis. The [Migration Law](#) (Law No. 13.445, enacted on 24 March 2017) explicitly provides that “no person shall be deprived of their liberty for migratory reasons, save in the instances expressly stipulated within this Law.” Notwithstanding the absence of explicit legal authorization for the detention of individuals within airport restricted zones, Brazilian authorities seek to justify this practice by reference to Article 45, VII, of the aforementioned Law, which provides: “The following persons may be prevented from entering the country, subsequent to an individual interview and by means of a duly reasoned act: (...) VII - whose stated reason for travel is inconsistent with the visa held or the reason provided for visa exemption;” (...). Immigration authorities interpret this provision as the power to deny entry to those who do not meet the established entry requirements, requiring them to immediately leave the country. In this sense, prolonged stays in the airport’s restricted area are presented as a direct consequence of a person’s refusal to comply with instructions regarding embarking on a subsequent trip outside Brazilian territory.

12. Justification: Using the same reasons as for pushbacks at the airport, Brazilian authorities justify the *de facto* detention of individuals in the restricted area of Guarulhos airport by claiming the prevention of fraudulent asylum applications that are used to circumvent normal immigration procedures. They claim that many people take advantage of the asylum system to enter irregularly, often by purchasing tickets to South American countries without visas and then leaving their intended destinations during stopovers in Brazil and then applying for asylum.⁹¹ Brazilian authorities interpret the relevant rules as requiring that persons denied entry leave immediately for their country of origin or a third country, rather than remaining at the airport. The authorities do not consider this practice to be arbitrary detention, as people retain the option of leaving the airport by air.

13. Domestic and International Reactions: No international reactions had been identified until December 2025. Domestically, 61 civil society organizations and migrant groups issued a public statement against the measure restricting asylum applications at the airport. These organizations believe it is unacceptable that passengers in transit are declared inadmissible and detained for long periods, even weeks, at Guarulhos International Airport, violating their human rights, national laws, and international commitments.⁹² As mentioned before, the DPU filed a writ of habeas corpus requesting the free movement of the individuals *de facto* detained at the airport so they could submit their asylum applications, await a decision on their asylum applications, and prevent the repatriation process. Although the Court of First Instance recognized that the individuals were at the airport after being denied entry and could not apply for asylum, it dismissed the application. The judge considered there was a risk of abuse of the refugee system.⁹³ The decision was later reaffirmed by the STJ.

14. Other: It is important to note that, prior to the enactment of the 2017 [Migration Law](#), the former [Law No. 6.815](#), dated 19/08/1980, exceptionally permitted administrative detention for deportation purposes. Article 69 of the previous law authorized Brazilian authorities to detain a foreigner for 90 days, to conclude or inquire or ensure the execution of the deportation measure or extend it for the same period. However, this measure required a court order and was only applicable if the foreigner had not voluntarily left the country after the departure notification, or if he or she had engaged in criminal conduct or lacked residency or means of subsistence in Brazil. Detained individuals were held with other individuals in pretrial detention, as Brazil lacks specialized immigration detention centres.⁹⁴ Moreover, in the event that a foreign national under detention for immigration infractions submits an application for refugee status in Brazil, including submission through a duly authorized legal representative, said application shall trigger the

⁹¹ Ministry of Justice and Public Security, Technical Note N° 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ, 2024

⁹² *Nota de repúdio sobre as medidas de restrição de entrada de migrantes no Brasil*, 26/08/2024, <https://migramundo.com/nota-de-repudio-sobre-as-medidas-de-restricao-de-entrada-de-migrantes-no-brasil/>

⁹³ 4th Federal District of Guarulhos (4ª Vara Federal de Guarulhos), *Habeas Corpus (1269) No. 5006818-91.2024.4.03.6119*, adjudicated on 14 October 2024.

⁹⁴ Agência Senado, *Nova lei regula situação de estrangeiros no país*, 28/11/2017, <https://www12.senado.leg.br/noticias/especiais/especial-cidadania/nova-lei-regula-situacao-de-estrangeiros-no-pais>; Gomes Bezerra C. (2010). *A criminalização da imigração*, cit., pp. 107-108.

immediate release of the applicant, contingent upon the resolution of the application.⁹⁵ Currently, in Article 3, Section III of [Migration Law](#) the “non-criminalization of migration” is unequivocally embraced as a guiding principle within Brazilian immigration policy,⁹⁶ and therefore immigration detention is not permitted. Moreover, in 2018, the STJ affirmed the illegality of administrative detention of foreigners for deportation purposes, citing the “lack of legal basis” for such a measure within the existing Brazilian legal framework.⁹⁷ This ruling underscored the absence of explicit authorization for this practice under current law and has been reiterated in successive judicial decisions.⁹⁸

Furthermore, only one case of *de facto* detention in private infrastructures has been identified, involving an individual who hid on a merchant ship.⁹⁹ The individual, coming from Africa, allegedly sailed as a stowaway until reaching Rio de Janeiro, where he was discovered and confined to a hotel for months. The individual argued that the restriction on his freedom of movement prevented him from applying for asylum. Civil society organizations and the DPU intervened to ensure that the individual could submit his asylum application and not be deported while the case was being processed. This case will be analysed in Part II of this National Report.

Procedural barriers: Obstacles to presenting the asylum application

Summary: Brazil employs bureaucratic requirements, enforced nationwide by the Federal Police and the Ministry of Justice and Public Security, that prevent individuals from submitting or formalizing asylum applications without a valid identity document and their personal appearance. These requirements, based on a misinterpretation of the CONARE resolutions and the Refugee Law, are justified as necessary for applicant identification and the collection of biometric data. This barrier leads to the rejection of applications submitted by persons without valid identification or through legal representatives, which may result in expulsion due to irregular immigration status and prevent access to legal remedies. While the implementation date and the specific impact on vulnerable groups or the overall scope are unknown, this policy compels individuals to regularize their status or leave the country.

1. Functioning: The established barrier operates to preclude individuals from submitting or formalizing applications for international protection absent compliance with specific bureaucratic prerequisites mandated by Brazilian authorities. Notably, two primary requirements have been identified: the submission of a valid identification document and the applicant’s personal appearance to initiate the asylum process. Consequently, individuals lacking valid identification, such as a passport, have been prevented from lodging their applications, as have those attempting to submit applications through a third-party representative. This latter case is crucial for those deprived of liberty who rely on their legal representatives to request international protection.
2. Time: The precise date of the barrier’s implementation has not been ascertained.
3. Place: The identified bureaucratic impediments are uniformly applied nationwide, without exception.
4. Actors: The key institutional actors implementing the barriers are the Federal Police and the Ministry of Justice and Public Security. There are no relevant actors from other jurisdictions or international actors.
5. Interaction: Impediments to presenting and formalizing asylum applications within Brazilian territory primarily interact with pushback practices. A lack of valid travel documentation significantly contributes to summary expulsions by establishing an irregular immigration status, thus rendering individuals liable for removal. Similarly, the rejection of applications submitted by legal representatives constitutes a barrier

⁹⁵ Human Rights Council, 2014, *Report of the Working*, cit., § 52; Cortinovis R. & Rorro L. (2021). Country Note BRAZIL International protection issues and recommendations from international and regional human rights mechanisms and bodies, ASILE, p. 7.

⁹⁶ Rathod J. (2018). Criminalization and the Politics of Migration in Brazil, *Ohio State Journal of Criminal Law*, Vol. 16, p. 149.

⁹⁷ Supreme Court of Justice, *Habeas Corpus No. 91785/SP (2017/0295310-0)*, adjudicated on 16 August 2018.

⁹⁸ 17th Federal Civil Court of São Paulo, *Public Civil Action (65) No. 5006898-83.2022.4.03.6100*, adjudicated on 29 April 2022.

⁹⁹ Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, *Procedure No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 04 October 2022.

that, coupled with summary expulsions, obstructs an individual's access to legal remedies to remain within the country.

6. Development: The evolution of bureaucratic procedures regarding the rejection of asylum applications lacking valid identification and the applicant's personal appearance for initiation remains undetermined.

7. Rationale: The rationale underpinning the bureaucratic requirements of valid travel documents and the applicant's personal appearance for initiating asylum proceedings was articulated as necessary for applicant identification and biometric data collection.

8. Legal Status: People who are prevented from accessing asylum by this barrier are not protected in Brazilian territory and must regularize their immigration status or voluntarily leave the country.

9. Specific Impact: No specific impact of the barrier on vulnerable groups, including children, women, LGBTQ+ individuals, or persons with disabilities has been identified.

10. Reach: There is no specific public data to determine how many people have been affected by this barrier since 2010.

11. Source: The submission of a valid identification document is based on the interpretation of [CONARE Regulatory Resolution No. 18, 30/04/2014](#), governing asylum application procedures (Modified by Regulatory Resolution No. 23, dated 30/09/2016, and Regulatory Resolution No. 28, dated 20/12/2018). Article 2 of the resolution indicates that "Once the Refugee Application Form has been duly completed and the biometric data, or its equivalent, has been collected, the Federal Police Unit will immediately issue the Refugee Protocol (...)". However, the aforementioned resolution does not refer to the need to present a valid identity document to process the refugee application and only requires that the identity of the person applying for international protection be verified.

Furthermore, the personal appearance of the applicant and, therefore, the exclusion from submitting asylum applications through legal representatives is based on an erroneous interpretation of [Law No. 9.474/1997](#), dated 22/07/1997, which implements the 1951 Refugee Convention. Article 17 of that law stipulates that "The foreigner must appear before the competent authority and express their desire to request recognition of refugee status". This interpretation is ostensibly reinforced by [CONARE Regulatory Resolution No. 18, 30/04/2014](#), governing asylum application procedures (Modified by Regulatory Resolution No. 23, 30/09/2016, and Regulatory Resolution No. 28, 20/12/2018). Article 2 of that resolution states, "Once the Refugee Application Form has been duly completed and the biometric data, or its equivalent, has been collected, the Federal Police Unit will immediately issue the Refugee Protocol (...)". The Brazilian authorities, relying on this legislation, assert that the applicant's personal appearance is required for biometric data collection. However, this interpretation appears to conflict with Article 1 of the same Resolution No. 18/2014, which provides that "The foreigner who is in the national territory and who wishes to request asylum from the Brazilian Government must go, personally or through a legal representative, to any unit of the Federal Police, where they will receive and/or deliver the request for asylum (...)". This apparent contradiction creates ambiguity regarding the admissibility of representation in asylum applications.

12. Justification: Brazilian authorities justify the need for a valid identification document to submit an asylum application, stating that it is essential for the Federal Police to process the claim of a foreign national and for public officials to establish the identity of an immigrant intending to reside within the country.¹⁰⁰ Regarding the personal appearance of the applicant, Brazilian authorities mandate in-person appearances to ensure the secure and definitive identification of applicants. This process allows the Federal Police to conduct direct, visual verification, which is essential for maintaining the integrity of official records.¹⁰¹

¹⁰⁰ See dissenting vote in Regional Federal Court of the 3rd Region, Chamber 4, *Civil Appeal (198) No. 5031553-56.2021.4.03.6100*, adjudicated on 11 July 2022

¹⁰¹ See Federal Regional Court of the 3rd Region, 4th Class, *No. 0000194-86.2015.4.03.6100/SP*, adjudicated on 17 August 2016.

13. Domestic and International Reactions: Brazilian judges have ruled in favour of applicants for international protection who cannot appear in person, particularly those who are deprived of liberty, noting that what is at issue is not the applicant's refugee status, but rather the right to make a refugee claim.¹⁰² In this regard, individuals may use a third party to submit the application, provided that there is a power of attorney or document proving legal representation.

Procedural barriers: Disqualification for irregular entry during the COVID-19 pandemic

Summary: Between March 2020 and September 2022, Brazil implemented a policy, especially in border regions, that summarily disqualified asylum seekers who entered the country irregularly during COVID-19 pandemic health restrictions. This policy, enacted through numerous Ministerial Ordinances (*Portarias*) based on a law allowing pandemic-related entry/exit restrictions, automatically excluded these individuals from asylum processing, subjecting them to fines and immediate deportation, regardless of the impossibility of legal entry due to border closures. The stated rationale was to prevent COVID-19 spread, aligning with public health recommendations and national security policies during emergencies. While the exact number of affected individuals is unknown, domestic civil society organizations and the DPU strongly criticized these ordinances as discriminatory, violating national and international refugee law.

1. Functioning: The implemented barrier served to summarily disqualify asylum seekers from access to international protection, based solely on their irregular entry into Brazilian territory during the health restrictions related to the COVID-19 pandemic. Those who expressed their desire for refugee status recognition to the Brazilian authorities, after having entered the country illegally during these measures—an unavoidable circumstance due to border closures—were automatically excluded from processing their applications due to their irregular entry. The Brazilian authorities refused to process these applications or rejected them, leaving individuals with unauthorized immigration status subject to sanctions, including fines and immediate deportation, for violating the imposed restrictions.

2. Time: The disqualification for irregular entry during the COVID-19 pandemic is the only bureaucratic hurdle with a defined timeframe, from March 2020 to September 2022.

3. Place: The barrier was uniformly applied nationwide, especially in the border regions.

4. Actors: The key institutional actors implementing the barrier are the Federal Police, the Ministry of Justice and Public Security. There are no relevant actors from other jurisdictions or international actors.

5. Interaction: As detailed in the pushback section, the inability to regularize immigration status or seek refuge due to irregular entry during the COVID-19 pandemic, coupled with summary expulsions, creates a situation of irregularity, leading to potential removal from Brazil. This situation compels irregular migrants to maintain a state of “invisibility” due to apprehension regarding deportation and a sense of insecurity arising from the rapidly evolving, contradictory, and complex legal framework during that time.¹⁰³ A single case, *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, provides evidence of an individual's *de facto* detention interacting with the restrictive measures of a Ministerial Ordinance (*Portaria*) during the pandemic. This case, which will be analysed in Part II, involves a person confined to a hotel who was prevented from formalizing their refugee application or regularizing their immigration status because of Ministerial Ordinance (*Portaria*) [No. 655/2021, 23 June 2021](#). This left the individual in a state of indefinite confinement until their eventual removal from the territory.

6. Development: The measures concerning immediate deportation and inadmissibility of asylum applications for irregular entries during pandemic-related restrictions remained unchanged from the initial Ministerial Ordinance (*Portaria*) [No. 120/2020](#), 17 March 2020, to the last ordinance (*Portaria*) [No. 678/22](#), 12 September 2022. During the COVID-19 pandemic, the Brazilian government promulgated more than

¹⁰² Ibid; Federal Regional Court of the 3rd Region, 4th Class, *No. 5025436-54.2018.4.03.6100*, adjudicated on 01 August 2022; Federal Regional Court of the 3rd Region, 4 Class, *No. 5002878-54.2019.4.03.6100*, adjudicated on 20 August 2024.

¹⁰³ Ruseishvili S. and Fernandes C. (2022). Brazilian Migration Regime, cit., p. 103

30 Ministerial Ordinances. Certain Ordinances, specifically those pertaining to border control and entry restrictions, incorporated sanctions of “immediate deportation” and “disqualification of asylum claims” for individuals entering the country irregularly. These provisions were characterized by human rights defenders and judicial bodies as having a clear discriminatory effect on non-Brazilian nationals.¹⁰⁴ Notwithstanding this criticism, the measures were maintained without amendment. This peremptory “disqualification” from accessing international protection can be interpreted as a political exploitation of public health concerns to restrict the mobility of vulnerable social groups.¹⁰⁵

7. Rationale: The obstacle for irregular entry during the COVID-19 pandemic was justified as a measure implemented to mitigate the risks of transmission and spread of the virus. Brazilian authorities stated that it is a principle of the National Policy on Public Security and Social Defence to be efficient in preventing and reducing risks in emergency situations that may affect people’s lives. In this regard, they implemented the recommendation of exceptional and temporary restrictions on entry into the country contained in Technical Note No. 27/2020/SEI/GIMTV/GGPAF/DIRES/ANVISA, 18 March 2020, of the National Health Surveillance Agency – Anvisa. (Preamble of Interministerial Ordinances, which provides exceptional and temporary restrictions on entry into the country).

8. Legal Status: Those who were disqualified from applying for asylum due to irregular entry during the COVID-19 pandemic were treated under the general framework for non-citizens. They did not have regular immigration status in the country and therefore had to leave, either by returning to their country of origin or by moving to a third country.

9. Specific Impact: The barrier, as detailed in the pushbacks section, potentially exerts a greater adverse effect on women, children, and other vulnerable populations, such as indigenous communities, due to the prevention of irregular entry for asylum seekers during pandemic restrictions.

10. Reach: There is no specific public data to determine how many people have been affected by this barrier. However, analysing the impact of COVID-19 restrictions on asylum applications, particularly the immediate deportation measure and disqualification due to irregular entry, reveals distinct trends in historically high-application states. Roraima, a northern border state, experienced a dramatic decline in applications from 68,362 in 2019 to a range of 21,231-25,113 during the restriction years (2020-2022), indicating a significant effect on land border applications. In contrast, São Paulo, home to the country’s main airport (Guarulhos), saw an initial drop from 7,706 applications in 2019 to 3,557 in 2020, but application numbers largely recovered to pre-pandemic levels by 2022 (7,839),¹⁰⁶ possibly because restrictions on air travel were lifted in September 2020, allowing for a return to previous patterns of arrival and asylum seeking at the airport.

11. Source: Regarding the rejection of applications due to irregular entry during the COVID-19 pandemic restrictions, the Brazilian authorities base their reasoning on Ministerial Ordinances that provide for an exceptional and temporary restriction on the entry of foreigners into the country and the prohibition of their immigration regularization, in particular: [No. 120/2020, 17 March 2020](#), for nationals from the Bolivarian Republic of Venezuela (article 6, II, the immediate deportation of the offending agent and the disqualification of the asylum application. An “unprecedented and strange provision in the Brazilian and international legal system related to refuge”;¹⁰⁷ [No. 125/2020, 19 March 2020](#), for nationals from Argentina, Bolivia, Colombia, French Guyana, Guyana, Paraguay, Peru and Suriname (article 6, II, the

¹⁰⁴ Federal Public Defender’s Office (DPU), *1er Informe defensorial*, cit., p. 6; Conectas Direitos Humanos, *Quais obstáculos os refugiados enfrentam para garantir seus direitos*, 18/06/2021, <https://www.conectas.org/noticias/quais-obstaculos-os-refugiados-enfrentam-para-garantir-seus-direitos/>

¹⁰⁵ See Cesar Serra C. et al. (2021). *O novo coronavírus e as migrações no Brasil: a instrumentalização da pandemia para a implementação de uma política discriminatória e utilitarista de controle de fronteiras no país*, TRAVESSIA - Revista do Migrante - Ano XXXIV, N° 91, p. 20; Medina Araújo N. and Ramos Barros B. (2023). *Country Report Brazil*, cit., p. 21.

¹⁰⁶ Analysis carried out based on official data from *Portal de Migração Laboral*, <https://portaldeimigracao.mj.gov.br/pt/base-de-dados>, April 2025.

¹⁰⁷ Cesar Serra C. et al. (2021). *O novo coronavírus e as migrações no Brasil*, cit., p. 19.

immediate deportation of the offending agent and the disqualification of the asylum application); [No. 126/2020, 19 March 2020](#) (article 5, III, disqualification of asylum application); [No. 133/2020, 23 March 2020](#) (article 5, III, disqualification of asylum application); [No. 152/2020, 27 March 2020](#) (article 5, III, disqualification of asylum application); [No. 158/2020, 31 March 2020](#) (which renewed the provisions of Ordinance No. 120/2020); [No. 8/2020, 2 April 2020](#) (which renews the measures Ordinance No. 125/2020); [No. 195/2020, 20 April 2020](#) (which extended Ordinance No. 133/2020); [No. 204/2020, 29 April 2020](#) (article 6, II, the immediate deportation of the offending agent and the disqualification of the asylum application); [No. 255/2020, 22 May 2020](#), article 7, III (disqualification of asylum application); [CC-PR/MJSP/MINFR/MS No. 1/2020, 29 July 2020](#) (article 7, III, disqualification of asylum application); [No. 419/2020, 26 August 2020](#) (article 7, III, disqualification of asylum application); [No. 648/2020, 23 December 2020](#) (article 8, II and III, immediate repatriation or deportation; and/or disqualification of asylum application); [No. 655/2021, 23 June 2021](#), (article 8, III, disqualification of asylum application); [No. 657/2021, 2 October 2021](#) (article 8, II and III, immediate repatriation or deportation; and/or disqualification of asylum application), [No. 658/2021, 05 October 2021](#) (article 8, II and III, immediate repatriation or deportation; and/or disqualification of asylum application); [No. 678/22, 12 September 2022](#), exceptional and temporary measures for entry into the country, under Law No. 13.979 (article 11, II and III, immediate repatriation or deportation; and/or disqualification of asylum application). The aforementioned ordinances were based on [Law No. 13.979, 6 February 2020](#) (Provides for measures to face the public health emergency of international importance resulting from the coronavirus), in which article 3, VI, established the possibility of restricting entry and exit from Brazilian territory during the pandemic. However, the Law does not limit access to the asylum procedure.

12. Justification: Regarding the measures to contain the spread of the coronavirus in the northern region, senators from Roraima suggested closing the state's borders with Venezuela and Guyana. The group was "concerned about the possibility of COVID-19 spreading in the region, which is already overwhelmed by the influx of Venezuelan refugees".¹⁰⁸ Moreover, one Senator highlighted that "the President of the Republic has finally responded to our request to close the border between Roraima and Venezuela in order to contain the spread of the coronavirus in Brazil". And the Minister of Justice and Public Security declared that the government's decision was necessary to prevent the spread of the coronavirus and because the country's public services would not be able to absorb the demand coming from the neighbouring country.¹⁰⁹

The President of the Republic explained that it is not a total closure of the border so as not to harm the economy of states such as Roraima. "It is not a total closure. The flow of goods will continue to occur". As a sanction for non-compliance with the determination, the offender will be held civilly, administratively, and criminally liable and immediately deported, with the disqualification of any asylum application.¹¹⁰

13. Domestic and International Reactions: Internationally, there has been no response. Domestically, in Brazil, eleven civil society organizations publicly expressed concerns regarding Ministerial Ordinances No. 120 and No. 125. Specifically, they criticized Ordinance No. 120 for its discriminatory treatment of Venezuelan nationals, its denial of access to protection mechanisms, and its potential violation of the principle of *non-refoulement*. The organizations asserted that deportation actions must follow established legal administrative procedures, including full due process protections, the right to defence, and the opportunity to challenge the decision. Furthermore, they raised concerns about the practice of summarily

¹⁰⁸ Agência Senado, *Bancada de Roraima pede fechamento de fronteiras com Venezuela e Guiana*, 17/03/2020, <https://www12.senado.leg.br/noticias/materias/2020/03/17/bancada-de-roraima-pede-fechamento-de-fronteiras-com-venezuela-e-guiana>

¹⁰⁹ Agência Senado, *Senadores apoiam fechar fronteira com Venezuela e também com Guiana*, 18/03/2020, <https://www12.senado.leg.br/noticias/materias/2020/03/18/senadores-apoiam-fechar-fronteira-com-venezuela-2014-e-tambem-com-guiana>

¹¹⁰ Presidency of the Republic, *Entrada de estrangeiros vindos da Venezuela está suspensa por 15 dias*, 18/03/2020, <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2020/03/entrada-de-estrangeiros-vindos-da-venezuela-esta-suspensa-por-15-dias>

disqualifying asylum seekers based on irregular entry. They argued that tasking border agents with determining such disqualifications risks severely undermining an individual's right to seek international protection. The organizations emphasized that penalizing irregular entry as a bar to asylum requests contravenes Law No. 9.474/97 and the 1951 Geneva Convention Relating to the Status of Refugees, which stipulate that irregular entry should not preclude individuals from seeking asylum.¹¹¹ In addition, in 2020, the DPU and the Archdiocesan Caritas of São Paulo jointly issued a recommendation urging Brazilian authorities to refrain from rejecting asylum applications predicated upon the applicant's entry into the national territory in contravention of restrictions established by ministerial ordinances, which the issuing entities deemed to be sub-legal and contrary to prevailing national and international refugee law.¹¹² Moreover, the DPU filed a lawsuit against Ordinance No. 255/2020 and requested that the Federal Union refrain from issuing new sublegal normative acts that provide for discriminatory treatment of migrants of any origin or nationality, the criminalization of migrants, immediate deportation, and disqualification for asylum. In particular, the DPU argued that such measures exceed the limits of regulatory power, in addition to violating foundational norms of the Constitution of the Republic, International Refugee Law, International Human Rights Law, the Refugee Statute, and the Migration Law.¹¹³ Furthermore, in August 2020, the DPU, the Federal Public Prosecutor's Office, the Human Rights Network Association (*Conectas Direitos Humanos*) and the Archdiocesan Caritas of São Paulo (CARITAS) filed a Public Civil Action with the aim of requiring the Federal Union, among other things, not to refuse, under any reason, to process requests for asylum or to analyse applications already submitted.¹¹⁴ These actions were completed with two other legal claims filed in other regional courts: Rio Grande do Sul (case No. 5028335-97.2021.4.04.7100), and Roraima (case No. 1001365-82.2021.4.01.4200).¹¹⁵

Procedural barriers: Administrative failures

Summary: In Brazil, administrative barriers impede access to asylum due to problems with the [SISCONARE](#), including glitches, inaccessibility, and its exclusive availability in Portuguese, which hampers the initial submission and independent completion of applications. While the digitalization of SISCONARE aimed to improve efficiency, accessibility issues and language barriers remain a concern. Beyond this, insufficient official information, arbitrariness, xenophobia (particularly affecting Afro-descendant refugees), and potential corruption linked to migrant smuggling further complicate access to asylum.

1. Functioning: Brazil's administrative deficiencies prevent access to asylum through various mechanisms. Failures or inaccessibility of SISCONARE directly prevent the initial submission of asylum applications, requiring repeated attempts or external assistance. The platform's exclusive use of Portuguese creates a linguistic barrier, requiring non-Portuguese speakers to rely on third-party aid to complete the application. While other identified issues, such as processing delays, insufficient official information, and arbitrary and xenophobic conduct, may not entirely block application submission, they significantly obstruct and protract the asylum process, undermining effective access to international protection.

2. Time: There is no specific time for this barrier.

¹¹¹ Technical Note from Civil Society on Ordinances No. 120 and 125 regarding the exceptional and temporary restriction on entry into Brazil of people from bordering countries, except Uruguay, 19/03/2020, <https://raconhecimento.net/product/nota-tecnica-da-sociedade-civil-sobre-portarias-no-120-e-125-referentes-a-restricao-excepcional-e-temporaria-de-entrada-no-brasil-de-pessoas-oriundas-de-paises-fronteiricos-exceto-uruguai/>

¹¹² Public Defender's Office. (2020). *Recomendação No. 3608825*, Legal Assistance Process No. 2020/026-01580, *Pandemia. Coronavírus (Covid-19). Imigrações. Refúgio. Direitos humanos. Princípios da igualdade e da não-discriminação. Princípio da não devolução*, 06 May 2020.

¹¹³ 3rd Federal Court of Porto Alegre, *ACP 5031124-06.2020.4.04.7100*, adjudicated on May 2020

¹¹⁴ 3rd Federal Civil and Criminal Court of SJAC, *Public Civil Action, No. 1004501-35.2020.4.01.3000*, adjudicated on 17 August 2020.

¹¹⁵ Paulo de Campos Dorini J. & Freitas de Castro Chaves P. (2021). *A Defensoria Pública da União e a defesa do instituto do refúgio no Brasil*, in Carvalho Ramos A. (ed.) *70 anos da Convenção relativa ao Estatuto dos Refugiados: (1951-2021) perspectivas de futuro*, p. 186.

3. Place: Nationwide.

4. Actors: The key institutional actor is the National Committee for Refugees (CONARE).

5. Interaction: Administrative deficiencies can result in expulsion. Failure to formalize asylum applications or renew relevant documentation may lead to an irregular immigration status, consequently increasing the risk of expulsion from the national territory.

6. Development: In 2014, a principal impediment observed was the protracted delay in the issuance of the asylum application protocol, a document requisite for the applicant's lawful provisional residency within the national territory pending adjudication of their application. This delay potentially resulted from an arbitrary action by the Federal Police, which imposed a daily quota on the number of individuals permitted to request refugee status.¹¹⁶ More recently, it has been indicated that Venezuelan migration has contributed significantly to Brazil's backlog of 161,000 refugee applications in 2019. Of the 80,057 applications received in 2018, a substantial proportion- three out of four (61,681, or 77%)- originated from Venezuelan citizens.¹¹⁷ The absence of statutory deadlines for the refugee status process contributes to recognition delays. Reports indicate an average decision time of 2.9 years in 2021, increasing to 3.7 years by October 2022.¹¹⁸

To improve the administrative management of asylum applications and reduce waiting times, Brazil introduced SISCONARE in 2019, a nationwide online platform for the submission of asylum applications. Asylum seekers must register by email and complete a pre-registration form. Following online registration, an in-person appointment with the Federal Police is necessary for identity verification and biometric data capture, culminating in the issuance of a Refugee Protocol. The application then proceeds through standard legal assessment stages, including interview, decision, and potential appeal. The digitalization of this preliminary phase has been commended for its efficiency,¹¹⁹ as it streamlines refugee status determination, reduces processing backlog, and improves data efficiency and security. For asylum seekers, it offers a faster and easier way to apply, track their case, and avoid long waits, while also allowing refugees to efficiently manage their information and applications, such as family reunification. However, concerns exist regarding the platform's accessibility for individuals lacking the requisite electronic devices, digital literacy, or internet connectivity, frequently necessitating reliance on third-party support for application completion.¹²⁰ Moreover, despite its intended multilingual accessibility in Portuguese, Spanish, English, and French, the online platform and the mandatory asylum questionnaire are exclusively available in Portuguese.¹²¹ This language limitation prevents non-Portuguese speakers from completing the asylum

¹¹⁶ For example, in São Paulo, during early 2014, the scheduling of the initial appointment for asylum applications experienced delays of up to seven months, resulting in extended periods of undocumented status for asylum seekers. Severo F. (2015) *O procedimento de solicitação*, cit., pp. 39-40. See also Granato Santos R. and Lima de Azevedo N. (2015). *Los obstáculos y desafíos de las solicitudes de refugio en Brasil*. Revista Instituto Interamericano de Derechos Humanos. No. 62, p. 158.

¹¹⁷ See Borges Delfim R. *Brasil tem 161 mil solicitações de refúgio aguardando análise*, 25/07/2019, <https://migramundo.com/brasil-tem-161-mil-solicitações-de-refugio-aguardando-analise/>; Brumat L. and Geddes A. (2023). *Refugee recognition*, cit., p. 487.

¹¹⁸ Medina Araújo N. and Ramos Barros B. (2023). *Country Report Brazil*, cit., p. 11

¹¹⁹ Ministry of Justice and Public Security, *Conare discute políticas brasileiras de refúgio com o alto comissário das Nações Unidas para Refugiados*, 09/12/2024, <https://www.gov.br/mj/pt-br/assuntos/noticias/conare-discute-politicas-brasileiras-de-refugio-com-o-alto-comissario-das-nacoes-unidas-para-refugiados>; UNHCR, *País: Brasil. Buena práctica: SISCONARE*, <https://www.asiloamericas.org/bra-sisconare/>

¹²⁰ Martins Melissa et al. (2020) *Inovação na justiça e inclusão digital: os desafios de implementação da plataforma SISCONARE*, paper presented at ENAJUS 2020 (Encontro de Administração da Justiça); UNHCR, *País: Brasil. Buena práctica, Cit.*; Jubilit L.L. and Agútolí Pereira G. *Mudanças no procedimento de reconhecimento do status de refugiado no Brasil ao longo dos 25 anos da Lei 9.474/97 e seus impactos na proteção das pessoas refugiadas*, REMHU, Rev. Interdiscip. Mobil. Hum., Brasília, Vol. 30, n. 66, 2022, p. 181; Missão Paz (2023). "I waited for seven years": jumping visa hurdles in Brazil, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/migrant-lives-in-brazil-3/>; Lima de Oliveira A. (2023). *As Barreiras da Inclusão Digital no Contexto de Migração e Refúgio*, Refúgio, Migrações e Cidadania, Caderno de Debates 18, p. 53; Parliament, CMMIR, *Relatório de 2024*, cit.

¹²¹ Parliament, CMMIR, *Relatório de 2024*, cit.; Missão Paz et al., *Refúgio no Brasil*, cit.; Jubilit L.L. and Agútolí Pereira G. *Mudanças no procedimento*, cit., p. 181

process quickly and independently, an issue that should have been overcome, as the language barrier in the Brazilian asylum system has been a recurring problem that has been reported since at least 2014.¹²²

In 2022, the Federal Public Ministry (MPF) sued the Federal Union, alleging unreasonable delays by CONARE in processing refugee claims and the imposition of an unlawful annual renewal requirement for application protocols. The MPF argued these delays, exceeding three years, and bureaucratic hurdles, created by CONARE's analysis system, impede access to refugee status. They sought judicial intervention to compel the CONARE to expedite processing and eliminate the renewal requirement, citing a migrant complaint and an unheeded recommendation. The presiding judge dismissed the action, arguing that the processes cannot be prolonged indefinitely in time, but given the elements involved and the large number of foreigners seeking refuge in the country, they cannot be considered excessive or violating guarantees and rights of the periods currently practiced.¹²³

7. Rationale: Brazilian authorities attribute the backlog in asylum claim processing to the increasing number of applications. However, the authorities have not offered justification for the criticism directed at the online platform, insufficient official information, or misconduct by the authorities.

8. Legal Status: Individuals with formalized asylum applications awaiting official decisions are afforded protection through the renewal of their residence permits. Conversely, those who have not yet formalized their applications do not benefit from protection under Brazilian law.

9. Specific Impact: The barrier does not have a disproportionate impact on specific groups, including children, women, LGBTQ+ individuals, or persons with disabilities.

10. Reach: There is no specific public data to determine how many people have been affected by this barrier since 2010.

11. Source: There is no legal basis for administrative failures.

12. Justification: Brazilian authorities attribute processing delays and backlogs to the increased volume of asylum applications. However, no justification has been provided by Brazilian authorities for other identified administrative deficiencies that obstruct access to the asylum process, including platform failures and language barriers.

13. Domestic and International Reactions: In 2020, the National Council for Human Rights drew the attention of the Ministry of Justice and Public Security to the linguistic limitations inherent in the SISCONARE system and the imperative of conducting in-person interviews to duly assess the individual circumstances of each applicant for international protection. The Council posited that the exclusive availability of the platform questionnaire in Portuguese rendered it difficult, if not infeasible, for applicants to comprehend the inquiries posed therein. Consequently, compliance with the prevailing legal framework necessitated the undertaking of individual interviews with the provision of interpreter assistance. The Council noted with concern that in November 2020, seventeen asylum applications were rejected, absent any interview with the applicant, as CONARE deemed these applications “manifestly unfounded” based solely upon the applicant-completed questionnaire.¹²⁴

¹²² See for example R. Borges (2014). *Pedidos de refúgio crescem no Brasil, que ainda peca em estrutura e burocracia*, <https://migramundo.com/pedidos-de-refugio-crescem-no-brasil-que-ainda-peca-em-estrutura-e-burocracia/>; UNHCR, 2018, Information Needs Assessment, Venezuelan Migration in Northern Brazil, pp. 2, 16; National Council for Human Rights. (2020). *Recomendação nº 17*, 09 December 2020, https://www.gov.br/mdh/pt-br/acao-a-informacao/participacao-social/conselho-nacional-de-direitos-humanos-cndh/Recomendacao17_2020.pdf

¹²³ Judiciary Department of Rio Grande do Sul, 3rd Federal Branch of Caxias do Sul, *Public Civil Action No. 5012300-75.2020.4.04.7107*, adjudicated on 17 December 2021.

¹²⁴ National Council for Human Rights. (2020) *Recomendação nº 17*, cit.

14. Technology: Brazilian authorities have indicated that by October 2024, CONARE had recognized 13,409 asylum applications. Thanks to artificial intelligence, CONARE analysed almost 100% of pending cases, streamlining bureaucratic procedures.¹²⁵

15. Other: In addition to the bureaucratic barriers mentioned above, refugees in Brazil face xenophobia, aporophobia, and prejudices,¹²⁶ as well as the arbitrariness of Brazilian authorities when processing asylum applications.¹²⁷ In particular, the prevalence of stereotypes and xenophobia within certain sectors of Brazilian society has been recognized as a widespread challenge for refugees in Brazil. This discrimination is compounded for African refugees, who experience an even greater intensity of bias due to the structural racism prevalent in Brazilian society.¹²⁸ Illustrative of this situation are statements asserting that “African refugees tend to suffer more”,¹²⁹ “Brazil carries deep scars of racism, which is mixed with xenophobic feelings, particularly against black migrants and refugees”,¹³⁰ and xenophobic and racist attitudes “have forced Haitians to leave Brazil.” Moreover, violence, especially targeting women of African descent, has been underscored as a critical issue.¹³¹ In order to address criticism regarding xenophobia and the arbitrary actions of the authorities, in 2023, a proposal was advanced for the establishment of a specialized working group to address refugee status applications submitted by individuals of Afro-descendant heritage.¹³²

The lack of accessible and reliable official information on asylum procedures was another obstacle for those seeking protection in Brazil. A 2018 study showed that approximately 75% of migrants and asylum seekers relied on informal information networks, such as word of mouth and unofficial social media. This dependence exposes them to misunderstandings, incomplete information, and inaccuracies. Furthermore, only a small proportion, around 20%, reported accessing reliable information from formal sources such as religious institutions, NGOs, UN agencies, and the Brazilian Federal Police, indicating the limited reach of official communication channels.¹³³

Finally, corruption may be noted as a potential element within the challenges related to administrative failures. Although no specific reports directly concerning corruption within the Brazilian asylum system have been identified, indications suggest a possible nexus between migrant smuggling and the fraudulent processing of asylum applications.¹³⁴

¹²⁵ Agenciagov, *Política brasileira para migrantes, refugiados e apátridas avançou em 2024*. 30/12/2024, <https://agenciagov.etc.com.br/noticias/202412/politica-brasileira-para-migrantes-refugiados-e-apatridas-avancou-em-2024>

¹²⁶ See UNCHR, 2020, *Voices das pessoas refugiadas no Brasil*, pp. 14, 17; Mariana Corrêa (2022), *O caso Moïse: Brasil, um país acolhedor?*, <https://migramundo.com/o-caso-moise-brasil-um-pais-acolhedor/>;

¹²⁷ Severo F. (2015). *O procedimento de solicitação*, Op. Cit., p. 41; Silva P. et al. (2022) *Relación entre la policía federal y las mujeres migrantes atendidas*. Proyecto Mujeres Migrantes. Instituto Terra, Trabalho e Cidadania. <https://ittc.org.br/relacao-entre-policia-federal-e-as-mulheres-migrantes-egressas-atendidas/>; Missão Paz (2022) “It’s become normal”: migrants tell of racism in Brazil, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/migrant-lives-in-brazil-8/>

¹²⁸ See de Oliveira M. (2020). *Sírios e congoleses homens e mulheres refugiados no Brasil: perfil socioeconômico, integração e perspectivas futuras*, PLURAL, Revista do Programa de Pós -Graduação em Sociologia da USP, São Paulo, Vol. 27/1, p. 81; IMO, *Migraciones Sur-Norte desde Sudamérica. Rutas, vulnerabilidades y contextos del tránsito de migrantes extrarregionales. Informes estratégicos de coyuntura #1*, 2022, p. 27; and Jensen K. (2023). *The Color of Asylum. The Racial Politics of Safe Haven in Brazil*, p. 16.

¹²⁹ Conectas, Interview: the connection between xenophobia and racism and the death of Moïse Kabagambe, 24/02/2022, <https://www.conectas.org/en/noticias/interview-the-connection-between-xenophobia-and-racism-and-the-death-of-moise-kabagambe/>

¹³⁰ Conectas, Reception of migrants in Brazil depends on race and skin color, says Datafolha, 07/06/2023, <https://www.conectas.org/en/noticias/reception-of-migrants-in-brazil-depends-on-race-and-skin-color-says-datafolha/>

¹³¹ S. Priya Morley et al. 2021, *A Journey of Hope*, cit., p. 45.

¹³² Lima K. and Vieira L. *Ministério da Justiça anuncia força-tarefa para agilizar análise de pedidos de refúgio de afrodescendentes*, 23/01/2023, <https://g1.globo.com/politica/noticia/2023/01/23/ministerio-da-justica-anuncia-forca-tarefa-para-agilizar-analise-de-pedidos-de-refugio-de-afrodescendentes.ghtml>

¹³³ UNHCR (2018). *Information Needs Assessment*, cit., p. 1.

¹³⁴ Rojas R. (2020). *Latin America’s Lucrative*, cit.

III. SELECTING BARRIERS

The second part of this National Report focuses primarily on pushbacks, collective expulsions, and the denial of the right to seek asylum at the airport for travellers in transit. While the latter is currently implemented as a regional policy at Guarulhos International Airport, its potential extension to other airports requires thorough analysis. Furthermore, it is deemed appropriate to dedicate significant attention to certain administrative barriers, given their broad applicability and multifaceted implementation. Although these obstacles may be less conspicuous than other impediments, their pervasive nature renders them a substantial factor in limiting access to asylum procedures. Similarly, while the summary deportation measures and the immediate disqualification of asylum applications on grounds of irregular entry during the pandemic constituted temporary provisions, their stringent enforcement over an approximate two-year period effectively foreclosed the possibility of international protection for individuals who breached entry restrictions. This unique scenario, unparalleled in South America, warrants a deeper analysis.

PART 2: CASE LAW ANALYSIS

I. IDENTIFICATION OF BARRIERS IN THE CASE LAW

A. Description of the barriers in the case law

Pushbacks at land: The primary objective of this barrier is the denial of entry into Brazilian territory, or the summary expulsion of individuals present at the border without lawful immigration status. During the period under study, instances have been identified wherein Brazilian authorities have refused entry without conducting individualized assessments, thereby precluding access to asylum, as the application process necessitates submission within Brazilian territory. Similarly, cases have been documented involving the summary expulsion of groups of foreign nationals without due consideration of their potential protection needs.

Type of body: Judicial (First instance, Federal Regional Court, and National High Court)

Pushbacks at the Airport: The purpose of this barrier is to prevent transit passengers at Brazilian airports, in particular the International Airport of Guarulhos, from lodging asylum claims during their layover. Individuals expressing a desire for refugee status are at risk of having their request unprocessed by immigration authorities, who may instruct them to continue their journey to their ticketed final destination. Brazilian authorities assert that possession of an onward ticket indicates a lack of intent to remain in Brazil or seek international protection therein. However, as nationals requiring entry visas cannot board flights to Brazil without one, this effectively precludes visa-less individuals from seeking airport-based asylum. Furthermore, their location within the airport's restricted zone limits immediate access to legal aid, increasing the risk of immediate removal from the country.

Type of body: Judicial (First instance, Federal Regional Court, and National High Court)

De facto detention at the airport: The stated objective of the implemented barrier is to curtail the freedom of movement of individuals deemed inadmissible upon arrival at the international airport. This restriction serves to incentivize the continuation of their onward travel, thereby precluding the opportunity to lodge an application for international protection within Brazilian territory. Consequently, access to the asylum procedure at the airport, after immigration control, is limited to individuals possessing valid entry visas. Those lacking the requisite visas for admission are required to proceed with their journey, and refusal to embark on the designated onward flight results in their *de facto* detention within the airport's restricted zones.

Type of body: Judicial (First instance, Federal Regional Court, and National High Court)

De facto detention in private infrastructures: The objective of the barrier is to restrict the individual's freedom of movement to facilitate their removal from the territory. In the identified case, the detention took place in a hotel, restricting the individual's freedom of movement for months.

Type of body: Judicial (First instance, Federal Regional Court)

Procedural barriers- Obstacles to presenting the asylum application: The established barrier operates to preclude individuals from submitting or formalizing applications for international protection absent compliance with specific bureaucratic prerequisites mandated by Brazilian authorities. Notably, the submission of a valid identification document to initiate the asylum process. Consequently, individuals lacking valid identification, such as a passport, have been prevented from lodging their applications.

Type of body: Judicial (First instance and Federal Regional Court)

Procedural barriers- Disqualification for irregular entry during the COVID-19 pandemic: The implemented barrier served to summarily disqualify asylum seekers from access to international protection, based solely on their irregular entry into Brazilian territory during the health restrictions related to the

COVID-19 pandemic. Those who expressed their desire for refugee status recognition to the Brazilian authorities, after having entered the country illegally during these measures -an unavoidable circumstance due to border closures- were automatically excluded from processing their applications due to their irregular entry. The Brazilian authorities refused to process these applications or rejected them, leaving individuals with unauthorized immigration status subject to sanctions, including fines and immediate deportation, for violating the imposed restrictions.

Type of body: Judicial (First instance and Federal Regional Court).

Procedural barriers- Refugee claim processing through a legal representative: The established barrier operates to preclude individuals from submitting or formalizing applications without the applicant's personal appearance to initiate the asylum process. Consequently, individuals attempting to submit applications through a third-party representative have been prevented from lodging their applications. This latter case is crucial for those deprived of liberty who rely on their legal representatives to request international protection.

Type of body: Judicial (First instance and Federal Regional Court).

Procedural barriers- Administrative failures: Administrative deficiencies in Brazil impede access to asylum through several mechanisms. Failures or inaccessibility of the online application in the SISCONARE directly prevent the initial submission of asylum requests, necessitating repeated attempts or external assistance. The platform's exclusive use of Portuguese creates a linguistic barrier, requiring non-Portuguese speakers to rely on third-party aid to complete the application. While other identified issues, such as processing delays, insufficient official information, and arbitrary and xenophobic conduct, may not entirely block application submission, they significantly obstruct and protract the asylum process, undermining effective access to international protection.

No cases related to one or more selected barriers

Brazilian jurisprudence currently lacks rulings that directly confront the specific administrative failures herein identified. This absence of judicial engagement concerning administrative failures in asylum applications may be attributed to the proactive role of the DPU and civil society organizations dedicated to refugee assistance. Their interventions appear to effectively pre-empt such obstacles, language barrier in particular, at the initial filing stage, facilitating the successful submission of asylum claims. Consequently, the extant body of case law primarily addresses instances of undue delay in the refugee status determination process, as exemplified by the *Public Civil Action No. 5012300-75.2020.4.04.7107* adjudicated by the 3rd Federal Court of Caxias do Sul of the Judiciary Department of Rio Grande do Sul on 17 December 2021. In this Public Civil Action, the Federal Public Prosecutor's Office challenged the administrative procedures of CONARE, citing unreasonable delays in the analysis of refugee applications and the obligatory renewal of the refugee protocol. The MPF argued that the significant backlog of pending applications, which could take up to three years to process, placed an undue burden on asylum seekers. The court, however, rejected these claims, emphasizing the complex nature of refugee status determination, the absence of a statutory deadline for processing applications, and the need to consider the practical consequences of imposing strict timelines.

B. Institutional settings

General note on the structure of the Brazilian Judiciary: The Brazilian Judicial Branch is fundamentally organized into two main categories based on its jurisdiction: Common Justice and Specialized Justice. Common Justice handles all legal disputes that do not fall under the specific purview of Specialized Justice (Electoral, Military, and Labour matters). Within Common Justice, there are two jurisdictional levels based on the governing entity: Federal Justice, which operates at the national level (the Federal Union), and state Justice, which functions within the individual Brazilian states and the Federal District. The Brazilian judiciary also operates through a hierarchical system of jurisdiction. Cases typically begin in the first instance (*Vara Federal*), with the possibility of appealing to the second instance (Regional Federal Courts-

TRF).¹³⁵ Decisions at the second instance can then be reviewed by higher courts, known as superior courts. The primary function of these superior courts is to ensure uniformity in legal interpretation (standardized jurisprudence) and to resolve conflicts arising between lower courts. In the sphere of Common Justice, the [National High Court of Brazil](#) (*Superior Tribunal de Justiça* - STJ) stands as the highest court and is responsible for the final adjudication of civil and criminal cases that do not involve constitutional matters. The [Supreme Federal Court](#) (*Supremo Tribunal Federal* - STF) is the apex of the entire Brazilian Judiciary, responsible for ensuring the Constitution's compliance. This aspect will be discussed in Part III.

Pushbacks at land:

- **First instance judicial:** *Vara Federal* (Federal Court). Civil courts are responsible for assessing pushback violations, such:
 - *Seção Judiciária de Roraima, 2ª Vara Federal Cível da SJRR* (Judicial Section of Roraima, 2nd Federal Civil Court of SJRR)
 - *4ª Vara Federal de Guarulhos* (4th Federal Court of Guarulhos)
- **Second instance judicial:** *Tribunal Regional Federal* - TRF (Regional Federal Court). The decisions at first instance can be challenged in front of the higher court in each region (TRF-1, TRF-2, TRF-3, TRF-4, TRF-5).

Pushbacks at the Airport:

- **First instance judicial:** *Vara Federal de Guarulhos* (Federal Court of Guarulhos).
- **Second instance judicial:** *Tribunal Regional Federal da 3ª Região* (Regional Federal Court of the 3rd Region).
- **Third instance judicial:** *Superior Tribunal de Justiça* (STJ) (National High Court)

Detention: (*de facto* detention at the airport and in private infrastructures)

- **First instance judicial:** *Vara Federal* (Federal Court)
 - *5ª Vara Federal de Guarulhos* (5th Federal Court of Guarulhos)
 - *Seção Judiciária do Rio de Janeiro* (Judicial Section of Rio de Janeiro)
- **Second instance judicial:** *Tribunal Regional Federal* (Regional Federal Court)

Procedural barriers- Obstacles to presenting the asylum application

- **First instance judicial:** *Vara Federal* (Federal Court), such:
 - *22ª Vara Federal de São Paulo* (22nd Federal Court of São Paulo)
 - *26ª Vara Cível Federal de São Paulo* (26th Federal Civil Court of São Paulo)
- **Second instance judicial:** *Tribunal Regional Federal* (Regional Federal Court)

Procedural barriers- Disqualification for irregular entry during the COVID-19 pandemic:

- **First instance judicial:** *Vara Federal* (Federal Court)

¹³⁵ The Federal Justice is organized into five Federal Judicial Regions, each with a Regional Federal Court (TRF) as its court of appeal: TRF da 1ª Região (First Region): Headquartered in Brasília, covering the Federal District and the states of Acre, Amapá, Amazonas, Bahia, Goiás, Maranhão, Mato Grosso, Minas Gerais, Pará, Piauí, Rondônia, Roraima, and Tocantins. TRF da 2ª Região (Second Region): Headquartered in Rio de Janeiro, covering the states of Rio de Janeiro and Espírito Santo. TRF da 3ª Região (Third Region): Headquartered in São Paulo, covering the states of São Paulo and Mato Grosso do Sul. TRF da 4ª Região (Fourth Region): Headquartered in Porto Alegre, covering the states of Rio Grande do Sul, Santa Catarina, and Paraná. TRF da 5ª Região (Fifth Region): Headquartered in Recife, covering the states of Alagoas, Ceará, Paraíba, Pernambuco, Rio Grande do Norte, and Sergipe.

- **Second instance judicial:** *Tribunal Regional Federal* (Regional Federal Court)

Procedural barriers- Refugee claim processing through a legal representative:

- **First instance judicial:** *Vara Federal* (Federal Court)
- **Second instance judicial:** *Tribunal Regional Federal* (Regional Federal Court)

Executive bodies involved in asylum access adjudication

In Brazil, the adjudication of asylum claims is primarily the responsibility of CONARE, created in 1998. This Committee, a collegiate deliberative body situated within the Ministry of Justice and Public Security, is tasked with the analysis and determination of asylum applications and possesses a tripartite structure (government, civil society, and UNHCR).¹³⁶ This pluralistic structure seeks to guarantee more comprehensive protection,¹³⁷ in line with a more human rights-oriented approach.¹³⁸ Its internal composition includes representatives from the Ministry of Justice and Public Security (which presides over the Committee, pursuant to Article 14, I), the Ministry of Foreign Affairs (serving as vice-president), and a representative of the Ministry of Labour and Social Security, the Ministry of Health, and the Ministry of Education and Sports. Additionally, CONARE includes delegates from a civil society organization dedicated to refugee assistance and protection within the country (currently represented by the Archdiocese Caritas of São Paulo and Rio de Janeiro as incumbent and substitute, respectively), the Federal Police (that plays a crucial role, particularly at the border, in receiving initial asylum requests), and UNHCR, who has the right to speak but not to vote (Decree No. 9.277 5th of February 2018). Since 2021, the Office of the Prosecutor General and the Public Defender's Office have held observer status within CONARE.¹³⁹ It is crucial to acknowledge that, despite Brazil's federal structure, neither the sub-national states nor the municipalities possess formal representation within CONARE. Consequently, these vital governmental spheres are excluded from direct participation in decisions about the reception, settlement, or resettlement of asylum seekers. This exclusive competence of the federal level stands in contrast to the practices of other federal states, such as Switzerland and Canada,¹⁴⁰ where sub-national entities play a more integrated role. This centralization of authority warrants particular scrutiny, given that several Brazilian states bear the brunt of receiving most refugees, potentially leading to operational and coordination challenges.

The process carried out by CONARE to determine refugee status includes an interview with the applicant and reports on their country of origin. Consequently, the outcome of this analysis can be influenced by political factors that determine whether the legal criteria for refugee status are met. In essence, the administrative evaluation of refugee status is influenced by factors beyond purely normative, shaping the response towards either acceptance or restriction.¹⁴¹

Furthermore, in Brazil, the executive bodies involved in granting asylum access do not vary according to the indicated barriers. The Federal Police play a central role in the initial stages of the asylum process. Situated at borders and airports, this body is responsible for potentially denying territorial access and overseeing individuals held in *de facto* detention at airports. Furthermore, the Federal Police was also involved in procedural barriers, such as the immediate disqualification of asylum claims based on illegal

¹³⁶ Medina Araújo N. (2021). Country Fiche Brazil. ASILE Project, p. 6.; Jensen K. (2023). *The Color of Asylum*, cit., pp. 37-38; Ferolla M. (2025). Failing Asylum-Seekers: Limited Judicial Review of Refugee Status Determination Decisions in Brazil, *Refugee Survey Quarterly*, p. 5.

¹³⁷ Jubilut L.L. & Apolinário S.M. (2008). *A população refugiada no Brasil: em busca da proteção integral*, Univ. Rel. Int., Brasília, Vol. 6, No. 2, p. 16.

¹³⁸ Jubilut L.L., de Andrade C.S & Gilberto C. (2016). Human Rights in Refugee Protection in Brazil. In: *Human Rights and the Refugee Definition, Comparative Legal Practice and Theory*. Brill, p. 216.

¹³⁹ See Junger G. et al. (2022). *Asylum Statistics 2022*, 7th edition OBMigra, p. 8; Ministerial Ordinance (*Portaria*) [No. 756](#), 5 November 1998, *Regimento Interno do Comitê Nacional para os Refugiados*.

¹⁴⁰ Rodrigues G. (2001). *Direito Internacional dos Refugiados: uma perspectiva brasileira*, p. 174.

¹⁴¹ Redin G., (2021). *Lei de Migração e pessoas refugiadas no Brasil: uma visão crítica*, in Carvalho Ramos A. (ed.) *70 anos da Convenção relativa ao Estatuto dos Refugiados: (1951-2021) perspectivas de futuro*, p. 167.

entry during the pandemic, and other bureaucratic hurdles like the requirement for applications to be submitted by a legal representative.

International or regional organizations involved in asylum access adjudication

As previously indicated, UNHCR participates in meetings of CONARE in Brazil, possessing the right to speak but not to vote. UNHCR in Brazil maintains its central office in Brasília, with decentralized units located in São Paulo (the city where the most important international airport is located, as indicated in Part I), Manaus (capital of the Amazonas state, bordering Colombia, Peru, and Venezuela), and Boa Vista (capital of the state of Roraima, bordering Venezuela in the north of the country). It collaborates with CONARE and coordinates its efforts with federal, state, and municipal governmental bodies, as well as other entities within the Executive.¹⁴²

UNHCR's presence and activities in Brazil suggest a potential role in preventing or reporting some barriers. As a member of CONARE and with offices in strategic border locations (Colombia, Peru, Venezuela) and near Brazil's largest international airport, UNHCR's work includes supporting asylum seekers. This on-the-ground presence positions them to potentially intervene in or document instances of pushbacks, *de facto* detentions, and arbitrary administrative actions that could constitute barriers to asylum access.

C. Legal context and legal system

The Brazilian legal system operates under the principles of civil law, wherein statutory law serves as the primary source of legal authority. This principle is enshrined in Article 5, Paragraph II, of the 1988 Federal Constitution, which stipulates that “no one shall be obligated to do or refrain from doing anything except by virtue of law”. (*Art. 5, II- ninguém será obrigado a fazer ou deixar de fazer alguma coisa senão em virtude de lei*).

Judicial bodies in Brazil commonly reference domestic law, particularly Law No. 9.474/97 (the Refugee Act). They may also make express or indirect reference to the 1951 Refugee Convention and its 1967 Protocol, especially the principle of *non-refoulement* (Article 33). References to Inter-American instruments like the ACHR (Article 22) and the Cartagena Declaration on Refugees (1984) also occur, though less frequently by the courts themselves and more often by applicants' defence or *amicus curiae*. Jurisprudence from the IACtHR and advisory opinions of the IACHR are not usually directly used by Brazilian courts.

In cases of administrative barriers that prevent individuals from formally lodging asylum claims, Brazilian courts have consistently relied on both national legislation and the 1951 Convention to safeguard their rights. This judicial protection is evident across several rulings by the Federal Regional Court of the 3rd Region. First, in case *No. 0000194-86.2015.4.03.6100/SP*, decided on 22 August 2016, the court cross-referenced prior jurisprudence citing the 1951 Convention to uphold a lower-court decision guaranteeing an individual's right to file an asylum application. In case *No. 5031553-56.2021.4.03.6100*, adjudicated on 11 July 2022, the same court invoked domestic statutes alongside Article 33 of the Convention to emphasize that legal and documentary requirements must remain flexible. The court noted that such procedural flexibility is necessitated by the vulnerable circumstances of refugees fleeing urgent situations in their countries of origin. Furthermore, in case *No. 5012246-04.2021.4.03.6105*, decided on 27 October 2023, the panel of judges again cited the 1951 Convention—as integrated into domestic law—to permit an undocumented migrant to safely pursue the asylum process despite their irregular status.

While courts may explicitly or implicitly reference the 1951 Refugee Convention and its 1967 Protocol—specifically the principle of *non-refoulement* under Article 33—this invocation does not systematically guarantee broader protection for the applicant. For example, in *Habeas Corpus No. 0013579-34.2016.4.03.0000/SP*, adjudicated on 03 March 2016 by the Federal Regional Court of the 3rd Region, the court addressed the situation of an individual seeking asylum at the airport. The judge ruled that the case records lacked evidence of a “clear and certain right” (*direito líquido e certo*) to obtain protection under

¹⁴² See ACNUR no Brasil, <https://www.acnur.org/br/sobre-o-acnur/acnur-no-brasil>

either Law No. 9.474/97 or the 1951 Convention. Furthermore, the court determined that the initial request to facilitate access to the asylum procedure based on the principle of *non-refoulement* could only be evaluated following the conclusion of the standard administrative process, an area over which the Judiciary lacks immediate competence.

Furthermore, References to Inter-American instruments like the American Convention on Human Rights (ACHR-Pact of San José) (Article 22) and the Cartagena Declaration on Refugees (1984) also occur, though less frequently by the courts themselves and more often by applicants' defence or *amicus curiae*. A notable example of expanded legal protection occurred in case *No. 1001365-82.2021.4.01.4200*, adjudicated by the Roraima Federal Court on 28 July 2021. Addressing a collective expulsion at Brazil's northern border, the judge looked beyond domestic refugee law to invoke several international instruments. Specifically, the court cited the ACHR, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT). Together, these international frameworks provided the legal grounds necessary to strike down the expulsion measure as unlawful. Finally, it should be noted that Brazilian courts do not usually use the jurisprudence or Advisory Opinions of the IACtHR, nor the resolutions of the IACHR.

In the Brazilian legal context, adherence to regional instruments such as the ACHR and the 1984 Cartagena Declaration on Refugees has demonstrably shaped the interpretation and application of the 1951 Refugee Convention by its judicial bodies. The Federal Constitution of 1988 and the subsequent Migration Law of 2017 (Law No. 13.445/2017) integrate principles derived from both the Refugee Convention and these regional instruments, thereby reflecting a comprehensive and inclusive posture towards refugee protection. Notably, the Cartagena Declaration has played a crucial role in augmenting Brazil's legal framework by broadening the definition of a refugee to encompass individuals fleeing situations of generalized violence, internal armed conflicts, and massive violations of human rights, criteria that extend beyond the more circumscribed definition articulated in the 1951 Refugee Convention. In judicial practice, this expanded definition has facilitated a wider recognition of asylum claims, particularly those originating from individuals escaping armed conflict or political instability in neighbouring nations such as Colombia and Venezuela.

For instance, concerning the rights of asylum seekers, the Federal Regional Court of the 1st Region, in *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated on 31 March 2017, explicitly ruled that the Federal Police's attempt to conduct the mass deportation of approximately 450 Venezuelan nationals in the state of Roraima not only contravened constitutional guarantees, such as due process, but also violated Article 22(9) of the ACHR, which expressly prohibits the collective expulsion of aliens. Furthermore, the Court emphasized that the actions of the police authorities infringed upon the principle of *non-refoulement* as enshrined in Article 22(8) of the ACHR, a provision that mirrors Article 33 of the 1951 Refugee Convention. Similarly, the judicial decision in case *No. 1001365-82.2021.4.01.4200*, adjudicated by the Judicial Section of Roraima on 13th March 2021, also highlighted the principle of *non-refoulement* as articulated in the ACHR. For the court, the attempt to summarily deport irregular migrants to their country of origin constituted a violation of both the national legal framework and Brazil's international commitments. These cases exemplify how regional human rights treaties, particularly the ACHR, serve as interpretative tools that reinforce and, at times, expand upon the protections afforded under the Refugee Convention within Brazilian jurisprudence.

To date, no instances have been identified wherein Brazilian judicial bodies have invoked foreign legislation or the jurisprudence of foreign courts in the adjudication of cases concerning asylum access. Instead, decisions rendered by Brazilian courts in this domain rely strictly upon domestic legal provisions alongside the international and regional instruments to which Brazil is a party.

Reference to decisions from international or supranational courts

Brazilian judicial practice generally demonstrates a marked reluctance to explicitly cite decisions or Advisory Opinions of the IACtHR, or resolutions of the IACHR, in asylum-related cases. Although these

instruments form a critical part of the broader human rights framework in the region, their influence is often indirect within the Brazilian context. They are regularly invoked by the DPU, legal counsel for asylum applicants, and in *amicus curiae* briefs aimed at reinforcing international protection standards. Nevertheless, Brazilian courts seldom make direct reference to them in their final rulings.

Judicial reasoning in such cases tends to rely primarily on the interpretation and application of domestic legal norms, Brazil's binding international treaty obligations (such as the 1951 Refugee Convention and its 1967 Protocol), and the jurisprudence of Brazilian courts at both regional and High Court levels. This reliance reflects a broader judicial culture in which both judges and administrative tribunals demonstrate greater comfort engaging with domestic law than with international or comparative legal sources.¹⁴³ Consequently, while Inter-American human rights instruments may inform legal arguments and defence strategies, they have not yet become central components of the formal reasoning adopted by Brazilian courts when resolving asylum applications.

For instance, in the Interim Relief in case No. 3.121 Roraima (*Ação Cível Originária No. 3.121 Roraima*), adjudicated by the Supreme Federal Court (*Supremo Tribunal Federal - STF*) on 06 August 2018, the STF made direct reference to the Inter-American instruments and their application by the IACtHR in relation to the expanded definition of refugee that prevails in the region- Cartagena Declaration- (§ 11). Moreover, notable cases where the DPU has invoked the jurisprudence of the IACtHR include *Public Civil Action, No. 1004501-35.2020.4.01.3000* (adjudicated by the 3rd Federal Civil and Criminal Court of SJAC on 17th August 2020), action related to migrants attempting to enter Brazil through the state of Acre; as well as *Habeas Corpus (1269) No. 5025838-92.2024.4.03.0000* (adjudicated by the Regional Federal Court of the 3rd Region, 6th Chamber on 19th December 2024), regarding foreign nationals detained in the international embarkation area of the International Airport of Guarulhos.

International human rights standards established by supranational courts

As noted previously, Brazilian courts typically rely on domestic legislation that incorporates the country's international commitments regarding refugees. In their adjudication of asylum barriers, judicial bodies frequently invoke international human rights standards as codified within the 1951 Refugee Convention and key regional instruments—namely the ACHR and the Cartagena Declaration—all of which have been integrated into the domestic legal framework. The significance of these references in balancing the rights of asylum seekers against perceived national interests lies in ensuring that the interpretation and application of domestic law strictly comply with Brazil's international obligations, particularly regarding the principle of *non-refoulement* and the fundamental right to seek asylum.

D. Laws and norms at the domestic level

Brazil is a signatory state to the 1951 Refugee Convention (ratified in 1960) and the 1967 Protocol (ratified in 1972), having been the second South American nation to ratify the 1951 Geneva Convention.¹⁴⁴ These international instruments are incorporated into the domestic legal order and play an important role in determining access to asylum, defining who a refugee is, and setting standards for their protection. Brazil's Refugee Act (Law No. 9.474/97) was drafted in close collaboration with UNHCR and reflects the principles of these international documents. This Law defines the mechanisms for implementing the 1951 Refugee Statute, not only in stating who should be recognized as a refugee, but also determines their legal status, creates CONARE, and provides other rules of process and procedure.¹⁴⁵

As previously noted, these international frameworks are vital tools for legal intermediaries fighting against barriers to access to asylum. Even when courts omit direct references to these treaties—largely because

¹⁴³ Mieli S. (2018). The Constitutional Right to Asylum: The Wave of the Future in International Refugee Law?, *Fordham International Law Journal*, Vol. 41/2, p. 416.

¹⁴⁴ Jubilut L. (2006). Refugee Law and Protection in Brazil: a Model in South America? Get access Arrow, in *Journal of Refugee Studies*, Vol. 19/1, p. 24; Medina Araújo N. (2021). *Country Fiche Brazil*. cit., p. 5.

¹⁴⁵ Lora Alarcón P. & Silva dos Reis Simões R. (2021). *Constituição e refúgio*, cit., p. 135.

their mandates are already reflected in domestic law—the instruments still play a decisive role in the final rulings on asylum access.

The principle of non-refoulement

Brazil has historically adopted a broad interpretation of the principle of *non-refoulement*, aligning its domestic legal framework with international and regional human rights standards. This principle, as understood in the Brazilian context, prohibits not only expulsion or deportation, but also rejection at the border and extradition when there is a risk of persecution or serious harm in the receiving country.¹⁴⁶

The principle of *non-refoulement* is codified in Article 7 of Law No. 9.474/1997, which grants any foreign national arriving in Brazil the right to petition for refugee status before any immigration authority and explicitly proscribes the deportation of any individual to a territory where their life or liberty is jeopardized on grounds of race, religion, nationality, membership in a particular social group, or political opinion. Notably, Brazilian law underscores that irregular entry into the national territory does not preclude an individual's entitlement to seek asylum. To ensure scrupulous adherence to the principle of *non-refoulement*, Brazil is obligated to conduct a comprehensive and individualized assessment of each asylum claim to determine refugee status, thereby preventing the return of individuals to situations of peril. Furthermore, even in instances where refugee status is not conferred, Brazilian legislation (Law No. 9.474/1997) independently prohibits the return of a foreign national to any territory where their life or physical integrity is at risk, demonstrating a broader application of *non-refoulement* that extends the protective scope of the adjudication process beyond conventional persecution grounds to encompass situations of generalized violence or other grave threats.¹⁴⁷ This broader application necessitates that adjudicatory bodies consider these wider risks when evaluating asylum claims and potential expulsion orders.

Moreover, Brazil has ratified a significant number of international legal instruments that enshrine the principle of *non-refoulement*. These include the 1951 Refugee Convention (Article 33), the 1984 CAT (promulgated by Decree No. 40/1991), which explicitly recognizes *non-refoulement* (Article 3), the 2006 UN Convention on Enforced Disappearance (promulgated by Decree No. 8.767/2016), the ACHR (promulgated by Decree No. 678/1992), which codifies the right to *non-refoulement* (Article 22(8)), and the Inter-American Convention to Prevent and Punish Torture (promulgated by Decree No. 98.386/1989) (Article 13(4)). These multiple international commitments underscore Brazil's binding obligation to shield individuals from being forcibly returned to circumstances of danger, a commitment that directly informs the standards and considerations within asylum adjudication.

Brazilian jurisprudence has consistently and emphatically affirmed the principle of *non-refoulement* as a crucial element in the adjudication of matters related to the expulsion of foreign nationals, irrespective of whether they are an asylum seeker or persons whose refugee status was initially denied or subsequently revoked. For instance, in the case *Civil Mandatory Appeal (Reexamine) No. 5033764-65.2021.4.03.6100*, adjudicated on 22nd April 2025, the Federal Regional Court of the 3rd Region highlighted the principle of *non-refoulement* as a cornerstone of the 1951 Convention Relating to the Status of Refugees, ratified by Brazil. This principle was reiterated in all cases involving immediate deportation and disqualification from seeking asylum in Brazil for violating entry restrictions during the COVID-19 pandemic established in the Ministerial Ordinances analysed in Part I, "Procedural barriers". Moreover, the Federal Regional Court of the 1st Region, in case *No. 0019512-84.2012.4.01.3200* (adjudicated on 5th May 2014), sanctioned the continued presence within Brazilian territory of an individual whose application for refugee status had been rejected by the CONARE. The court's decision, directly impacting the outcome of the asylum process, was predicated on the determination that the individual held a well-founded fear of persecution and potential death upon return to Colombia, based on their documented history of forced recruitment

¹⁴⁶ Freier L.F. & Gauci J.P. (2020). Refugee Rights Across Regions: A Comparative Overview of Legislative Good Practices in Latin America and the EU, *Refugee Survey Quarterly*, Vol. 39, p. 341.

¹⁴⁷ Carvalho Ramos A. (2017). *Novas tendências do direito dos refugiados no Brasil*. In Jubilut L.& De Godoy G. (eds.) *Refúgio no Brasil: Comentários à Lei 9.474/97*, p. 283.

as a child soldier. Furthermore, in *Habeas Corpus No. 333.902-DF* (*Superior Tribunal de Justiça*, 2015/0206886-1, decided on 14th October 2015), the STJ delineated specific precautionary measures incumbent upon the Executive Branch, explicitly including the prohibition against returning an individual to a territory where their life, liberty, or dignity would be at demonstrable risk. The Court’s reasoning underscored that this constraint emanates not only from international law and domestic statutes but also from the foundational “core values” enshrined within the Brazilian Constitution, such as the dignity of the human person and the prevalence of human rights, thereby directly influencing the parameters of permissible executive action following asylum adjudication. These judicial precedents illustrate the concrete application of the principle of *non-refoulement* in shaping the outcomes of asylum access adjudication in Brazil.

Notwithstanding a well-established judicial tradition in Brazil that recognizes the principle of *non-refoulement* as integral to the right of asylum, the 4th Federal District Court of Guarulhos, in 2024, adopted a restrictive interpretation of this principle concerning individuals *de facto* detained at Guarulhos International Airport. These individuals, being transit passengers, were denied the authorization to apply for asylum and faced imminent expulsion from the national territory. Despite the DPU argument regarding the potential infringement of the principle of *non-refoulement*, the Court in the case *Habeas Corpus No. 5006818-91.2024.4.03.6119*, decided on 14th October 2024, posited that this principle should be applied “rigorously”, exclusively in instances where the migrant confronts a genuine risk of exposure to persecution or inhuman treatment in their country of origin or any other nation to which they are returned. The Court reasoned that returning to the original point of departure should not be equated with forced repatriation to the country of origin, and consequently, the measure implemented by the airport authorities did not constitute a violation of this fundamental principle. Although the effects of this decision were suspended by appeal to the Federal Regional Court of the 3rd Region, the Supreme Court ultimately ruled in favour of the Brazilian authorities against the transit passengers. This case will be analysed in detail in the next section.

The right to asylum

Brazilian law explicitly recognizes the right to seek asylum and provides a legal framework guaranteeing a range of rights for refugees. The enshrinement of asylum as a constitutional right reflects a significant phase in the liberalization of refugee protection in the country, marking what may be considered a third stage, where asylum is not only a matter of state discretion, but is elevated to the status of an individual, fundamental human right.¹⁴⁸ The 1988 [Brazilian Federal Constitution](#) establishes core principles like the dignity of the human being (Art. 1, §III), the promotion of welfare without discrimination (Art. 3, §IV), the prevalence of human rights (Art. 4, §II), and the concession of political asylum (Art. 4, §X). Moreover, Article 5 of the Constitution guarantees equality before the law and affirms the inviolability of fundamental rights to all persons within the national territory, regardless of nationality, including asylum seekers and refugees. These constitutional provisions collectively form a robust legal and normative basis for the protection of individuals seeking refuge, framing asylum not merely as a policy instrument but as a manifestation of Brazil’s constitutional commitment to human rights, equality, and non-discrimination. As such, the Brazilian asylum framework is embedded in the broader constitutional architecture, reinforcing its character as a human rights-based institution rather than a discretionary prerogative of the state.

Furthermore, Brazilian Refugee Law ([No. 9.474 of 1997](#)) defines the mechanisms for implementing the 1951 Refugee Convention in Brazil. Article 1 establishes who qualifies as a refugee based on well-founded fears of persecution (I), statelessness due to similar circumstances (II), or forced displacement due to grave and generalized human rights violations (III- expanded definition of the Cartagena Declaration). The law grants refugees the same rights and obligations as foreigners in Brazil (Art. 5) and recognizes the right of refugees to have an identity document proving their legal status, a work permit, and a travel document (Art. 6). Moreover, Article 7 assures the possibility of requesting refuge from any immigration authority

¹⁴⁸ Freier L.F. (2015). A Liberal Paradigm Shift?: A Critical Appraisal of Recent Trends in Latin American Asylum Legislation, in Gauci J.P. et al. (eds.) *Exploring the Boundaries of Refugee Law Current Protection Challenges*, p. 123.

and the impossibility of deportation to a territory where life or liberty is threatened (I), embodying the principle of *non-refoulement*. Article 12 outlines the responsibilities of CONARE, including the primary decision on refugee status (I). Article 21 mandates the issuance of a temporary residence protocol upon application. Finally, Article 33 states that refugee status recognition prevents extradition based on the reasons for refuge. The law also details procedures for the process, rights and duties of refugees (Articles 4-6), and the conditions for cessation and loss of refugee status (Articles 38-39). Article 48 mandates the interpretation of this law in harmony with international human rights instruments.

In addition, Brazilian Migration Law (No. 13.445/2017) outlines key principles particularly relevant to asylum seekers and the fulfilment of refugee rights in Brazil.¹⁴⁹ In particular, Law No. 13.445/2017, addresses refugee rights primarily by affirming the continued application of specific internal and international norms on the matter, as stated in Article 2. Although it doesn't exhaustively list the rights, the law includes several provisions relevant to refugees. For example, Article 4, §4º ensures asylum seekers, a category often encompassing those who will be recognized as refugees, the right to a temporary residence permit while their claim is processed. Furthermore, Article 20 facilitates the civil identification of asylum seekers using the documents they possess. Protection from forced returns is guaranteed by Article 49, §4º, which prohibits the repatriation of individuals in a refugee situation to places where their life or safety is at risk. Finally, Article 82, IX establishes that refugees under Law No. 9.474/97 cannot be extradited. Thus, while deferring to specific refugee legislation and international treaties, Law No. 13.445/2017 provides crucial safeguards and initial rights for refugees in Brazil.

The Brazilian Federal Constitution's recognition of equality before the law and the principle of non-discrimination between nationals and foreigners, combined with the Refugee Law's explicit provision that refugees possess the same rights and obligations as other foreign nationals, supports the conclusion that refugees in Brazil are entitled to a broad range of rights. These include, in addition to those previously discussed, the rights to education, healthcare, and employment.¹⁵⁰

Sources of international refugee law that are relevant to asylum access adjudication

In Brazil, the main sources of international refugee law that are relevant to asylum access adjudication are primarily based on the 1951 Refugee Convention and its 1967 Protocol, as well as regional instruments such as the Cartagena Declaration and the ACHR. These sources of international law are integrated into Brazil's domestic legal order through the Brazilian Constitution, national legislation (such as the Migration Law and Refugee Law), and judicial interpretations, which collectively ensure that Brazil adheres to its international obligations regarding asylum and refugee protection.

The country signed and ratified the 1951 Refugee in 1960. This established Brazil's commitment to the core principles of the Convention, including the protection of individuals fleeing persecution based on race, religion, nationality, membership in a particular social group, or political opinion. Initially, Brazil recognized the geographical and temporal reservations of the Refugee Convention,¹⁵¹ restricting recognition of refugee status to individuals from Europe and not applying it to those from the Americas. However, this reservation was removed in 1972 with Brazil's signature and ratification of the 1967 Additional Protocol, broadening the Convention's scope to all individuals meeting the stipulated criteria. As previously discussed, both the Refugee Law and the Migration Law in Brazil uphold the right to refuge as defined in the Convention and its Protocol.

Brazil is also a signatory of the ACHR since 1969, the regional treaty that guarantees the right to life, freedom from torture, fair trial, and freedom of expression, among other fundamental rights. While the ACHR does not contain a specific section on refugees, its human rights protections are often invoked in asylum cases, especially in relation to the principle of *non-refoulement* and the prohibition of torture or

¹⁴⁹ Lora Alarcón P. & Silva dos Reis Simões R. (2021). *Constituição e refúgio*, cit., pp. 139-140.

¹⁵⁰ See Freier L.F. & Fernández N. (2021). Trends in Latin American Domestic Refugee Law, in Jubilit L. et al. (eds.) *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, pp. 265, 266.

¹⁵¹ Carvalho Ramos A. (2017). *Novas tendências do direito*, cit., p. 278.

inhuman treatment. Article 4 of the Brazilian Constitution explicitly provides for the right of asylum in Brazil, which includes protection for individuals facing risks of violence or persecution, in alignment with the ACHR's *non-refoulement* and human rights standards.

Regarding the Cartagena Declaration (1984), adopted by Brazil and other Latin American countries as a non-binding agreement, it has had a significant influence on Brazil's Refugee Law and asylum policy. In this sense, the Brazilian Refugee Law (No. 9.474/1997) incorporates the broader refugee definition found in the Cartagena Declaration, which is also reflected in the Migration Law (2017). This means that individuals fleeing generalized violence, human rights violations, or internal conflict can seek asylum in Brazil, even if they do not meet the stricter refugee criteria of the 1951 Convention.

Other human rights obligations

Beyond the scope of the Refugee Convention, refugees in Brazil are entitled to the umbrella of rights guaranteed by a range of human rights instruments and constitutional principles. The Federal Constitution ensures fundamental rights to all within the national territory, regardless of nationality, including the right to due process, access to justice, and humane treatment; these are critical in asylum adjudication, particularly in addressing procedural barriers. Furthermore, Brazil's ratification of the ICCPR brings into play rights such as the right to life, freedom from torture, and freedom of movement, which are indispensable in the context of potential deportation or refoulement. Additionally, Brazil's commitment to the CAT reinforces the principle of *non-refoulement*, and the 2006 UN Convention on Enforced Disappearance adds another layer of protection, showcasing the multiple and convergent human rights obligations that complement the Refugee Convention in Brazil's legal framework. These treaties impose obligations on Brazil to respect and ensure the human rights of all individuals within its jurisdiction, including asylum seekers.

As mentioned above, in case *No. 1001365-82.2021.4.01.4200*, decided by the Roraima Judicial Section on 28 July 2021, concerning a collective expulsion at Brazil's northern border, the judge made express reference not only to national refugee legislation but also to the ACHR. Other international instruments, such as the CAT and the ICCPR, were also cited. Ultimately, all these instruments served as the basis for declaring the expulsion measure illegal.

Other obligations stemming from general public law, criminal law, humanitarian law, civil law

The Migration Law (Law No. 13.445/17) outlines several provisions relevant to refugees and asylum seekers in Brazil. Article 2 explicitly states that this law does not prejudice the application of specific national and international norms regarding refugees and asylees. Article 3, III clearly states as a guiding principle of Brazil's migration policy the non-criminalization of migration ("*não criminalização da migração*"). This principle is particularly important for asylum seekers because they may often be compelled to enter a country irregularly, without the required visas or documentation, as they flee persecution or serious threats in their home countries. The non-criminalization principle ensures that such irregular entry, driven by the need for protection, is not treated as a criminal offense.

Moreover, Article 3, VI, establishes "humanitarian reception" as a guiding principle of Brazil's migration policy. Article 4 guarantees migrants, including asylum seekers, the inviolability of rights such as life, liberty, equality, security, and property, in equal conditions with nationals, and ensures access to civil, social, cultural, and economic rights, including access to justice and public services, regardless of their migratory status. Article 14, I, "c" and § 3, allows for a temporary visa for "humanitarian reception", which can be granted to stateless individuals or nationals from countries facing severe instability, armed conflict, large-scale calamity, environmental disaster, or grave human rights violations. Article 20 states that the civil identification of asylum seekers, refugee status applicants, statelessness recognition applicants, and those seeking humanitarian reception can be done with the documents they possess. Article 30, II, "e", includes beneficiaries of refuge or asylum as eligible for residency authorization. Finally, Article 31, § 4, grants refugee and asylum seekers the right to a provisional residency authorization while their request is

pending, and Article 121 mandates that the provisions of Law No. 9.474/97 (Brazil's Refugee Law) must be observed in situations involving refugees and asylum seekers.

Membership in a regional or other international organization

Brazil is a member of regional and international organizations that provide legally binding acts and human rights obligations relevant to asylum. These include the Organization of American States (OAS), making it part of the Inter-American Human Rights System, and the Mercosur bloc, which has specific protocols and agreements on asylum and refugee protection.

Within the OAS, Brazil is bound by the ACHR, which it ratified in 1992. This legally binding instrument protects fundamental rights relevant to asylum seekers. The IACtHR interprets the ACHR, and its decisions are binding on Brazilian courts, significantly influencing Brazil's application of *non-refoulement* and other human rights protections for asylum seekers. For instance, Brazil has referred to IACtHR jurisprudence.

While non-binding, the 1984 Cartagena Declaration, adopted by OAS member states including Brazil, broadened the refugee definition to include those fleeing generalized violence, armed conflict, or massive human rights violations. As previously mentioned, Brazil's Refugee Law (No. 9.474/1997) incorporates this expanded definition, allowing asylum for individuals fleeing situations beyond the scope of the 1951 Refugee Convention, such as those from Venezuela and Colombia. Moreover, Brazil has acceded to other Inter-American instruments, which are non-binding in nature, including the Mexico Declaration and Plan of Action to Strengthen the Protection of Refugees, adopted in 2004; the Brazil Declaration and Plan of Action from 2014.¹⁵² As well as, the Chile Declaration and Plan of Action 2024-2034, approved in December 2024 as “a Framework for Regional Cooperation and Solidarity to Strengthen Protection and Inclusive Solutions for Refugees, Displaced Persons and Stateless Persons, and the Implementation of the Global Compact on Refugees in Latin America and the Caribbean”. Furthermore, the IACHR often acts as a precursor to cases brought before the IACtHR. The IACHR has often issued reports or recommendations on Brazil's handling of asylum cases, including concerns about delays in asylum processing, refoulement risks, and conditions in detention. When the IACHR identifies systemic issues in Brazil's asylum system, national authorities and courts often take its reports and recommendations into account.

Finally, as a member of Mercosur, Brazil adheres to agreements like the 2016 Mercosur Protocol on Asylum and Refugees, which aligns with international law and the Cartagena Declaration. This protocol aims for regional protection and uniform asylum procedures, incorporating *non-refoulement*. Brazil has integrated this into its asylum process, facilitating refuge for nationals of other Mercosur states, like Venezuelans. Mercosur also fosters coordination among member states on asylum policies.

The role of soft law in asylum access adjudication

Soft law instruments, such as UNHCR guidelines, institutional circulars, and regional declarations, play an important, albeit often indirect, role in the adjudication of asylum access in Brazil. While Brazilian courts do not consistently provide explicit judicial reasoning grounded in soft law, these non-binding instruments significantly inform the interpretative framework applied by legal practitioners, governmental bodies, and occasionally the judiciary itself. UNHCR guidelines, for instance, frequently serve as authoritative interpretative tools to elucidate the provisions of the 1951 Refugee Convention and its 1967 Protocol. They provide practical guidance on refugee status determination, procedural safeguards, and the protection of vulnerable groups. Though not legally binding, these guidelines are routinely invoked by the DPU, private legal counsel, and in *amicus curiae* submissions aimed at broadening the protection afforded to asylum seekers. Regional soft law instruments further complement this framework. The Cartagena Declaration on Refugees (1984) and subsequent regional refugee instruments in the Americas, alongside advisory opinions and resolutions from the Inter-American Human Rights system, enhance the

¹⁵² Medina Araújo N. (2021). *Country Fiche Brazil*. cit., p. 3.

interpretive scope of refugee protections by emphasizing broader definitions of refugee status and strengthening protections in line with evolving human rights standards.

Despite their frequent invocation by advocates, Brazilian courts have been more cautious in their direct reliance on these instruments. A notable exception is found in the decision of the STF in the Interim Relief ruling of Case No. 3.121 Roraima (*Ação Cível Originária No. 3.121 Roraima*) on 6 August 2018. In this case, the STF explicitly referenced UNHCR data concerning the Venezuelan displaced population in Brazil, as well as a UNHCR study outlining their primary causes of displacement—ranging from armed violence to deprivation of basic necessities. The court recognized that despite diverse factors prompting displacement, considerations under the 1951 Refugee Convention, its 1967 Protocol, and the Cartagena Declaration were increasingly applicable to many Venezuelans (§9). This marks an important judicial acknowledgment of soft law’s role in contextualizing and substantiating international protection needs.

Additionally, Brazilian courts have relied on soft law embedded within national refugee governance frameworks. CONARE issues Normative Resolutions that operate international refugee standards domestically. For example, in the decision of the Federal Regional Court of the 3rd Region in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP* dated 17 August 2016, the court upheld CONARE’s Normative Resolution No. 18/2014, which explicitly allows asylum applications to be submitted in person or through a legal representative. This case illustrates how normative soft law instruments provide procedural clarity and legitimacy to asylum adjudication processes within the Brazilian legal system.

E. Legal standing

In Brazil, litigants seeking to challenge barriers to asylum access have recourse to several legal procedures and remedies before judicial and quasi-judicial bodies, grounded in national legislation and constitutional guarantees.

- Habeas Corpus, as per Article 5, LXVIII of the 1988 Constitution, allows challenges to unlawful detention, potentially applicable to asylum seekers facing wrongful detention or deportation. -The “Habeas corpus” will be granted whenever “someone suffers or is threatened with suffering violence or coercion in their freedom of movement, due to illegality or abuse of power”. This judicial action is similar to *Mandado de Segurança* (Writ of Mandamus) in Brazil.¹⁵³
- Writ of Mandamus (*Mandado de Segurança*), serves to address violations of rights by public authorities, enabling challenges to unlawful administrative decisions like asylum denials or refoulement orders issued by the CONARE or immigration authorities. A writ of mandamus is a constitutional remedy designed to protect a “clear and certain right” that has been violated by an illegal or abusive act of a public authority. It is a powerful legal instrument because it addresses rights that can be proven with documentary evidence. This remedy is enshrined in Articles 5, LXIX, and LXX of the 1988 Federal Constitution and is regulated by Law 12.016/09.

Furthermore, in Brazil, the collective writ of mandamus (*Mandado de Segurança Coletivo*) is a powerful legal instrument that protects the rights of groups, particularly vulnerable populations like refugees. This remedy allows a single legal action to address violations affecting a large number of individuals, preventing contradictory decisions and ensuring that people with limited resources can access justice. It’s particularly useful for refugees who may lack the necessary documentation to complete their asylum or naturalization processes. Instead of each filing a separate lawsuit, a collective writ of mandamus, often filed by the Public Prosecutor’s Office or a relevant association, provides a more efficient and effective way to challenge public authorities who impede the recognition of rights due to a lack of documentation. By using this collective remedy, the Brazilian legal system can better protect vulnerable groups while also reducing the burden of repetitive individual lawsuits.¹⁵⁴

¹⁵³ Federal Constitution, Art. 5º. (...) (LXVIII - *conceder-se-á “habeas-corpus” sempre que alguém sofrer ou se achar ameaçado de sofrer violência ou coação em sua liberdade de locomoção, por ilegalidade ou abuso de poder;*)

¹⁵⁴ See Zorzi Sá M. and Fermentão C.A. (2024). *O mandado de segurança coletivo como instrumento para assegurar os direitos da personalidade dos refugiados*, E-Civitas - Revista Científica do Curso de Direito do UNIBH, Belo Horizonte, Vol. XVII, No. 2, pp. 172-196.

However, the writ of mandamus has specific limitations. It cannot be used if an administrative appeal with suspensive effect is still available, if a judicial decision is subject to an appeal with suspensive effect, or against a final judicial decision. Furthermore, it is not the appropriate remedy for challenging violations of freedom of movement or access to personal information, which are addressed by other specific constitutional remedies: habeas corpus and habeas data, respectively.¹⁵⁵

- **Public Civil Action** (*Ação civil pública*) is a crucial legal mechanism designed to protect collective, diffuse, and homogeneous individual rights. This instrument allows for a single lawsuit to address widespread harm, thereby avoiding the proliferation of identical individual claims and promoting both procedural efficiency and social stability. Its importance is amplified when safeguarding the rights of vulnerable groups and minorities, who may lack the resources or awareness to pursue individual legal action. The Public Civil Action enables entities like the Public Prosecutor's Office or relevant associations to represent these groups, ensuring that their rights are not left unprotected.¹⁵⁶ Unlike some other forms of collective litigation, the Public Civil Action is particularly suited for homogeneous individual rights, shared by a group but with distinct and divisible claims, making it an ideal tool for representing asylum seekers whose rights have been collectively violated.
- **Ordinary action** (*Ação Ordinária*) is another legal remedy available in Brazil for litigants challenging barriers to asylum access. This is a general judicial procedure used to address various civil rights violations, including those related to asylum claims. It is particularly useful in situations where an individual faces a denial of asylum or unlawful acts by government authorities and wishes to seek relief before the courts.
- **Preliminary Injunctive Relief or Provisional Urgent Measures** (*Tutela Provisória Antecipada de Urgência*) is a form of temporary judicial protection in Brazilian law. It is a legal tool that allows an individual to request urgent relief from the courts before the final decision on the merits of a case, typically in situations where there is imminent risk of harm or irreparable damage if action is not taken immediately. This remedy is particularly relevant in cases involving asylum seekers or refugees, where urgent intervention may be required to prevent deportation, ensure protection against refoulement, or safeguard fundamental rights during asylum proceedings.
- Furthermore, the constitutionality of asylum laws or immigration regulations can be challenged through an *Ação Direta de Inconstitucionalidade* (ADI) before the STF.

In terms of quasi-judicial remedies, CONARE itself has an internal appeals process for its decisions, and while not a judicial body, its determinations on asylum claims are subject to judicial oversight through mechanisms like *Mandado de Segurança* or *Habeas Corpus* if its actions are unlawful or arbitrary. Additionally, the Federal Prosecutor's Office (*Ministério Público Federal*) plays a quasi-judicial role in defending constitutional rights, including those of asylum seekers, by intervening in legal cases or filing Public Civil Actions to challenge unlawful governmental acts such as refoulement or unjust denial of asylum access.

F. The influence of international Courts

While Brazilian courts predominantly ground their adjudication of asylum access barriers in domestic legal instruments and national jurisprudential precedent, the jurisprudence emanating from the IACtHR exerts a notable, albeit often indirect, influence stemming from Brazil's membership within the Inter-American human rights system and its consequent subjection to the Court's jurisdiction. Although direct and explicit citation of IACtHR rulings concerning specific obstacles to asylum access is not a prevailing characteristic of Brazilian judicial rulings, the authoritative interpretations rendered by the IACtHR regarding the rights and principles enshrined within the ACHR serve as a significant interpretive framework. These

¹⁵⁵ Tribunal de Justiça do Distrito Federal e dos Territórios, *Mandado de Segurança*, 30/07/2021, <https://www.tjdft.jus.br/institucional/imprensa/campanhas-e-produtos/direito-facil/edicao-semanal/mandado-de-seguranca>

¹⁵⁶ See Marcus C.M. and Sandrine K. (2011). *A Ação Civil Pública e a tutela dos direitos individuais homogêneos em matéria de seguridade social*, Revista de Direito Brasileira, pp. 11-139.

interpretations furnish a crucial lens through which Brazilian judicial bodies can assess the congruence of domestic law and practices with Brazil's obligations under international human rights law.

For instance, the IACtHR's jurisprudence on the permissible scope of national immigration authority, as exemplified in cases such as *Vélez Loo v. Panama* (2010), establishes parameters for immigration policies under the ACHR. While Brazilian courts may not routinely cite such cases when evaluating domestic immigration regulations impacting asylum access, the underlying principles of ensuring the compatibility of these policies with human rights standards can inform their analytical framework. Similarly, the IACtHR's consistent assertion of the principle of *non-refoulement*, as in case *Tineo Pacheco v. Bolivia* (2013),¹⁵⁷ reinforces this fundamental rule, potentially guiding the implementation of its national counterpart when Brazilian courts consider the barriers that could result in people returning to dangerous situations. In addition, the ICHR's jurisprudence on due process and the right to an effective remedy (*Vélez Loo v. Panama*) may indirectly influence the interpretation of procedural aspects within Brazilian asylum processes.

It should be noted that the influence of IACtHR jurisprudence is often mediated through its invocation by legal actors, such as the DPU, in their submissions before Brazilian courts. By referencing the IACtHR's interpretations, these actors can advocate for a reading of domestic law that aligns more closely with Brazil's broader international human rights commitments. For instance, in the Civil Public Action No. 1004501-35.2020.4.01.3000, filed before the 3rd Federal Civil and Criminal Court of Acre on 17 August 2020, the legal intermediaries (DPU, Attorney General of the Republic, Caritas, and Conectas) explicitly invoked Inter-American jurisprudence. They cited the landmark *Pacheco Tineo Family v. Bolivia* case, in which the IACtHR applied the principle of *non-refoulement*. Additionally, they referenced *Vélez Loo v. Panama*, where the IACtHR ruled that States must not implement immigration policies that result in arbitrary detention, establishing that any deprivation of liberty must be evaluated on a strict case-by-case basis. Although the federal judge's final decision did not explicitly mention these precedents, their strategic invocation by legal intermediaries effectively framed the legal action and guided the court's underlying reasoning.

Jurisprudence of supranational courts shaping procedural protections or interpretation

The jurisprudence of the IACtHR and its Advisory Opinions plays a significant role in shaping procedural protections and the interpretation of asylum rights in Brazil, even though this influence may manifest indirectly. The decision in *Vélez Loo v. Panama* (2010) serves as a key illustration. In this case, the IACtHR explicitly affirmed the obligation of states to respect due process and legal guarantees for all detained individuals, regardless of their immigration status. The Court's emphasis on fundamental safeguards, such as access to legal counsel and the right to judicial review of detention, establishes a crucial baseline for the procedural treatment of individuals by national legal systems.

While Brazilian courts may not expressly cite *Vélez Loo* or other IACtHR rulings in asylum cases, the principles articulated by the supranational court have exerted a persuasive influence. For example, the IACtHR interpretation of due process serves to reinforce the need for Brazilian courts to rigorously scrutinize summary expulsion procedures, thereby protecting individuals from being deprived of the opportunity to mount a defence. In situations involving collective expulsions or expedited deportations, such as those that arose during the COVID-19 pandemic, Brazilian courts have emphasized the necessity of upholding due process rights. This judicial emphasis on procedural fairness is likely influenced by the broader jurisprudence of the IACtHR, which consistently advocates for the protection of fundamental guarantees in all state actions affecting individual rights.

Moreover, Advisory Opinion No. 18, which addresses the legal status of irregular migrants, establishes the principle of equality between nationals and migrants, asserting that migrants are in a vulnerable position and should have equal access to public resources. This opinion also affirms that due process is a

¹⁵⁷ IACtHR, Case of the *Pacheco Tineo family v. Plurinational State of Bolivia*, Judgment of November 25, 2013 (Preliminary objections, merits, reparations and costs).

fundamental right that must be guaranteed to all individuals, regardless of their migration status. Furthermore, Advisory Opinion No. 21, requested by Brazil and other countries, reinforces the right to due process, specifically emphasizing the right of appeal. It clarifies that any administrative or judicial decision affecting a person's rights, such as denying entry or granting refuge, must be subject to judicial review. By applying these principles, decisions made by Brazilian authorities on refugee status are not just administrative acts but are subject to judicial oversight, thereby guaranteeing the protection of fundamental human rights.¹⁵⁸

G. Comparative insights

Divergences among judicial bodies

A divergence within Brazilian judicial decisions pertains to the legality of restricting asylum applications from travellers in transit at airports, and the consequent permissibility of summarily removing such individuals. This issue, concerning the potential for immediate removal of individuals present at airport facilities to either their final ticketed destination or their point of origin, has been subject to judicial scrutiny following the implementation of relevant measures.

Initially, the 4th Federal Court of Guarulhos, in the *Habeas Corpus No. 5006818-91.2024.4.03.6119*, upheld the actions of immigration authorities, affirming the validity of restricting asylum applications for transit passengers, the misuse of the transit visa and the refugee institute. Subsequently, another judicial decision in the *Habeas Corpus No. 5029663-44.2024.4.03.0000*, from the Regional Federal Court of the 3rd Region suspended the deportation of individuals within airport premises, asserting that the Refugee Law imposes no such limitations and that any person on Brazilian territory may seek international protection from border officials. However, this latter decision was appealed, and the STJ ultimately overturned it (*No. 3522 - SP (2024/0452510-2)*), adopting a restrictive interpretation that prioritizes immigration control and confines asylum applications to those demonstrating an intent to remain in Brazil. The DPU appealed this decision, and it is being reviewed by a Special Tribunal (within the STJ). As of November 2025, six justices have upheld the suspension of the court order prohibiting deportations.¹⁵⁹

This restrictive judicial stance may potentially stem from a resurgence of security-centric perspectives within Brazil. A more in-depth analysis of this case will be undertaken in the subsequent section.

Divergences between national courts and supranational rulings

So far, no discrepancies have been found between the national decisions in Brazil and the decisions of the IACtHR.

Broader principles established by international bodies

Brazilian jurisprudence demonstrates a discernible alignment with the foundational tenets articulated by the IACtHR, notably the principles of due process and *non-refoulement*. By way of illustration, the landmark case of *Vélez Loor v. Panama* underscores the imperative of due process and legal safeguards applicable to all individuals, irrespective of their migratory status. In this precedent, the IACtHR emphatically asserted that even within the ambit of migration control, State parties must uphold fundamental rights, including access to legal counsel and judicial review of detention. This principle finds consonance within the broader

¹⁵⁸ Fregadolli Ferreira F. and Lima J.B. (2018). *O poder judiciário na concessão do refúgio: controle de convencionalidade entre a Corte Interamericana de Direitos Humanos e os tribunais superiores brasileiros*, Annoni D. (ed) Direito Internacional dos Refugiados e o Brasil, Curitiba: Gedai/UFPR, pp. 317-318.

¹⁵⁹ Migalhas, STJ adia julgamento sobre deportação de migrantes retidos em Guarulhos, <https://www.migalhas.com.br/quentes/444814/stj-adia-julgamento-sobre-deportacao-de-migrantes-retidos-em-guarulhos> 19 November 2025, <https://www.migalhas.com.br/quentes/444814/stj-adia-julgamento-sobre-deportacao-de-migrantes-retidos-em-guarulhos> ; and Danilo Vital, STJ debate se deve liberar deportação de imigrantes retidos em Guarulhos, 20 November 2025, <https://www.conjur.com.br/2025-nov-20/stj-debate-se-deve-liberar-deportacao-de-imigrantes-retidos-em-guarulhos/>

framework of international human rights law, which advocates for the protection of all persons under a state's jurisdiction.

Within the Brazilian legal context, this principle has been affirmed through judicial pronouncements in various instances. Pertinently, decisions concerning entry restrictions imposed during the COVID-19 pandemic, as well as rulings on habeas corpus petitions addressing attempts by Brazilian authorities to summarily remove migrants at the northern border in the state of Roraima, serve as illustrative examples. In these cases, Brazilian courts reiterated the necessity of guaranteeing due process and affording individuals the opportunity to contest removal orders, as well as the respect of the principle of *non-refoulement*.

Notwithstanding this general alignment, a potential divergence may arise in the delicate balance between national sovereignty and the individual right to seek asylum. The *Velez Loo v. Panama* judgment establishes that while States possess a margin of discretion in formulating immigration policies, such policies must remain compatible with international human rights norms. In this context, the decision rendered by the STJ concerning limitations on asylum applications at international airports for travellers in transit warrants careful consideration. The restrictions imposed by national authorities, which seemingly condition the right to apply for refugee status at the airport on pre-established ties such as family reunification or proof of intent to remain in Brazilian territory (absent a valid entry visa allowing application within the national territory), could potentially contravene the fundamental right to seek international protection.

Best practices or lessons learned from the adjudication of asylum barriers

Brazil's asylum system offers several best practices and lessons that could be applicable in other jurisdictions, especially in contexts of mass displacement or asylum systems striving to be more inclusive and efficient. These lessons relate to institutional design, humanitarian principles, and procedural flexibility.

For instance, the decision in *Original Civil Action No. 3.121 Roraima* dated 13 October 2020, illustrates the judiciary's role in mediating the tension between national sovereignty and the state's obligations under international human rights law and ensuring that asylum seekers are afforded the protections guaranteed by both domestic and international law. Furthermore, the case acknowledges the importance of moving beyond the limitations of the 1951 Convention towards a broader and more contextualized understanding of the term "refugee", incorporating the expanded definition of the Cartagena Declaration. These elements emphasize the need for robust judicial oversight and adaptive legal interpretations in addressing the complex legal and humanitarian issues surrounding asylum.

Likewise, the court decision in case *No. 1001365-82.2021.4.01.4200* adjudicated on 13 March 2021, which will be analysed in detail in the next section, provides several good practices and lessons learned regarding the adjudication of asylum barriers in Brazil that have potential relevance to other jurisdictions.¹⁶⁰ The court's intervention underscores the critical role of judicial oversight in scrutinizing executive actions, particularly administrative decrees, that may create undue barriers to asylum access. The decision highlights the necessity of adhering to established legal frameworks for migration and refugee protection (Law No. 13.445/2017 and Law No. 9.474/97) and ensuring due process in any removal proceedings, explicitly rejecting summary deportations or repatriations, especially for vulnerable populations identified as hyper-vulnerable (*hipervulneráveis*). Furthermore, the ruling emphasizes the obligation of non-discrimination in asylum-related policies, as evidenced by the condemnation of the discriminatory treatment targeting Venezuelan nationals. A key lesson is the importance of safeguarding asylum seekers' access to essential

¹⁶⁰ In 2021, this court ruling was honoured with the "Premio Sentencias", an award organized by international institutions that deal with migration issues, such as the NGO Sin Fronteras, UNHCR, the IACHR, the International Organization for Migration (IOM), the United Nations High Commissioner for Human Rights (OHCHR), and the Red Cross. See Borges Delfim R. (2021). *Ação no Brasil contra deportação de venezuelanos é reconhecida em premiação internacional*, MigraMundo, <https://migramundo.com/acao-no-brasil-contra-deportacao-de-venezuelanos-e-reconhecida-em-premiacao-internacional/>

services, such as healthcare and social assistance, and preventing actions that might intimidate or impede such access.

H. Role of expert testimony

To date, the judicial decisions under review have not relied upon expert testimony as a determinative factor in their outcomes. Instead, adjudications have primarily been grounded in statutory interpretation and the application of relevant legal norms, as informed by existing jurisprudence. Nonetheless, expert testimony—particularly from specialists in international human rights and refugee law—could serve as a vital evidentiary and interpretative tool in asylum-related proceedings. Such testimony is especially pertinent in addressing procedural and substantive barriers to asylum access, including practices such as border rejections and summary expulsions.

In this context, submissions from institutional actors such as the DPU and *amicus curiae* briefs from human rights organizations can be instrumental in shaping judicial reasoning. Their arguments, which often centre on the rights of vulnerable populations, provide the courts with critical contextual and normative insights. For instance, in the case *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, adjudicated on 28 July 2021, concerning Venezuelan nationals in Roraima, the Judicial Section of Roraima explicitly considered the individuals' condition of heightened vulnerability as a decisive factor in its ruling in their favour. This illustrates the potential of such interventions to influence outcomes in cases involving asylum seekers and other at-risk groups.

I. Future Directions

Emerging trends or evolving issues in asylum law

One notable development that could affect the granting of asylum in Brazil concerns the restriction imposed on travellers in transit wishing to lodge asylum claims at São Paulo/Guarulhos International Airport. As detailed in Part I of this report, until the end of 2024, passengers with stopovers at the airport were able to lodge asylum claims immediately. However, due to changes in the interpretation of relevant regulations and a novel, uncodified practice, individuals in transit are now unable to claim asylum at the airport and must instead proceed to their final destination or return home.

II. IDENTIFICATION OF LEADING DECISIONS

Pushbacks at land:

- 1) Federal Regional Court of the 1st Region (*Tribunal Regional Federal da Primeira Região- TRF-1*), Judicial Section of the State of Roraima (*Seção Judiciária do Estado de Roraima*), *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated on 31 March 2017.
- 2) Judicial Section of Roraima (*Seção Judiciária do Estado de Roraima*), 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, adjudicated on 28 July 2021.

Pushbacks at the Airport:

- 1) National High Court of Brazil (*Superior Tribunal de Justiça- STJ*), *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024.¹⁶¹

¹⁶¹ Judicial pronouncements concerning airport pushbacks are intrinsically connected to instances of *de facto* detention within the airport's restricted zone. Characteristically, a singular judicial determination addresses both the denial of entry to transit passengers and their subsequent *de facto* detention within the airport premises. This detention arises from the confluence of two factors: the absence of authorization to enter the national territory and the individual's declination to either proceed to a third country or return to their point of origin

Detention: De facto detention at the airport:

- 1) Regional Federal Court of the 3rd Region (*Tribunal Regional Federal da 3a Região- TRF-3*), *Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, adjudicated on 11 November 2024.
- 2) 5th Federal Court of Guarulhos (5º Tribunal Federal de Guarulhos), *Civil Habeas Corpus (1269) No. 5008037-42.2024.4.03.6119*, adjudicated on 14 November 2024.

Detention: De facto detention in private infrastructures:

- 1) Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro (*Seção Judiciária do Rio de Janeiro, 26ª Vara Federal do Rio de Janeiro*), *Procedure No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022.

Procedural barriers: Obstacles to presenting the asylum application:

- 1) Federal Regional Court of the 3rd Region (*Tribunal Regional Federal da 3a Região- TRF-3*), case *No. 5031553-56.2021.4.03.6100*, adjudicated on 7th November 2022.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic:

- 1) Federal Regional Court of the 3rd Region (*Tribunal Regional Federal da 3a Região- TRF-3*), *No. 5012134-17.2021.4.03.0000*, 4 February 2022.

Procedural barriers: Refugee claim processing through a legal representative:

- 1) Federal Regional Court of the 3rd Region (*Tribunal Regional Federal da 3a Região- TRF-3*), *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016.

A. Description of the barriers in the selected decisions

Formality or informality of the barrier

Pushbacks at land: 1) According to the ruling of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, the “mass deportation” or “collective deportation” of roughly 450 Venezuelans with irregular status, though technically allowed by the Foreign Statute (a dictatorship-era law in force at the time), infringed upon their rights. The court found that the summary procedure was incompatible with the current Brazilian Constitution, denying due process and the opportunity for legal challenge. The decision further emphasized that this application of the Statute breached both the Constitution and Brazil’s international commitments, particularly the prohibition of collective expulsion (Article 22.9) and the principle of *non-refoulement* enshrined in Article 22.8 of the American Convention on Human Rights. Ultimately, the court ruled the attempt of collective deportation illegal. The Federal Police, with the support of the Military Police and Municipal Guard, were the main actors in this action.

2) According to the judicial decision of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, 28 July 2021, the barrier, characterized by the imposition of “immediate repatriation or deportation”, was formally established through the issuance of Ministerial Ordinance (*Portaria*) No. 652, from 25/01/2021 (Article 8, II). This administrative act, while rooted in the legal authorization granted by the legislator in Law No. 13.979/2020 to restrict entry and exit from the country, was deemed by the court to have overstepped its regulatory bounds. The court emphasized that the “creation of arbitrary and illegal measures” cannot be tolerated, as is the case with Article 8 of Ordinance No. 652/2021, which has no legal basis in the current legal system. The key actors involved in the establishment of this barrier were the Executive, who provided the initial authorization for border restrictions, and the governmental authorities and the Federal Police, which enacted Ministerial Ordinance No. 652/2021.

Pushbacks at the Airport: According to the decision of the STJ, *No. 3522 - SP (2024/0452510-2)*, dated 01/12/2024, the barrier was formally established by Technical Note No. 18/2024 DEMIG/SENAJUS/MJ of 2024. This Note sets forth the procedures governing transit passengers lacking valid Brazilian visas. The aforementioned Technical Note, an administrative act, stipulates that visa-free individuals arriving at Guarulhos Airport on route to other countries are inadmissible to Brazilian territory and are not authorized to remain therein (§ 3.16). Furthermore, the document indicates that individuals inadmissible to Brazilian territory under this measure are precluded from filing asylum applications, citing the manifest abuse of the asylum process by individuals and criminal groups seeking to exploit Brazil as a conduit for irregular migration (§ 3.17). The aforementioned Note, and consequently the barrier, was established by the Ministry of Justice and Public Security, the Federal Police, and the Ministry of Foreign Affairs.

De facto detention at the airport: 1) The Regional Federal Court of the 3rd Region, in its decision on *Collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000* (dated 11 November 2024), did not explicitly comment on the formal or informal nature of the barrier preventing asylum requests from transit travellers at Guarulhos Airport. However, by partially granting a preliminary injunction to halt potential deportations based on the investigating authority's information, and by highlighting Articles 7 and 21 of the Refugee Statute (Law No. 9.494/1997) concerning direct asylum requests, the court's opinion leans towards the barrier being informal. The Federal Police was the main entity imposing this barrier.

2) Similarly, the ruling of the 5th Federal Court of Guarulhos in Civil Habeas Corpus (*Case No. 5008037-42.2024.4.03.6119*, dated 14 November 2024) does not explicitly address the formal or informal nature of the impediment to asylum applications from transit passengers at Guarulhos Airport. Nevertheless, the court takes into account the information presented in Technical Note No. 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ and reiterates the existence of migrant smuggling networks, as well as the practice of transit passengers applying for asylum upon arrival in Brazil, leveraging the visa exemption for travellers in transit. Moreover, the court adopted a strict construction of immigration law, holding that transit passengers lacking a valid visa are not entitled to remain within the national territory.

De facto detention in private infrastructures: According to the 26th Federal Court of Rio de Janeiro, in procedure *No. 5007193-40.2022.4.02.5101/RJ* (dated 11 February 2022), the Federal Police was not responsible for the "confinement" of the applicant, who was allegedly detained in a hotel room for more than three months by the marine insurance company BRAZIL P&I, owner of the vessel on which he travelled clandestinely from Cameroon to Brazil. However, it indicated that the Federal Police, BRAZIL P&I, as well as the DPU, did not act quickly enough to help the individual file the asylum application. This confinement prevented him from completing the necessary procedures for the asylum application in person, and was justified on Interministerial Ordinance No. 655 of 23 June 2021, and Information Note No. 02/2021—which restricted the regularization of migrants who entered the country after the implementation of restrictions due to the COVID-19 pandemic, unless they fell under a specific exception.

Procedural barriers: Obstacles to presenting the asylum application: The Federal Regional Court of the 3rd Region, in case *No. 5031553-56.2021.4.03.6100*, adjudicated on 7th November 2022, held that the barrier to the plaintiff's application for refugee status was informally established by the Federal Police. The barrier was the requirement that the plaintiff present a valid travel document to have his application for refugee status processed. The court highlighted that this requirement was not in alignment with the terms of Article 120 of Decree No. 9.199/17 -Regulations of the Migration Law- which establishes that irregular entry into the national territory will not constitute an impediment to the request for recognition of the condition of refugee and for the application of the mechanisms of protection of the refugee person.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The Federal Regional Court of the 3rd Region, Third Chamber, in appellate proceeding *No. 5012134-17.2021.4.03.0000*, adjudicated on 4th February 2022, held that Ministerial Ordinances promulgated by the Executive Branch between 2020 and 2022, specifically Ministerial Ordinance No. 652/2021, improperly established a disqualification from seeking asylum for individuals

failing to adhere to the stipulations therein. The Court determined that the aforementioned disqualification from refuge, as prescribed by the subject normative act, contravenes the principle of *non-refoulement* enshrined in the Geneva Convention of 1951, which has been incorporated into the Brazilian legal framework via Decree No. 50.215/61. Furthermore, the Court emphasized that Law No. 9.474/97 stipulates that the irregular entry of a foreign national into the national territory shall not impede the submission of an application for refuge. Consequently, Interministerial Ordinance No. 652/2021 manifestly exceeded its permissible scope as a regulatory instrument, particularly given that Law No. 13.979/20, enacted specifically to govern measures addressing the COVID-19 pandemic, contains no provisions concerning applications for refuge. The key actors involved in the establishment of this barrier were the Executive, who provided the “disqualification” for the asylum applications, the governmental authorities, and the Federal Police, which enacted the Ministerial Ordinance No. 652/2021. As previously noted in Part I under the heading “Procedural barriers”, the Ministerial Ordinances were applied to summarily reject applications for international protection lodged by individuals who entered the country without proper authorization during the pandemic, predicated upon the instituted disqualification for contravening Brazilian regulations restricting entry.

Procedural barriers: Refugee claim processing through a legal representative: The Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, found that an informal barrier to asylum applications was established due to a misinterpretation of Brazilian refugee regulations by the administrative authority. Contrary to the provisions of Normative Resolution No. 18/2014 of CONARE and Law No. 9.474 of July 1997, which establish formal procedures permitting the submission of asylum requests through a duly authorized legal representative, the administration erroneously mandated the personal submission of such applications. The National Refugee Commission was a central actor in this context.

Administrative obstacles faced by the applicant(s)

Pushbacks at land: 1) According to the ruling of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, the applied legislation (Foreign Statute) permitted immediate removal from the territory without judicial review. In this sense, the action carried out by the police severely restricts the individuals’ ability to challenge the action or seek international protection.

2) The Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, highlights the immediate removal from the territory without having to appear before a judge, which inherently limits “the possibilities of opposing the measure or requesting international protection”. This procedural shortcut denied individuals fundamental rights, such as due process and the ability to seek asylum.

Pushbacks at the Airport: In the case STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 01 December 2024, the denial of transit passengers at Guarulhos International Airport in late 2024 presented several administrative impediments for those affected by this measure who sought to initiate legal proceedings. These individuals were denied immediate access to legal counsel and were held within the restricted area of Guarulhos International Airport, effectively detained pending embarkation on their onward or return flights. Their presence within the airport’s restricted area, coupled with the threat of imminent removal from the territory, severely curtailed their ability to seek international protection or to pursue legal remedies.

De facto detention at the airport: The *de facto* detention of transit passengers at the São Paulo/Guarulhos International Airport created impediments to the process of applying for asylum in Brazil. Individuals were held within the airport’s international zone for extended periods, sometimes spanning weeks or months, thus precluding their immediate application for international protection. These individuals were compelled to await legal counsel from the DPU and private defence counsel to initiate legal proceedings aimed at commencing the refugee status determination process. However, while certain initial legal actions

yielded favourable outcomes for the applicants, subsequent judicial decisions overturned these measures, leaving the individuals without legal safeguards within Brazilian territory. In particular, despite the intervention of the DPU and a favourable court ruling (Regional Federal Court of the 3rd Region, *Collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, dated 11 November 2024), the STJ, *No. 3522 - SP (2024/0452510-2)*, 1st December 2024, ultimately ruled against the migrants crowded (“*aglomerados*”) in the restricted area at the airport, as indicated in the case involving Pushbacks at the airport. Likewise, the ruling of the 5th Federal Court of Guarulhos in Civil Habeas Corpus (Case *No. 5008037-42.2024.4.03.6119*, dated 14 November 2024).

De facto detention in private infrastructures: The Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, in case *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022, indicated that the applicant’s *de facto* detention in a Rio de Janeiro hotel impeded the asylum application process in Brazil. The individual remained detained in a room for more than three months, preventing him from formalizing his application for international protection. The applicant was forced to await legal assistance from the DPU in order to formalize his asylum application.

Procedural barriers: Obstacles to presenting the asylum application: In the case *No. 5031553-56.2021.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 7th November 2022, the primary impediment was the Federal Police’s insistence on the presentation of a valid travel document as a prerequisite for processing his refugee application. This procedural barrier not only delayed the formal processing of the plaintiff’s application but also resulted in the imposition of a fine for his irregular stay in Brazil, further complicating his ability to secure legal status and potentially exposing him to the risk of deportation. Nevertheless, there is no evidence regarding administrative obstacles in the case review by the court.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: In the case *No. 5012134-17.2021.4.03.0000*, decided by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022, the primary administrative obstacle encountered by the applicant was the restrictive imposition of a ministerial ordinance that impeded the regularization of their immigration status, creating a risk of immediate removal from the country. This ordinance’s attempt to disqualify individuals from seeking refuge due to non-compliance with its provisions directly conflicted with established legal principles, specifically the prohibition of *non-refoulement* and the recognition that irregular entry should not bar asylum applications. Consequently, the applicant was placed in a precarious situation, hindered from effectively exercising their right to seek asylum, until judicial intervention addressed the immediate threat of “repatriation or deportation”.

Procedural barriers: Refugee claim processing through a legal representative: In the case of the Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, the individual faced the refusal of the authority to receive the plaintiff’s refugee application when it was submitted by a legal representative (*procurador*), rather than by the applicant in person.

Challenges related to their legal standing or capacity

Pushbacks at land: 1) According to the ruling of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, these individuals were detained throughout the day without the opportunity to oppose deportation, and the DPU reported that they were denied access to support from the Pastoral Care Unit or civil society representatives. Detention and the inability to access legal aid likely affected their ability to seek international protection.

2) According to the ruling of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, at least six individuals were deported without due process. Because these individuals were outside Brazilian territory during the court’s proceedings, their ability to participate in the case was limited. However, as a result of the legal action, the court authorized their re-entry into Brazil to pursue the necessary procedures for regularizing their immigration status.

Pushbacks at the Airport: In the case STJ, *No. 3522 - SP (2024/0452510-2)*, dated 01/12/2024, the principal challenge confronting those denied admission was the inability to contest the inadmissibility decision and the lack of legal counsel to initiate asylum proceedings. Those denied admission were compelled to await authorization for the entry of the DPU and other relevant parties to conduct an individualized assessment of each case. Upon being denied admission, these individuals were deemed “illegal immigrants”, as indicated in the analysed ruling, and lacked legal status affording them protection within Brazilian territory. Furthermore, these individuals faced communication constraints, limited to communication via internet-enabled mobile devices, and language barriers. These factors likely influenced the progression of the case

De facto detention at the airport: In the cases Regional Federal Court of the 3rd Region, *collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, dated 11 November 2024, and 5th Federal Court of Guarulhos in Civil Habeas Corpus (*No. 5008037-42.2024.4.03.6119*, dated 14 November 2024), the most significant hardship faced by applicants was the curtailment of their freedom of movement and communication. Part I highlights reports from Parliament and the DPU detailing how these individuals were essentially isolated at the airport, their communication limited to cell phones, and their ability to contact the outside world or receive aid within the restricted zone was blocked. Given that airport authority authorization was needed to enter the restricted area, the detained travellers were prevented from freely filing appeals or speaking with lawyers or human rights organizations. It is highly probable that these circumstances negatively affected their access to the international protection process.

De facto detention in private infrastructures: In case *No. 5007193-40.2022.4.02.5101/RJ*, heard by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, the applicant faced *de facto* detention that prevented him from immediately formalizing his asylum application and from accessing legal assistance, thus affecting his ability to seek international protection.

Procedural barriers: Obstacles to presenting the asylum application: Pursuant to a review of the publicly available documents about case *No. 5031553-56.2021.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 7th November 2022, it is noted that no objections were raised concerning the plaintiff’s legal standing or capacity to institute the present proceedings. While the plaintiff’s irregular immigration status did not constitute a bar to bringing the case before the court, the absence of a valid identity document or a pending asylum application placed the plaintiff in a demonstrably vulnerable position.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: In the case *No. 5012134-17.2021.4.03.0000*, adjudicated by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022, the plaintiff’s legal standing was significantly challenged by Ministerial Ordinance No. 652/2021, which impeded their ability to regularize their immigration status and created the threat of imminent deportation. This ordinance, as mentioned before, effectively obstructed the applicant from exercising their right to seek refuge, thus creating a legal obstacle to accessing protection mechanisms. The conflict between this ordinance and existing laws, such as Law No. 9.474/97, further complicated the applicant’s legal position. Consequently, the applicant remained in a state of legal uncertainty and under the threat of deportation until the court intervened. The court’s involvement was crucial to address these administrative obstacles and ensure the applicant’s right to seek refuge was protected.

Procedural barriers: Refugee claim processing through a legal representative: In the case of the Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, the applicant faced challenges related to their legal standing, specifically concerning their capacity to submit the asylum request through a legal representative. The applicant, having been deprived of liberty for a common crime, sought the assistance of the DPU for the submission of their asylum application. The state of detention precluded the applicant’s personal appearance from directly filing said application. Absent the allowance of submission through a legal representative, the consequence upon the applicant’s release would be their removal from the national territory.

Hearing

Pushbacks at land: 1) In the case of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, the public documents lack information that would allow determining whether the applicants were heard before the courts. Since the court's decision refers only to the written pleadings submitted, it can be inferred that the applicants were not heard by the judge.

2) In the case of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, the public documents lack information that would allow determining whether the applicants were heard before the courts. Since the court's decision refers only to the written pleadings submitted, it can be inferred that the applicants were not heard by the judge.

Pushbacks at the Airport: In the case STJ, *No. 3522 - SP (2024/0452510-2)*, dated 01/12/2024, the public documents lack information that would allow determining whether the applicants were heard before the courts. Since the court's decision refers only to the written pleadings submitted by the DPU and the Brazilian authorities, it can be inferred that the applicants were not heard by the judge.

De facto detention at the airport: In cases Regional Federal Court of the 3rd Region, *collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, dated 11 November 2024; and 5th Federal Court of Guarulhos in Civil Habeas Corpus (*No. 5008037-42.2024.4.03.6119*, dated 14 November 2024), the records lack information to ascertain whether the applicants were afforded a hearing before the courts. As the courts' decisions refer solely to the submitted written pleadings, it may be inferred that the applicants did not receive an oral hearing.

De facto detention in private infrastructures: In case *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, the records lack information to ascertain whether the applicant was afforded a hearing before the court. As the courts' decisions refer solely to the submitted written pleadings, it may be inferred that the plaintiff did not receive an oral hearing.

Procedural barriers: Obstacles to presenting the asylum application: In the case Federal Regional Court of the 3rd Region, *No. 5031553-56.2021.4.03.6100*, dated 7th November 2022, the records lack information to ascertain whether the applicants were afforded a hearing before the courts. As the courts' decisions refer solely to the submitted written pleadings, it may be inferred that the applicants did not receive an oral hearing.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: Based on the available public documents from case *No. 5012134-17.2021.4.03.0000*, adjudicated by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022, there is no explicit indication that the applicant was afforded a hearing before the judicial body. The decision appears to have been rendered primarily, if not exclusively, on the written submissions of the defence and the relevant authorities, with a focus on the legal arguments presented.

Procedural barriers: Refugee claim processing through a legal representative: In the case of the Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, the records lack information to ascertain whether the applicant was afforded a hearing before the courts. As the court's decisions refer solely to the submitted written pleadings, it may be inferred that the applicants did not receive an oral hearing.

Legal aid

General note on legal aid: In Brazil, the right to legal aid for asylum-seekers¹⁶² is grounded not only in the refugee-specific provisions of Law No. 9.474/1997 but also in the broader constitutional and procedural framework that guarantees access to justice. Article 98 of the Brazilian Code of Civil Procedure establishes a comprehensive and detailed right to free legal aid, serving as a critical mechanism for ensuring that

¹⁶² Freier L.F. & Gauci J.P. (2020). *Refugee Rights Across Regions*, cit., p. 345.

financial constraints do not impede individuals' ability to access judicial and administrative remedies. This provision transcends symbolic recognition by specifying the types of costs covered, including court fees, expert fees, and legal representation, thus eliminating practical barriers for those unable to afford litigation expenses. The legal framework also incorporates procedural safeguards, such as the presumption of veracity attached to a natural person's declaration of indigence, which streamlines the recognition of financial hardship. Notably, the system permits partial or instalment-based aid and temporarily suspends the obligation to pay litigation costs in the event of an unfavourable decision, reflecting a nuanced balance between universal access to justice and protection against systemic abuse. Within the asylum context, these general legal aid protections are complemented by the role of the DPU, which provides direct legal assistance to asylum-seekers. This integrated legal aid regime reinforces Brazil's commitment to procedural fairness, the right to be heard, and the effective realization of international protection obligations.

Pushbacks at land: 1) In the case of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, the DPU provided crucial legal assistance to the affected individuals, filing a writ of habeas corpus and pursuing the legal action. Without the DPU's intervention, these individuals would likely have been immediately expelled, denied both the opportunity to appeal and any consideration of their individual circumstances.

2) Regarding the case of Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, legal aid was indeed provided to the applicants. The DPU played a crucial role by providing legal assistance to the individuals involved. The DPU, in conjunction with the Federal Public Ministry, was responsible for filing a writ of habeas corpus and pursuing the legal action. The decision explicitly acknowledged the importance of DPU assistance, emphasizing that deportations, expulsions, or compulsory measures for the departure of foreigners must adhere to the legal procedure established in Brazilian law, which includes prior notification to the DPU to enable them to assist those facing deportation. This highlights that legal aid had a significant impact on the case, as it enabled the applicants to challenge the actions taken against them and secure a court ruling that protected their rights.

Pushbacks at the Airport: In the case STJ, *No. 3522 - SP (2024/0452510-2)*, dated 01/12/2024, legal aid was provided by the DPU, which initiated legal proceedings to prevent the removal of the individuals deemed inadmissible. The DPU's intervention positively influenced the case's trajectory by initially restraining the Brazilian authorities from proceeding with the individuals' removal and by facilitating an opportunity for legal counsel to assess the unique circumstances of each person.

De facto detention at the airport: In the case of the Regional Federal Court of the 3rd Region, *collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, dated 11 November 2024, legal assistance was provided to the applicants by the DPU, which spearheaded their case before the judicial system at every stage. The DPU's actions significantly impacted the case by exposing the events unfolding at the airport and achieving a partial grant of collective habeas corpus, thereby averting the immediate deportation of those within the airport's restricted zone. Nevertheless, the National High Court of Brazil eventually decided against the applicants.

In the case of the 5th Federal Court of Guarulhos in Civil Habeas Corpus (*No. 5008037-42.2024.4.03.6119*, dated 14 November 2024), there is no information available to determine whether the person received free legal aid. The information available in the electronic database of the Third Judicial Region suggests that the applicant was assisted by a private attorney.

De facto detention in private infrastructures: In case *No. 5007193-40.2022.4.02.5101/RJ*, heard by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, the plaintiff received free legal assistance from the DPU after the Diocesan Caritas reported the individual's confinement. This certainly affected the case, allowing legal actions to be taken that led to the formalization of the asylum application.

Procedural barriers: Obstacles to presenting the asylum application: In case *No. 5031553-56.2021.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 7th November 2022, the court rendered a decision granting the petitioner the benefit of legal aid. This decision was subsequently appealed by the Brazilian authorities. Upon review of the appeal, this Court affirmed its prior ruling, predicated upon the applicant’s demonstrated lack of sufficient financial resources. Notwithstanding the foregoing, a search of the Federal Regional Court of the 3rd Region’s database reveals no record of the applicant having received legal assistance from the DPU.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: Based on the available public documents from case *No. 5012134-17.2021.4.03.0000*, adjudicated by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022, there is no evidence as to whether legal aid was provided to the applicant. The documents do not contain information on whether the applicant had legal representation, nor whether such representation was privately retained or provided by a legal aid service. The documents do not indicate whether the applicant received legal assistance. However, information available in the electronic database of the Federal Regional Court of the 3rd Region suggests that the applicant was assisted by the DPU in the State of São Paulo (“*polo ativo*”).

Procedural barriers: Refugee claim processing through a legal representative: In the case of the Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, legal assistance was provided to the applicants by the DPU.

Applicant’s vulnerability

Pushbacks at land: 1) Although the ruling of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, doesn’t explicitly state that the individuals were vulnerable, it acknowledges that Brazil is receiving a large influx of Venezuelans due to the severe economic, political, and social crisis in Venezuela, which “requires a humanitarian approach”. Furthermore, the DPU noted in its habeas corpus petition that minors were among those detained for immediate deportation. This information likely contributed to the court’s swift action to prevent the individual’s immediate removal.

2) The ruling of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, acknowledges the vulnerability of migrants, particularly Venezuelans, within the context of the case. The court refers to a subset of migrants as “hyper-vulnerable” (*hipervulneráveis*), including unaccompanied children, those with severe health issues, and individuals facing threats to their safety. Furthermore, it recognizes the broader vulnerability of Venezuelans due to the humanitarian crisis in their country, a situation that the Brazilian government itself acknowledged in Decree No. 9.285/2018. This recognition of vulnerability plays a significant role in the court’s analysis, particularly in its assessment of the legality and appropriateness of the measures taken by the authorities

Pushbacks at the Airport: No, in the case STJ, *No. 3522 - SP (2024/0452510-2)*, dated 01/12/2024, the Court did not consider the applicants to be vulnerable. The Court considered the passengers to have the option of continuing their journey to a third country where they would not be at risk and could request international protection if needed. Only those passengers who could demonstrate ties to Brazil (for example, through family reunification) were admitted to the country. The total number of people who could demonstrate ties to Brazil is unknown.

De facto detention at the airport: No, in the cases of the Regional Federal Court of the 3rd Region, *collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, dated 11 November 2024, and the 5th Federal Court of Guarulhos in *Civil Habeas Corpus (No. 5008037-42.2024.4.03.6119*, dated 14 November 2024), the courts did not consider the applicants to be vulnerable.

De facto detention in private infrastructures: In case *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, the

court did not mention the plaintiff's vulnerable conditions, however it did emphasize the duration of the confinement period (more than three months) without his request for refuge having been processed, which was "obvious" to carry out.

Procedural barriers: Obstacles to presenting the asylum application: In the case *No. 5031553-56.2021.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 7th November 2022, the applicant was indeed considered vulnerable, which influenced the adjudication process. The court highlighted his financial vulnerability and the court's acknowledgment of his inability to afford legal expenses. Furthermore, his irregular status in Brazil and the potential risk of deportation underscored his precarious situation. This vulnerability was a significant factor in the court's decision to apply a flexible interpretation of procedural requirements, ensuring his access to the refugee application process despite the lack of a valid travel document.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: In the case *No. 5012134-17.2021.4.03.0000*, adjudicated by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022, the applicant was not explicitly considered vulnerable.

Procedural barriers: Refugee claim processing through a legal representative: In the case of the Federal Regional Court of the 3rd Region, in the *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, the applicant was not explicitly considered vulnerable.

B. Impact of the judicial body's decision

Pushbacks at land: The ruling in *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated by the Federal Regional Court of the 1st Region on 31 March 2017, has influenced subsequent jurisprudence concerning summary expulsions in Brazil's northern border states. While not expressly cited, its core reasoning has been upheld, for instance, in the ruling from the Judicial Section of Roraima, in *Civil Action No. 1000073-62.2021.4.01.4200*, dated 8 January 2021. This latter decision directly confronted the issue of imminent collective deportation involving 55 Venezuelan indigenous people, a measure challenged for violating fundamental rights. The court's intervention stemmed from arguments that the proposed action disregarded constitutional guarantees, international human rights treaties, and domestic immigration law. A key point of contention was the plan for "immediate deportation" based on a specific administrative act; a procedure deemed to circumvent due process rights. This raised significant concerns about the principle of *non-refoulement*. The court's emphasis on the necessity of individualized assessments and adherence to legal procedures sought to protect asylum seekers from summary expulsions that disregard their specific circumstances and rights under national and international law. Likewise, the second ruling analysed in this section, adjudicated by the Judicial Section of Roraima, 2nd Federal Civil Court, *Public Civil Action (65) No. 1001365-82.2021.4.01.4200*, dated 28 July 2021. In this latter decision, the court addresses the legality of measures imposed by the Brazilian government to restrict the entry and movement of migrants during the COVID-19 pandemic, specifically focusing on their impact on asylum seekers. The court examined the use of administrative acts to justify summary deportations and the denial of the right to seek asylum, highlighting conflicts with both the Brazilian Constitution and international agreements. The ruling emphasized the importance of due process and the principle of *non-refoulement*, which prohibits individuals from returning to a country where they face persecution, even in situations of public health emergencies.

Pushbacks at the Airport: The ruling from the STJ, *No. 3522 - SP (2024/0452510-2)*, dated 1st December 2024, has influenced subsequent jurisprudence in the courts of the First Judicial Region of Brazil, not only for pushbacks, but also for *de facto* detention within the airport, as will be seen below. Subsequent adjudications regarding the admissibility of asylum applications submitted by transit passengers at Guarulhos Airport have followed the precedent established by the Superior Court ruling, which precludes such recourse absent a demonstration by the individual of pre-existing ties to Brazil or a discernible

intention to remain within Brazilian territory. For example, the ruling issued in case *No. 5009958-36.2024.4.03.6119*, adjudicated on 25 December 2025, denied the application submitted by an Ethiopian citizen, as the applicant did not fall within the “exception indicated” by the STJ, which articulated that the regulations governing the entry and stay of immigrants within the country “follow objective criteria” designed to “prevent the indiscriminate entry of foreign nationals”. Likewise, the case *No. 5033217-84.2024.4.03.0000*, adjudicated for the Regional Federal Court of the 3rd Region on 28th April 2025, regarding another Ethiopian national. In this last case, the court argued that the passenger’s request lacked plausibility regarding the real intention to seek refuge in Brazil, as the individual used a transit visa exemption to enter and remain in the country, which contradicts the legal requirements. The court also pointed out contradictions in the passengers’ claims about seeking refuge due to violence in their home country, while their travel itinerary included a return to that country.

De facto detention at the airport: The decision of the Regional Federal Court of the 3rd Region on the *Collective Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000* (dated 11 November 2024) has not influenced other decisions. It is pertinent to note that initial judicial determinations by Brazilian courts temporarily impeded the immediate removal from national territory of travellers in transit who were detained at Guarulhos Airport between November and December 2024. These individuals asserted an inability to apply for asylum due to official refusal. While these provisional decisions aimed to suspend removal and allow for asylum applications, they did not establish binding precedent and were subsequently overturned by rulings from the respective courts. The subsequent rulings favoured a restrictive interpretation of immigration legislation

While the decision in *Civil Habeas Corpus No. 5008037-42.2024.4.03.6119* by the 5th Federal Court of Guarulhos on 14th November 2024 did not establish precedents for *de facto* detentions at airports, jurisprudence concerning the rights of travellers in transit seeking refuge has been shaped by other legal precedents. Specifically, the ruling from the STJ *No. 3522 - SP (2024/0452510-2)*, dated 1st December 2024, provides a reference for judicial consideration of these cases. Illustrative examples include the following cases: In the *Civil Habeas Corpus (1269) No. 5008029-65.2024.4.03.6119*, from the 6th Federal Court of Guarulhos, that partially granted habeas corpus to a Cameroonian national arriving at Guarulhos Airport seeking international protection. In this case, the court ordered the prevention of immediate repatriation, placing the individual “in the custody of the Federal Police within the airport’s security and control area” (Decision dated 11 November 2024), and subsequently directed the police authorities to submit the application for refugee status for regular processing in accordance with applicable law (Ruling dated 14 November 2024). Nevertheless, a subsequent decision from the Federal Regional Court of the 3rd Region, dated 25 April 2025, overturned the granting of habeas corpus, considering that the traveller in transit had a final destination in Lima, Peru, and consequently, lacked the right to seek refuge in Brazil due to the absence of “animus of permanence” within national territory. As well in the *Civil Writ of Mandamus (120) No. 5007368-86.2024.4.03.6119* (dated 20 October 2024), wherein the 6th Federal Court of Guarulhos partially granted habeas corpus to a Cameroonian national arriving at Guarulhos Airport seeking international protection. In that instance, the court ordered the prevention of immediate repatriation, placing the individual “in the custody of the Federal Police within the airport’s security and control area” (Decision dated 20 October 2024), and subsequently directed the police authorities to submit the application for refugee status for regular processing in accordance with applicable law (Ruling dated 23 October 2024). A subsequent decision from the Federal Regional Court of the 3rd Region, dated 09 May 2025, overturned the granting of habeas corpus, considering that the traveller in transit had a final destination in Santa Cruz de La Sierra, Bolivia, and consequently, lacked the right to seek refuge in Brazil due to the absence of “animus of permanence” within national territory.

Moreover, the Regional Federal Court of the 3rd Region, 6th Chamber, in *Habeas Corpus (1269) No. 5025838-92.2024.4.03.0000* (adjudicated on 19th December 2024), addressed the case of foreign nationals detained in the international embarkation area of Guarulhos Airport due to Ministry of Justice restrictions on refugee claims, a situation contested by the DPU. The legal debate centred on the denial of the petitioners’ ability to seek refugee status within the airport’s transit zone. Ultimately, the court determined,

based on the interpretation of Brazil's Migration Law and Refugee Statute, that refugee status cannot be claimed by individuals merely transiting through the country. This ruling was later decisive in the *Civil Appeal No. 5007360-12.2024.4.03.6119*, adjudicated by the Federal Regional Court on 6th May 2025. This judgment ordered the reconsideration of a previously granted habeas corpus petition for two Ghanaian citizens who had been *de facto* detained at Guarulhos Airport. The purpose of this reconsideration was to reverse the order to receive and process the asylum applications of these two passengers in transit.

Furthermore, the rulings from the Regional Federal Court of the 3rd Region, 4th Chamber, *Instrumental Appeal (202) No. 5033217-84.2024.4.03.0000*, adjudicated on 28th April 2025, addressed a case where an individual arrived in Brazil and, while in transit, sought to apply for refugee status without possessing a valid visa for entry into Brazil. The airport authorities denied the application, resulting in the individual's detention within the airport. Upon review, the court acknowledged the right to seek asylum under the Refugee Statute but also recognized the Immigration Law's requirement for proper entry documentation. Ultimately, the court ruled against the appellant, upholding the decision to deny refugee status due to the applicant's lack of a valid entry visa and the misuse of the asylum process to circumvent immigration procedures.

Likewise, the Regional Federal Court of the 3rd Region, 6th Chamber, *Instrumental Appeal (202) No. 5033878-63.2024.4.03.0000*, dated 30 April 2025, applied similar precedents to deny the possibility of applying for refugee status at the airport for a traveller in transit. The court, in its decision, acknowledged the right to seek asylum as per the Refugee Statute, but also recognized the importance of the Immigration Law, which mandates proper entry documentation. The court ultimately ruled against the individual, upholding the decision not to grant the possibility to apply for refugee status due to the lack of a valid entry visa and the potential misuse of the asylum process to bypass immigration procedures. As well as, the Regional Federal Court, 3rd Region, in case *No. 5033857-87.2024.4.03.0000* (adjudicated on April 30, 2025), addressed the issue of an individual's attempt to claim refugee status while in airport transit, focusing on the interpretation of legal provisions governing the right to seek refuge in such circumstances and the relevance of discrepancies between the individual's stated travel purpose and visa exemptions. That court's ruling affirmed the position that refugee claims by individuals in transit with a valid visa for a third country are generally unfounded and upheld the necessity of proper entry documentation.

All these decisions referred, directly or indirectly, to the ruling of the STJ *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024, and Technical Note No. 18/2024/Gab-DEMIG, as discussed previously in this National Report.

***De facto* detention in private infrastructures:** To date, the ruling from the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, procedure *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022, is the only identified court ruling on *de facto* detention in private infrastructures. While other similar cases may exist, this is the only one available in the Rio de Janeiro court. Furthermore, no similar cases have been found in other courts located in cities with ports that can receive people considered stowaways who request international protection.

Procedural barriers: Obstacles to presenting the asylum application: To date, no other decisions have been found that have been influenced by the ruling *No. 5031553-56.2021.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 7th November 2022.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The Third Chamber of the Federal Regional Court of the 3rd Region's ruling in case *No. 5012134-17.2021.4.03.0000* (adjudicated on 4th February 2022) has influenced its subsequent jurisprudence. For instance, in *Appeal / Referral Required (1728) No. 5009838-55.2021.4.03.6100*, dated 23 May 2022, the earlier ruling was explicitly cited as a precedent that granted protection to the applicant. Furthermore, *Civil Writ of Mandatory Review (199) No. 5012246-04.2021.4.03.6105* was adjudicated by the same regional court on 27 October 2023. In this decision, the Federal Regional Court of the 3rd Region upheld the prior ruling of the lower federal court of Campinas. This reaffirms the illegality of denying the

processing of an asylum request solely based on irregular entry into Brazilian territory. The court explicitly indicated that irregular entry does not constitute an impediment to applying for refugee status. By mandating the competent authorities to receive and process the applicant's claim despite the lack of an entry stamp in his passport, the decision underscores the fundamental right to seek asylum. Consequently, the decision rejects the procedural barrier predicated on the manner of arrival. Moreover, in *Civil Appeal (158) No. 5009423-15.2021.4.03.6119*, dated 26th February 2024, from the same Chamber and Court, the earlier ruling was again explicitly cited as a precedent. Consequently, the court analysed the latter case using the same reasoning, even though it ultimately ruled against the applicant for not demonstrating the impact of entry restrictions on their asylum application. Likewise, in *Appeal / Referral Required (1728) No. 5012426-35.2021.4.03.6100*, adjudicated on 14th August 2024 by the Federal Regional Court of the 3rd Region, the judge highlighted the contentious and unlawful barrier erected against access to asylum through Ministerial Ordinance No. 652/2021. The court indicated that this administrative act, by expressly precluding individuals who crossed borders without migratory control from seeking refugee status, directly contravened the principle of *non-refoulement* enshrined in the 1951 Refugee Convention and domestic law (Law No. 9.474/97, Art. 8^o). The judicial decision recognized the illegality of such a blanket restriction, affirming that irregular entry does not negate the fundamental right to seek asylum and underscoring the supremacy of international treaty obligations and specific legislation over temporary administrative fiats issued during a public health crisis.

In addition, other decisions from lower courts within the Third Judicial Region of Brazil also align with the initial decision regarding Ministerial Ordinances during the COVID-19 pandemic and the disqualification for asylum requests. For example, the 25th Federal Civil Court of São Paulo, in *common civil procedure (7) No. 5016165-16.2021.4.03.6100*, dated 19 August 2021, determined that Ministerial Ordinance No. 652 of 25 January 2021 (and its subsequent revisions) established administrative procedures for the deportation and/or summary and compulsory repatriation of foreigners that effectively barred individuals from seeking asylum or regularizing their immigration status. Likewise, the decision from the 13th Federal Civil Court of São Paulo, in *common civil procedure (7) No. 5033007-71.2021.4.03.6100*, dated 19 November 2021, partially granted the request. This order compelled the authorities to receive asylum applications and to refrain from rejecting them solely based on a specific pandemic-era entry restriction (Ministerial Ordinance No. 658/2021). In its reasoning, the court stated that this regulation, while aimed at combating the pandemic, could not supersede the right to seek refuge as established by the Migration Law, which does not preclude asylum requests due to irregular entry. That decision also prevented the deportation of the applicants pending the final administrative outcome of their asylum claims.

Procedural barriers: Refugee claim processing through a legal representative: The decision rendered by the Federal Regional Court of the 3rd Region in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, adjudicated on 17 August 2016, has established a precedent in subsequent jurisprudence. By way of illustration, in *Civil appeal No. 0009159-53.2015.4.03.6100/SP*, adjudicated by the Federal Regional Court of the 3rd Region on 05 July 2018, the court recognized the illegality of impeding an incarcerated individual's access to the refugee application process due to the impossibility of personally providing biometric data at a Federal Police unit. The court emphasized the constitutional principles of human dignity and the prevalence of human rights in international relations, determining that the responsible Federal Police delegation should facilitate the collection of the applicant's biometric data within the detention facility, thereby ensuring the progression of the asylum claim despite the applicant's confinement and inability to comply with standard procedural requirements. Likewise, in the *Civil Writ of Mandamus (120) No. 5002878-54.2019.4.03.6100*, adjudicated by the 9th Federal Civil Court of São Paulo on 22 September 2020, the court addressed the illegality of a Federal Police policy that mandated the personal appearance of an asylum seeker, even when the individual was detained and sought to file the request through a legal representative. The court, referencing both the Refugee Law (Law No. 9.474/97) and CONARE Normative Resolution No. 18/14, found no legal basis to prohibit the filing of a refugee claim via a legal representative. By granting the writ of mandamus, the court affirmed the right of a detained individual to initiate the asylum process through a procurator, thereby rejecting an administrative barrier

that unduly restricted access to international protection based on an operational directive lacking statutory support. Furthermore, in case *No. 5025436-54.2018.4.03.6100*, adjudicated by the Federal Regional Court of the 3rd Region, on 1st August 2022, concerning a Turkish national, the court explicitly invoked the Civil appeal *No. 0009159-53.2015.4.03.6100/SP* ruling. In this later case, the court affirmed that while the collection of biometric data is a requirement, it does not preclude the initial submission of an asylum application via a legal representative, thereby ordering the relevant authorities to accept and duly process the application.

C. Consistency with previous jurisprudence

Pushbacks at land: 1) The ruling of the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, from 31 March 2017, is so far the first ruling found that addresses a collective expulsion in Brazil.

2) The decision of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, from 28 July 2021, although it does not mention the decision of the Judicial Section of Roraima, *Civil Action No. 1000073-62.2021.4.01.4200*, from 08 January 2021, and the Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, dated 31 March 2017, the principles are the same regarding summary expulsion of foreigners.

Pushbacks at the Airport: The ruling of the STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024, is so far the first ruling found from the STJ that addresses the pushbacks at the airport. But, before that ruling, STJ issued a decision in the habeas corpus case *No. 957984 - SP (2024/0415835-4)*, dated 5th November 2024. That decision, not a verdict, denied the habeas corpus in favour of an Ethiopian national who had been in the restricted area of the International Airport for almost a month. The court noted that the person had “decided” to remain in the restricted area of the airport and not continue his journey to Johannesburg. In its analysis, the higher court acknowledged the inherent complexities in these situations, endeavouring to balance the individual’s right to seek refuge with the state’s legitimate concerns regarding irregular immigration and the potential for misuse of the asylum system.

Moreover, the reasoning of the STJ’s ruling in the case *No. 3522 - SP (2024/0452510-2)* is relatively in line with the decision of the *Habeas Corpus No. 0013579-34.2016.4.03.0000*, adjudicated by the Federal Regional Court of the 3rd Region on 21 October 2016. In this judicial decision, the court rejected the petition for habeas corpus filed on behalf of an Ethiopian national located within the airport’s restricted zone, notwithstanding their expressed desire to formalize an asylum claim. The court determined that it was not permissible to grant entry into Brazilian territory to an individual lacking proper travel documents and whose identity remained unverified. The court characterized the restriction on the individual’s liberty as not constituting an actual constraint, predicated on the rationale that the individual retained the option to return to their country of origin. Furthermore, the court’s reasoning posited that an alternative interpretation would establish a precedent whereby any foreign national arriving without documentation and articulating an asylum claim, or submitting any request that might impede deportation, would *ipso facto* possess the right to enter national territory. Such an interpretation, the court contended, would expose the State to the inherent risks of harbouring a foreign national subject to a red alert, outstanding arrest warrants, or deemed a threat to public order or national interests.

De facto detention at the airport: The decision rendered by the Regional Federal Court of the 3rd Region, 4th Chamber, in *Collective Habeas Corpus No. 5029663-44.2024.4.03.0000*, adjudicated on 11 November 2024, was aligned with extant jurisprudence concerning *de facto* detention at the airport.

De facto detention in private infrastructures: The ruling from the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, Procedure *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022, appears to be the initial ruling on this matter.

Procedural barriers: Obstacles to presenting the asylum application: The decision of the Federal Regional Court of the 3rd Region, *No. 5031553-56.2021.4.03.6100*, dated 7th November 2022, aligns with a broader trend in the Federal Regional Court of the 3rd Region towards the flexible application of procedural rules in refugee cases, particularly concerning documentation requirements. As evidenced by several precedents cited within the judgment, this court has consistently advocated for mitigating procedural rigidity when dealing with vulnerable populations, such as asylum seekers from countries facing socio-political crises. Specifically, the court cited the case *No. 5012610-59.2019.4.03.6100*, adjudicated on 19 August 2021. This prior case established that individuals from countries facing significant social and humanitarian crises may have relaxed documentary requirements for visa or residency applications. The reasoning is that these individuals seek better conditions in Brazil, often lack the financial means to return home for documents (which may be unavailable anyway due to asylum applications), and that facilitating their immigration regularization is in the Public Administration's interest and crucial for them to exercise their rights in Brazil.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The ruling in case *No. 5012134-17.2021.4.03.0000*, adjudicated by the 3rd Chamber of the Federal Regional Court of the 3rd Region on 4th February 2022, aligns with other judicial decisions within the Third judicial region concerning the same barrier. For instance, the ruling in *Instrument of Appeal (202) No. 5017429-35.2021.4.03.0000*, also adjudicated on 4th February 2022 by the same Regional Court, identifies that the ordinance's provision (*Portaria* No. 652/2021) disabling the submission of refugee applications by those entering the territory irregularly directly contravenes the principle of *non-refoulement* as enshrined in the 1951 Refugee Convention and Article 8 of Law No. 9.474/97, which explicitly states that irregular entry does not impede the right to seek refuge. Similar to the first-mentioned ruling, the Court emphasizes that the ordinance, intended to manage public health during the COVID-19 pandemic, exceeded its regulatory scope by infringing upon established legal protections for asylum seekers, thus warranting the granting of provisional relief to ensure the applicant's right to seek refuge is not unlawfully curtailed.

Procedural barriers: Refugee claim processing through a legal representative: The decision rendered by the Federal Regional Court of the 3rd Region in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, adjudicated on 17 August 2016, appears to be the initial ruling on this matter.

Reasons and extent of these differences

Pushbacks at land: In the two cases analysed, Federal Regional Court of the 1st Region, *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated on 31 March 2017, and Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, dated 28 July 2021, there are no discrepancies with other judicial decisions.

Pushbacks at the Airport: To date, no judicial decisions have been identified that differ from the decision rendered by the STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024.

De facto detention at the airport: To date, no judicial decisions have been identified that differ from the decision rendered by the STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024.

De facto detention in private infrastructures: To date, no judicial decisions have been identified that differ from the decision rendered by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, Procedure *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022.

Procedural barriers: Obstacles to presenting the asylum application: To date, no judicial decisions have been identified that differ from the decision rendered by the Federal Regional Court of the 3rd Region, *No. 5031553-56.2021.4.03.6100*, dated 7th November 2022.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: In the cases analysed, there are no discrepancies with the ruling of case *No.*

5012134-17.2021.4.03.0000, adjudicated by the Federal Regional Court of the 3rd Region, Third Chamber on 4th February 2022.

Procedural barriers: Refugee claim processing through a legal representative: To date, no judicial decisions have been identified that differ from the decision rendered by the Federal Regional Court of the 3rd Region in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, adjudicated on 17 August 2016.

Divergence establishing binding precedent

Pushbacks at land: All the cases were decided by lower courts, and there are no divergences, so they did not set a judicial precedent.

Pushbacks at the Airport: The case STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024, was indeed decided by the highest judicial instance, and lower courts are therefore bound to adhere to the precedent established by that decision. Furthermore, the aforementioned decision, having acquired the authority of *res judicata*, prohibits the issuance of any collective or individual measures in this matter. For further details, see the section on *de facto* detention at the airport.

De facto detention at the airport: In instances of *de facto* detention at the airport of Guarulhos, the decision of the STJ, *No. 3522 - SP (2024/0452510-2)*, adjudicated on 1st December 2024, constitutes binding precedent. Regional courts, notably those within Brazil's Third Judicial Region (where the airport is located), are obligated to adhere to this jurisprudence and have, in practice, invoked the case law established therein to reject asylum applications from individuals held within the airport's restricted zone.

De facto detention in private infrastructures: The ruling from the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, Procedure *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022, was issued by a lower court, so it did not set a precedent.

Procedural barriers: Obstacles to presenting the asylum application: The case *No. 5031553-56.2021.4.03.6100* was decided by the Federal Regional Court of the 3rd Region. As the case was decided by a regional court, district courts within that judicial region (the Third Region in this instance) are expected to adhere to the precedent established by that decision. However, courts in other judicial regions of Brazil are not bound by this precedent.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The case *No. 5012134-17.2021.4.03.0000*, was adjudicated by the Federal Regional Court of the 3rd Region. As the case was decided by a regional court, district courts within that judicial region (the Third Region in this instance) are expected to adhere to the precedent established by that decision. However, courts in other judicial regions of Brazil are not bound by this precedent.

Procedural barriers: Refugee claim processing through a legal representative: The case *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, was adjudicated by the Federal Regional Court of the 3rd Region. As the case was decided by a regional court, district courts within that judicial region (the Third Region in this instance) are expected to adhere to the precedent established by that decision. However, courts in other judicial regions of Brazil are not bound by this precedent.

Alignment or divergence with other decisions

Pushbacks at land: Federal Regional Court of the 1st Region's ruling in *Habeas Corpus No. 6447-87.2016.4.01.4200* (31 March 2017) and the Judicial Section of Roraima's decision in *Public Civil Action (65) No. 1001365-82.2021.4.01.4200* (28 July 2021) align with a legal tradition that scrutinizes summary expulsion practices in Brazil. The latter decision explicitly references the Federal Regional Court of the 4th Region's analysis of Ministerial Ordinance No. 652/2021 in case *No. 5020425-76.2021.4.04.0000* (20 May 2021), demonstrating a continuity of concern regarding the legality of expedited removals. This judicial posture finds further resonance in decisions from the 3rd Federal Civil and Criminal Court of SJAC, specifically *Public Civil Action No. 1004501-35.2020.4.01.3000* (17 August 2020), which aligned on the rights

of vulnerable migrants facing immediate deportation and the necessity of upholding due process and *non-refoulement*. Similarly, the 3rd Federal Civil and Criminal Court of Acre, in case *No. 1004332-48.2020.4.01.3000* (6 August 2020) and case *No. 1004376-67.2020.4.01.3000* (10 August 2020), reinforced the Brazilian judiciary's commitment to safeguarding asylum seekers from unlawful expulsion, particularly emphasizing the protection of those in vulnerable circumstances and their entitlement to due process under both domestic and international legal frameworks.

Pushbacks at the Airport: To date, no judicial decisions from other Brazilian regional courts have been identified that address the case of pushback at the airport, other than the international airport of Guarulhos. This may be due to the fact that this airport, as mentioned in Part I of this Report, is the most important international airport in all of Brazil, serving as a gateway for travellers from other continents.

De facto detention at the airport: To date, no judicial decisions from other Brazilian regional courts have been identified that address the case of *de facto* detentions at an international airport other than Guarulhos.

De facto detention in private infrastructures: The ruling from the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, Procedure *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated on 11 February 2022, differs from a previous judgment issued on 4 February 2022, by the Duty Judge (*Plantão*) of the Judicial Section of Rio de Janeiro. While the subsequent decision upheld the plaintiff's arguments and granted the requested relief, the previous judgment had denied the request for precautionary measures. The first judge found the plaintiff's allegations of persecution in his home country, the duration of his *de facto* detention in Brazil, and his travel narrative to be "implausible" and lacking sufficient evidence. This stands in stark contrast to the subsequent decision of 11 February 2022, which ultimately upheld the plaintiff's position.

Procedural barriers: Obstacles to presenting the asylum application: To date, no judicial decisions from other Brazilian regional courts have been identified that address the obstacles to presenting the asylum application.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The ruling in case *No. 5012134-17.2021.4.03.0000*, adjudicated by the Third Chamber of the Federal Regional Court of the 3rd Region (TRF-3) on 4th February 2022, demonstrates alignment with other judicial decisions addressing the same barrier. For instance, the ruling of the Federal Regional Court of the 4th Region (TRF-4), *No. 5020425-76.2021.4.04.0000*, adjudicated on 20th May 2021, referring to Ministerial Ordinance (*Portaria*) No. 652/2021. In this decision, the court ruled in favour of the applicants, limiting the border authority's discretion to summarily expel people with irregular immigration status. Likewise, the Regional Court of the 2nd Region (TRF-2), in case *No. 5002223-94.2022.4.02.5101*, adjudicated on 28th February 2023, which exhibited consistency with previously cited judicial pronouncements. Specifically, this ruling by the Federal Court of the 2nd Region (TRF-2) affirmed that the limitations established by Ministerial Ordinance No. 658/2021 exceeded legally conferred powers, thereby underscoring the imperative of upholding due process in the adjudication of asylum claims.

Procedural barriers: Refugee claim processing through a legal representative: The decision rendered by the Federal Regional Court of the 3rd Region (TRF-3) in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, on 17 August 2016, proves alignment with other judicial decisions addressing the same barrier. For instance, *Writ of Mandamus No. 5012355-72.2017.4.03.6100*, from the 24th Federal Civil Court of São Paulo, dated 16 August 2017, concerning a Tunisian national, the court explicitly invoked the prior ruling to order the authority to receive and process the applicant's request for refuge through the DPU. This position was subsequently confirmed in the ruling dated 29 June 2018.

Evolutionary or restrictive approach

Pushbacks at land: The ruling by the Federal Regional Court of the 1st Region in *Habeas Corpus No. 6447-87.2016.4.01.4200*, dated 32 March 2017, demonstrates an evolving legal perspective on barriers to asylum

by scrutinizing practices that bypass individualized due process. Specifically, the decision confronts the issue of collective expulsions, proscribed by international human rights instruments such as the ACHR, and underscores the imperative of individual assessments within deportation proceedings. The court's emphasis on procedural safeguards and the right to be heard acts as a counterweight to restrictive measures aimed at expedited removals without regard to the distinct circumstances of each case. This position aligns with an evolutive interpretation that prioritizes the protection of migrants' rights and access to asylum over potentially exclusionary immigration policies. Scholarly commentary notes that this ruling establishes substantive, rather than merely procedural, arguments by introducing a "humanitarian guideline" concerning the treatment of Venezuelan migrants in Brazilian border municipalities.¹⁶³ Furthermore, as previously articulated, this judicial pronouncement holds significance by examining the lack of individualized assessment in expulsion proceedings and their summary nature, alongside an analysis of the compatibility of collective expulsions with pertinent international norms.¹⁶⁴

Likewise, the ruling of the Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, dated 28/07/2021, reflects an evolutive approach to asylum barriers, aligning with the arguments presented by the DPU in the legal action. The ruling emphasizes the protection of fundamental human rights and due process in the context of migration and specifically opposes measures like summary deportations and restrictions on seeking refuge, advocating for procedural safeguards and adherence to international human rights agreements. Moreover, the decision stresses the importance of upholding legal and humanitarian principles in dealing with migration, reflecting an evolutive approach that favours protecting migrants' rights and access to asylum.

In conclusion, both the 2017 Habeas Corpus decision and the 2021 Public Civil Action ruling exemplify a judicial shift towards an evolutive and rights-based approach to asylum barriers. This shift is demonstrated by the courts' emphasis on due process, rejection of collective expulsions, and prioritization of humanitarian considerations. Such legal interpretations mark a departure from strictly restrictive border control policies, reflecting a more nuanced understanding of the rights and vulnerabilities of migrants. This judicial trend aligns with evolving international legal norms and human rights standards, indicating a progressive trajectory in the domestic treatment of asylum seekers. Notably, this liberalization is reflected in legislative reforms that have expanded refugee definitions, decriminalized irregular migration in favour of regularization, recognized migration as a fundamental right, and, at least in theory, extended to migrants and refugees rights equivalent to those of nationals.¹⁶⁵

Pushbacks at the Airport: The STJ's ruling in case *No. 3522 - SP (2024/0452510-2)*, dated 1st December 2024, reflects a restrictive shift in judicial interpretation concerning the rights of transit passengers to seek asylum. Although Brazilian asylum legislation does not explicitly prohibit individuals in transit from applying for international protection, the STJ's ruling effectively bars such claims when made at airport facilities. The Court reasoned that transit travellers, by virtue of onward tickets and the absence of demonstrated intent to remain, do not qualify as bona fide asylum seekers within Brazilian territory. It emphasized that protection could instead be sought in the traveller's intended destination, invoking a logic akin to the "safe third country" concept.

This decision marks a departure from Brazil's earlier, more permissive framework, which permitted individuals arriving at international airports, including those in transit, to submit asylum requests. The policy shift was catalysed by a report from law enforcement agencies alleging systematic abuse of the asylum system and misuse of exemptions from transit visa requirements. Based on these findings, authorities recommended the restriction of asylum procedures within airport premises. In response, the DPU filed a collective habeas corpus petition challenging the legality and constitutionality of the new

¹⁶³ Ruseishvili S., Carvalho R.C., Nogueira M.F.S. (2018). *Construção social do estado*, cit., pp. 59-60.

¹⁶⁴ Jiménez V. & Vargas F. (2022). *La prohibición de expulsiones colectivas en las Américas: Desafío y Experiencias*, in *Acceso a la Justicia de las Personas Migrantes, Refugiadas y otras sujetas de Protección Internacional en Las Américas*, p. 139.

¹⁶⁵ Acosta D. & Freier L.F. (2024). Regional governance of migration in South America, in Triandafyllidou A. (eds.) *Handbook of Migration and Globalization*, second edition, pp. 254, 258.

administrative practice. Initial rulings in lower courts were divided. However, the STJ ultimately upheld the government's position, concluding that the restrictions did not violate the principle of *non-refoulement*. The Court argued that passengers in transit retained the option to continue their travel and seek asylum in their country of destination. Importantly, the decision allowed only for exceptional claims by individuals in transit who could demonstrate a pre-existing connection to Brazil, such as familial ties or a credible intention to remain, to be considered for asylum at the border.

This ruling illustrates a broader trend in South American jurisprudence toward harmonizing immigration control measures with national security and sovereignty concerns, while formally maintaining a commitment to the principles of international protection. As some recent decisions suggest, there may be a gradual erosion of judicial deference to executive discretion in immigration matters, as issues of migration and sovereignty become more closely intertwined in legal and political discourse.¹⁶⁶ Moreover, this development reflects what scholars have characterized as the phenomenon of “symbolic” human rights and migrant rights discourse in Latin America: expansive constitutional and legal guarantees coexist with increasingly securitized and exclusionary asylum practices, resulting in both normative and operational contradictions.¹⁶⁷ It also illustrates the “reverse immigration paradox” of populist liberalism, in which government rhetoric on migrant protection appears considerably more liberal and rights-based than the actual policies implemented.¹⁶⁸

De facto detention at the airport: 1) The decision rendered by the Regional Federal Court of the 3rd Region, in *Collective Habeas Corpus No. 5029663-44.2024.4.03.0000*, dated 11 November 2024, highlights an evolutive approach concerning the rights of migrants within the context of refugee law, specifically regarding procedures for those seeking asylum upon arrival. The court directly invokes Articles 7 and 21 of the Refugee Statute (Law No. 9.494/1997), emphasizing the legal entitlement of foreigners to express their will to seek recognition as refugees at any border entry point and the corresponding obligation of the authorities to provide the necessary procedural information. This underscores a judicial leaning towards ensuring that legal channels for asylum are accessible, even in situations where individuals are in transit or lack conventional entry documentation. Furthermore, the court's concern for the humanitarian conditions of migrants in restricted airport areas and the need to prevent potential human rights violations align with an evolutive approach that prioritizes the protection of vulnerable populations.

Conversely, the case also addresses the restrictive practices of detention and repatriation, which represent significant barriers to accessing protection. The court's concern over migrants being held in the restricted area of Guarulhos Airport, facing the threat of imminent deportation, and being denied the ability to even apply for refugee status reveals a critical examination of procedures that potentially undermine the principle of *non-refoulement*. By granting a preliminary injunction to suspend these deportations, the court signals a willingness to intervene when administrative actions pose a risk to the fundamental rights of migrants seeking asylum, reflecting an evolutive stance that balances border control with humanitarian obligations.

2) The judicial decision from the 5th Federal Court of Guarulhos in *Civil Habeas Corpus (No. 5008037-42.2024.4.03.6119)*, dated 14 November 2024, reflects a notable alignment with a restrictive stance on asylum, largely shaped by concerns articulated in the Technical Note No. 18/2024/Gab-DEMIG/DEMIG/SENAJUS/MJ. This document highlights a significant surge in asylum requests at a major international airport and suggests that an overwhelming majority of these asylum seekers do not proceed with the necessary steps for formal integration into the country. This evidence supports the claim that the asylum system is being misused to facilitate irregular migration, with many people using asylum

¹⁶⁶ Dauvergne C. (2003). Challenges to sovereignty: migration laws for the 21st century, Working Paper No. 92, p. 13.

¹⁶⁷ Hammoud-Gallego O. & Freier L.F. (2023). Symbolic Refugee Protection: Explaining Latin America's Liberal Refugee Laws, *American Political Science Review*, p. 469.

¹⁶⁸ Acosta Arcarazo D. & Freier L.F. (2015). Turning the Immigration Policy Paradox Upside Down? Populist Liberalism and Discursive Gaps in South America, *The International Migration Review*, Vol. 49/3, p. 689.

applications as a transit mechanism to other destinations. The technical note details how a substantial number of claimants quickly exit the country, often through porous northern borders, raising suspicions of involvement in migrant smuggling operations. The court's reliance on these findings indicates a judicial predisposition towards curbing perceived abuse of the asylum process, potentially at the expense of a more protective interpretation of asylum rights.

De facto detention in private infrastructures: The ruling in case *No. 5007193-40.2022.4.02.5101/RJ*, adjudicated by the Judicial Section of Rio de Janeiro, 26th Federal Court of Rio de Janeiro, on 11 February 2022, demonstrates a judicial body actively intervening to overcome both formal and informal barriers that prevented an asylum seeker from exercising their rights. While the Federal Police cited a formal ordinance (Interministerial Ordinance No. 655/2021) to justify its initial denial, the court dismissed this reasoning. It found that the applicant's fundamental right to file an asylum claim superseded the bureaucratic restrictions of the ordinance. The court's decision to order the Federal Union to refrain from forcibly removing the individual also highlights a proactive, protective stance against administrative overreach.

Procedural barriers: Obstacles to presenting the asylum application: The decision of the Federal Regional Court of the 3rd Region, *No. 5031553-56.2021.4.03.6100*, dated 7th November 2022, aligns with an evolutive approach to asylum barriers that is increasingly evident in the jurisprudence of the Federal Regional Court of the 3rd Region. This approach is characterized by a willingness to prioritize the protection of fundamental human rights and access to asylum procedures over rigid adherence to administrative formalities. The court's emphasis on the prohibition of rejecting refugees, as articulated in the United Nations Convention on the Status of Refugees, and its interpretation of national laws in a manner consistent with this principle, demonstrates a clear inclination towards reducing barriers to asylum.

This evolutive trend is further supported by the court's recognition of the practical difficulties faced by asylum seekers, who often arrive without documentation due to the circumstances of their flight. The decision to allow the processing of the applicant's claim despite the absence of a valid passport and to annul the fine imposed on him for his irregular status reflects a pragmatic and humane application of the law. This approach acknowledges that procedural obstacles should not be used to deny individuals the opportunity to seek protection, aligning with the broader principles of humanitarian reception (*acolhida humanitária*) enshrined in Brazil's Migration Law

However, the case also reveals a point of divergence, illustrated by the dissenting opinion, which underscores a conflicting perspective on the necessity of valid travel documents. This view emphasizes the importance of verifying the identity of immigrants for security reasons and adherence to legal procedures, highlighting a tension between the need for procedural rigor and the protection of humanitarian principles. The dissenting opinion's emphasis on the applicant's past criminal record as a factor influencing the decision further illustrates a differing approach to balancing individual circumstances with broader immigration concerns.

Procedural barriers: Disqualification of asylum application due to irregular entry during the restrictions for the COVID-19 pandemic: The decision of the Federal Regional Court of the 3rd Region, Third Chamber, in case *No. 5012134-17.2021.4.03.0000*, dated 4th February 2022, reflects an evolutive approach to asylum law by prioritizing the fundamental right to seek refuge over restrictive administrative measures. This is evident in the court's emphasis on upholding the principle of *non-refoulement* and its assertion that irregular entry should not impede access to asylum procedures. Rather than adhering to a restrictive interpretation that might prioritize border control or administrative efficiency, the court adopts a rights-based approach, ensuring that individuals can seek protection even in complex situations, such as those arising during a public health crisis. This stance aligns with an evolutive trend in international law that seeks to expand and strengthen protection for vulnerable populations, even when faced with competing state interests.

This evolutive approach to asylum law demonstrated by the Brazilian court is supported by academic perspectives, which maintain that the disqualification of refugee requests due to irregular entry, a consistent feature of the Ministerial Ordinances (*Portarias*), was “invalid even under national infra-constitutional law,” due to a “double material incompatibility” with both national (Article 8 of Law No. 9.474/1997) and international law (particularly the American Convention on Human Rights).¹⁶⁹ Moreover, it has been argued that the legally guaranteed human right to seek asylum, the principle of *non-refoulement* (preventing summary deportation), and the assurance of document regularization regardless of immigration status were arbitrarily denied¹⁷⁰ with the *Portarias* issued during the COVID-19 pandemic. It is also an evolutionary approach that has been defended and reiterated by the DPU as well as human rights organizations, as detailed in the first part of this report.

Procedural barriers: Refugee claim processing through a legal representative: The decision rendered by the Federal Regional Court of the 3rd Region in *Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016, reveals a dual tendency in the judicial approach to asylum. On one hand, the court adopts an evolutive stance by prioritizing the applicant’s procedural right to submit an asylum claim through a legal representative, ensuring access to the system. This approach aligns with the principles of facilitating access to justice and upholding normative frameworks like CONARE’s Normative Resolution No. 18/2014 and Law No. 9.474/97, which explicitly allow for such representation.

Conversely, the decision also clearly states that it does not delve into the merits of the asylum claim itself. The court distinguishes between the right to apply and the right to be granted asylum, which reflects a potentially restrictive approach to the substantive assessment of asylum claims. Furthermore, the reference to precedents that favour judicial restraint in cases involving immigration and asylum policies signals a restrictive approach by the judiciary regarding the analysis of the conditions for granting asylum points to a balancing act between ensuring access to the asylum process and limiting judicial intervention in the evaluation of asylum claims.

¹⁶⁹ Pitrez de Aguiar Corrêa E. & Mendonça da Trindade G. (2023). *Interpretação secundum conventionem das medidas de fechamento de fronteiras no Brasil: o princípio do non-refoulement e a proteção de migrantes em tempos de Covid-19*, Revista da AJURIS, Vol. 50/154, pp. 135, 139.

¹⁷⁰ Redin G., (2021). *Lei de Migração e pessoas refugiadas no Brasil: uma visão crítica*, in Carvalho Ramos A. (ed.) *70 anos da Convenção relativa ao Estatuto dos Refugiados: (1951-2021) perspectivas de futuro*, pp. 163-164.

PART 3: SOCIO-LEGAL FACTORS

I. PROCEDURES IN ASYLUM ACCESS ADJUDICATION

A. Access to judicial bodies

In Brazil, all barriers to asylum access can, in theory, be judicially reviewed through various legal actions. To date, no barriers have been identified that are entirely immune to judicial scrutiny. Any obstruction to the right to seek asylum would constitute a violation of international law, thereby subjecting it to judicial review.¹⁷¹

Despite the possibility of review, this does not mean that specific, direct jurisprudence exists for every type of barrier, as was noted in the discussion of administrative barriers. While the legal right to challenge these obstacles is clear, the practical application of this principle through case law may be underdeveloped. Therefore, to gain a more complete understanding of these challenges and the specific jurisprudential gaps, it would be beneficial to explore this topic further through interviews with relevant stakeholders.

Procedural barriers: Brazilian case law currently lacks direct rulings on many of the specific administrative failures faced by asylum seekers that are identified in Part II. Instead, judicial intervention is largely confined to cases involving undue delays in the refugee status determination process. A notable example is *Public Civil Action No. 5012300-75.2020.4.04.7107*, decided on 17 December 2021, by the Third Federal Court of Caxias do Sul. In that case, the court dismissed a challenge based on administrative delays, emphasizing the complexity of the determination process and the lack of a statutory deadline for processing applications. The court also considered the practical consequences of imposing strict deadlines. This decision illustrates a judicial reluctance to intervene directly in what is viewed as administrative jurisdiction, even when delays effectively block access to asylum.

Furthermore, judicial intervention is limited to two specific types of cases: those that allow for asylum applications to be filed by a legal representative, and those involving immediate disqualification due to violations of COVID-19 entry restrictions. These points are elaborated on in Part II of this report.

Time as a challenge

Pushbacks: Time constraints present a significant challenge for asylum seekers facing border rejection and immediate expulsion. Without prompt legal intervention, individuals may be denied entry or expelled from the territory before they can file an asylum claim and receive an individual assessment. This challenge is exemplified by the collective expulsions at the northern border and rejections/*de facto* detention at Guarulhos Airport, as detailed in Parts I and II of this report. Although there is no legal deadline for filing a writ of habeas corpus, the STJ has held that the deadline for filing an ordinary writ of habeas corpus in civil matters is five days, pursuant to Article 30 of Law 8.038/1990, without the 2015 Code of Civil Procedure (CPC/2015) being applicable in this case.¹⁷² In this regard, the immediate filing of a writ of habeas corpus or amparo is essential in cases of forced return in Brazil. An example of this is case *Civil Habeas Corpus (1269) No. 5008029-65.2024.4.03.6119*, adjudicated by the 6th Federal Court of

¹⁷¹ Jubilit L.L. (2011). *A Judicialização do Refúgio*, cit., p. 173.

¹⁷² STJ, *É de cinco dias corridos o prazo para interposição de recurso ordinário em habeas corpus sobre matéria cível*, 24/02/2022, <https://www.stj.jus.br/sites/porta/p/Paginas/Comunicacao/Noticias/24022022-E-de-cinco-dias-corridos-o-prazo-para-interposicao-de-recurso-ordinario-em-habeas-corpus-sobre-materia-civel.aspx>

Guarulhos,¹⁷³ where the judge issued precautionary measures ordering the authorities to refrain from carrying out the deportation of the person until a decision was made on the merits of the case.

Detention: For individuals facing *de facto* detention in international airport transit areas, time is a critical factor for obtaining judicial review and securing freedom of movement. As noted earlier, *de facto* detention in Brazil occurs when a person is restricted to airport premises under surveillance after refusing to board a connecting or return flight, thereby preventing them from presenting an asylum claim. In the cases identified in Parts I and II of this report, immediate legal action has been crucial to challenge this practice, enabling individuals to apply for asylum and exit the airport before being forcibly removed. However, because this practice takes place in restricted areas, individuals often lack access to legal assistance or the guidance needed to file an action, leaving them without legal recourse.

It is important to note that filing immediate legal proceedings does not guarantee an individual's release from *de facto* airport detention. For instance, in the case of *Civil Writ of Mandamus No. 5007360-12.2024.4.03.6119*,¹⁷⁴ the judge issued an injunction to prevent the individual's removal but still recognized the jurisdiction of airport immigration authorities. The ruling did not authorize entry into the country; instead, it ordered authorities to refrain from deporting the individual, leaving him in the "custody" of Federal Police in the airport inspection and security areas.

In cases of Habeas Corpus, the period indicated above in the pushbacks section (5 days) applies. However, the deadline to request a Writ of Mandamus, according to Article 23 of [Law No. 12.016, 7 August 2009](#), is 120 days from the date of notification of the act deemed illegal or an abuse of power. This is a statute of limitations. If the act is omitted, the 120-day deadline begins from the date the act should have been performed.¹⁷⁵

Procedural barriers: For asylum seekers, time is a critical element when facing procedural obstacles. As noted above, during the pandemic, for example, irregular entry could lead to "disqualification" from the asylum process. The inability to file a claim meant that asylum seekers remained in an irregular immigration status, making them vulnerable to removal orders. Similarly, when individuals were unable to file an asylum claim through a third party, they were left without any protection and risked deportation. In both cases, the speed of the legal challenge was crucial. Prompt legal action was the only way to suspend a potential expulsion order and ensure an individual assessment of the asylum claim. As mentioned above, the deadline to request a Writ of Mandamus, is 120 days from the date of notification of the act deemed illegal or an abuse of power.

Costs for legal representation

In Brazil, the financial cost of legal representation has not been identified as a significant barrier to challenging the legality of asylum barriers. Under Brazilian law, individuals who lack sufficient resources are entitled to free legal assistance. To date, this system has largely prevented cost from becoming a determining factor in access to the courts.

However, a potential and foreseeable challenge is that the demand for these free legal services may lead to them being overburdened. This could, in turn, compromise the ability to take swift legal action, which is often crucial for addressing asylum barriers effectively. While the right to free legal representation exists,

¹⁷³ *Civil Habeas Corpus (1269) No. 5008029-65.2024.4.03.6119*, adjudicated by the 6th Federal Court of Guarulhos on 14 November 2024.

¹⁷⁴ *Civil Writ of Mandamus (120) No. 5007368-86.2024.4.03.6119*, adjudicated by the 6th Federal Court of Guarulhos on 20 October 2024.

¹⁷⁵ Borges F. *Compreendendo o mandado de segurança*, 25/08/2022, <https://www.migalhas.com.br/depeso/372316/compreendendo-o-mandado-de-seguranca>

the practical limitations of the system—namely, the potential for being stretched thin—could indirectly create a barrier by causing delays in an already time-sensitive process like pushbacks and *de facto* detention.

Spatial and geographical issues

Pushbacks at land: For asylum seekers rejected at the border, geography is a critical impediment, particularly in cases of collective expulsions, where it is compounded by the factor of time. These actions often take place in remote border areas and can be executed with such speed that legal actions cannot be filed in time to prevent them. This rapid removal from the territory effectively pre-empts any possibility of a judicial review or an individual assessment of each person’s case, making both geography and time formidable barriers to justice. Part I and II of this report analysed the collective expulsions that occurred on Brazil’s northern border in 2016 and 2021. Thanks to the immediate intervention of the DPU, in 2017, the expulsion of the affected individuals, who were already being transported to the border, was prevented by judicial means. See in particular, Federal Regional Court of the 1st Region, Judicial Section of the State of Roraima, *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated on 31 March 2017, and Judicial Section of Roraima, 2nd Federal Civil Court, *No. 1001365-82.2021.4.01.4200 Public Civil Action (65)*, adjudicated on 28 July 2021.

Pushbacks at the airport: At airports, special issues represent a fundamental barrier for asylum seekers, as rejections occur within the “restricted zone”. Access to this area is strictly controlled, requiring authorization from airport authorities for any outsider. This prevents any immediate possibility of legal intervention or access to legal representation. While airport authorities are required to communicate any asylum application made at the airport to the relevant authorities, this may not be the case in practice.

This geographical limitation is compounded by the speed with which expulsions can be carried out. Since the person is already on airport premises, they can be removed from the country quickly and easily, preventing them from even filing an asylum application. Therefore, the restricted nature of the airport environment, coupled with the rapidity of the expulsion process, creates a significant and often insurmountable obstacle to seeking protection. As mentioned above, although there is no legal deadline for filing a habeas corpus petition, the STJ has established that the deadline for filing an ordinary habeas corpus petition in civil matters is five days, in accordance with Article 30 of Law No. 8.038/1990, without the 2015 Code of Civil Procedure (CPC/2015).¹⁷⁶ However, the deadline to request a Writ of Mandamus, according to Article 23 of [Law No. 12.016, 7 August 2009](#), is 120 days from the date of notification of the act deemed illegal or an abuse of power. This is a statute of limitations. If the act is omitted, the 120-day deadline begins from the date the act should have been performed.¹⁷⁶

Moreover, the December 2024 ruling by Brazil’s STJ, affirming the Ministry of Justice’s restrictions on transit passengers and the rejection of purportedly “abusive” asylum claims while permitting migrant deportations, substantially curtails the avenues for judicial challenge to these restrictive measures within Brazil.¹⁷⁷ Consequently, this decision undermines access to judicial bodies in asylum adjudication, as individuals may face expulsion from the country without any effective legal recourse in Brazil.

Detention: As with airport rejections, the spatial factor is crucial for people *de facto* detained in restricted areas of airports. Being in a strictly controlled access zone that requires authorization from airport authorities, their access to legal assistance is severely limited. The DPU has an office at the airport, but access for private defenders is restricted, so people who are inadmissible or *de facto* detained at the airport depend on the actions of the DPU. This physical confinement creates, in practice, a barrier to legal representation and access to judicial remedies.

¹⁷⁶ Borges F. *Compreendendo o mandado de segurança*, 25/08/2022, <https://www.migalhas.com.br/depeso/372316/compreendendo-o-mandado-de-seguranca>

¹⁷⁷ Mixed Migration Center (2024). Latin America and the Caribbean QUARTER 4 2024, p. 5.

Procedural barriers: If individuals face obstacles in filing an asylum application through a legal representative, their location can impact their ability to seek judicial review of the administrative authority's refusal. This is particularly true for those in detention centres, where restrictions on movement prevent them from freely accessing the legal system to file a claim. Fortunately, through legal representation, individuals can overcome these barriers and exercise their right to due process. This is exemplified in cases like that of the Federal Regional Court of the 3rd Region (*Civil Writ of Necessary Remittal No. 0000194-86.2015.4.03.6100/SP*, dated 17 August 2016), analysed in Part II, where legal counsel enabled an individual to challenge an administrative decision.

Practices to overcome these challenges

Pushbacks at land: In cases of border rejections and collective expulsions, the collaboration between civil society organizations and the DPU has proven to be crucial. These organizations, strategically located in border states, actively monitor the situation and provide vital legal counsel to individuals in the area. This network enables them to work alongside the DPU to initiate legal action, often in response to time-sensitive situations. This was exemplified by the successful actions taken in both 2016 and 2021, which demonstrated the effectiveness of this coordinated effort in challenging border practices.

Pushbacks at the airport: In cases of rejection and *de facto* detention at airports, in January 2015, a Technical-Institutional Cooperation Agreement for the Protection and Promotion of Humanitarian and Solidarity Solutions (TCTI)¹⁷⁸ was signed to promote and strengthen protections for migrants rejected at Guarulhos International Airport. The agreement's signatories include the Federal Attorney for Citizens' Rights, the National Secretariat of Justice, CONARE, the DPU, and UNHCR. This agreement has been consistently renewed, allowing for greater oversight of airport procedures and service needs.

As a direct result of the TCTI, the Advanced Post for Humanized Assistance to Migrants (*Posto Avançado de Atendimento Humanizado ao Migrante -PAAHM*) was established. While initially providing assistance outside the restricted areas, the PAAHM now also offers services within the airport's restricted zone. These services include the early identification of individuals who may need special protection and the forwarding of their information to the appropriate authorities and service providers. The TCTI formalized the cooperation with various actors, including civil society organizations through a working group. This group maintains the same diverse composition, with local representatives from the signatory organizations, the Federal Police, and civil society groups such as *Cáritas São Paulo* and *Missão Paz*.¹⁷⁹

In 2019 and 2021, the Technical-Institutional Cooperation Agreement (TCTI) was amended to enhance humanitarian aid at Guarulhos International Airport. This amendment expanded the responsibilities of the signatories, requiring them to provide humanitarian assistance to migrants and unadmitted individuals held in restricted areas. They are also tasked with identifying individuals in need of protection under Brazil's international and domestic laws and referring these cases to the appropriate authorities. Additionally, the signatories must monitor transport companies to ensure they fulfil their obligations to individuals conditionally authorized to enter Brazil. They also support migrants referred by the Federal Police to the Humanitarian Post, offering them essential services such as shelter, transportation, information about life in Brazil, and social, psychological, and legal aid.¹⁸⁰

¹⁷⁸ In Portuguese “*Termo de Cooperação Técnico-Institucional para Proteção e Promoção de Soluções Humanitárias e Solidárias em Situações de Migrantes Inadmitidos no Aeroporto Internacional de Guarulhos (TCTI)*”

¹⁷⁹ *Missão Paz et al., Refúgio no Brasil*, cit.

¹⁸⁰ Federal Attorney's Office for Citizens' Rights et al. *Primeiro Termo Aditivo ao Termo de Cooperação Técnico- Institucional de 21 de fevereiro de 2019 que entre si celebram a Procuradoria Federal dos Direitos do Cidadão, o Ministério da Justiça e Segurança Pública, por meio da Secretaria Nacional de Justiça, a Defensoria Pública da União, o Município de Guarulhos, por meio da Secretaria de Desenvolvimento e Assistência Social, e o Alto Comissariado das Nações Unidas para os Refugiados, para a cooperação mútua na proteção e promoção de soluções humanitárias e solidárias para situações de migrantes inadmitidos no Aeroporto Internacional de Guarulhos*, 21 February 2021,

Implications of difficulties accessing justice

The judiciary's role in asylum cases is often limited by the nature of the claims it receives. In practice, its function is primarily to safeguard procedural integrity, such as by halting unlawful expulsions or challenging administrative actions, rather than conducting a comprehensive review of all obstacles to asylum.

This limitation becomes particularly clear when geographic and physical access barriers prevent a claim from even being filed. For individuals outside Brazilian territory or confined to restricted airport areas, the inability to initiate legal action effectively neutralizes the judiciary's power to assess the legality of their detention or rejection. In such situations, the court remains unaware of the circumstances and cannot exercise its protective function.

In contrast, the judiciary is more likely to address administrative barriers, such as immediate disqualification for violating pandemic-related restrictions or the inability to file a claim through a third party. Here, the main obstacles to justice are not the individual's physical location but rather the potential for an overload of legal aid services and the inherent urgency of the claims. Therefore, the effectiveness of the judicial system is directly determined by the specific type of barrier being challenged.

B. Legal aid

As mentioned in Part II, in Brazil, the right to legal aid for asylum-seekers¹⁸¹ is grounded not only in the refugee-specific provisions of Law No. 9.474/1997 but also in the broader constitutional and procedural framework that guarantees access to justice.¹⁸² The Migration Law ensures “equal and free access for migrants to services, programs and social benefits, public goods, education, comprehensive public legal assistance, work, housing, banking services, and social security” (Law No. 13.445, Art. 3, n. 11).

Pushbacks: Based on immigration law, the DPU should be informed about all expulsion and deportation cases. This allows the DPU to offer legal advice and representation to migrants and refugees. The DPU also provides legal representation and protection assessments for children and adolescents who are separated, unaccompanied, or undocumented at the border. This is done to help them enter Brazil and get the necessary documents. In addition, a working group has also been established at Guarulhos International Airport in São Paulo, as previously noted. This group includes federal prosecutors, public defenders, UNHCR, federal and municipal government agencies, the Federal Police, and civil society members. Their main purpose is to prevent asylum seekers from being returned to their home countries. When a foreign national, who would otherwise be considered inadmissible, expresses a need for international protection, the DPU is activated to provide guidance and prevent them from being sent back.¹⁸³

Detention: As with border rejections, in *de facto* airport detentions, the working group established at airport facilities (PAAHM) must provide immediate assistance to individuals detained in inadmissible areas. However, this requires them to be permanently present at the airport and able to identify those in this situation. This practice is essential to ensure their safety and the timely evaluation of their requests.

Furthermore, under Brazilian Migration Law, all migrants, including asylum seekers, have a right to free and comprehensive legal assistance on equal terms with Brazilian citizens. This right is granted to those

https://www.ufrgs.br/migracidades/wp-content/uploads/2021/02/05.02.2021_Termo-Aditivo_Plano_Simplificado_ACT_GRU_2021_Final.pdf

¹⁸¹ Freier L.F. & Gauci J.P. (2020). *Refugee Rights Across Regions*, cit., p. 345.

¹⁸² Szabo I., *Aportes da coordenação de cooperação e relações internacionais da assessoria internacional da Defensoria Pública da União na temática de refúgio*, In: Ribeiro Pinchemel E. and Szabo I. (ed.), *Brasil, país de refúgio: a atuação da defesa na temática de refúgio*, Brasília, 2022, p. 53.

¹⁸³ Asylum Capacity Support Group, *Brazil: Legal advice*, cit.

who can demonstrate they have insufficient financial resources (Law No. 13.445, Art. 4, n. 9).¹⁸⁴ Moreover, article 98 of the Brazilian Code of Civil Procedure establishes a comprehensive and detailed right to free legal aid, serving as a critical mechanism for ensuring that financial constraints do not impede individuals' ability to access judicial and administrative remedies.

Free legal aid covers court fees, expert fees, and legal representation, effectively removing financial barriers to accessing justice. To receive free legal aid, individuals must prove their financial hardship. The system is streamlined, and a person's declaration of indigence is generally presumed to be true, though this presumption can be challenged and rebutted with evidence. Finally, a request for free legal aid can be made at any stage of proceedings and is subject to judicial review, with provisions for appeal if the request is denied. Furthermore, the system allows for partial or instalment-based aid and can temporarily suspend payment obligations for court costs if a person loses their case.¹⁸⁵

In Brazil, individuals unable to afford a private attorney have several options for securing free legal counsel. The DPU is a key provider of direct free legal assistance, particularly for asylum seekers, refugees, and vulnerable migrants throughout Brazil.¹⁸⁶ Eligibility is determined by a financial assessment, and those seeking help must schedule an appointment with their local office, often bringing documentation to prove their financial situation. Additionally, legal aid may be available through university-based legal clinics, where students provide services under the supervision of faculty. Furthermore, various non-governmental organizations and human rights centres offer free legal support, often focusing on specific areas such as immigration, civil rights, or family law.¹⁸⁷ They have been instrumental in ensuring that many asylum seekers receive the legal help they need.¹⁸⁸

Finally, some private lawyers and law firms in Brazil provide pro bono services for public interest cases or for individuals in need. This practice does not appear to be common. Instead, it seems to stem from a deep-rooted institutional logic, where companies expect a specific benefit, a dynamic that is often tempered by their own organizational goals.¹⁸⁹

However, the large number of lawyers and legal representatives in the country is not enough to guarantee access to justice. According to a 2017 study, high levels of poverty prevent the vast majority of the Brazilian population from paying for legal services, regardless of market prices, and therefore, they rely on free legal aid.¹⁹⁰ As a result, free legal aid services may become overburdened with work.

Moreover, a significant challenge for asylum seekers in Brazil seeking legal help is the limited capacity of the DPU. In other words, the "real quantitative incapacity of public defenders to address all the requests

¹⁸⁴ See de Oliveira M.M. *A igreja e a dimensão social da acolhida e da proteção a Migrantes e Refugiados*, In: Refúgio, Migrações e Cidadania, Caderno de Debates 18, 2023, p. 84

¹⁸⁵ National Council of Justice, CNJ *Serviço: o que é e como pedir assistência judicial gratuita*, 17/12/2018, <https://www.cnj.jus.br/cnj-servico-o-que-e-e-como-pedir-assistencia-judicial-gratuita/>

¹⁸⁶ Asylum Capacity Support Group, Brazil: Legal advice and representation, <https://acsg-portal.org/tools/brazil-legal-advice-and-representation/#:~:text=The%20Working%20Group%20also%20develops,justice%20and%20the%20judicial%20system;>

Chang Waldman T. [et al.] (2020). *Assistência jurídica à população migrante no Brasil: perfil, boas práticas e desafios da rede de apoio da sociedade civil*

¹⁸⁷ See Senna Martins A.E. *Como Conseguir Assistência Jurídica Gratuita no Brasil*, Jusbrasil, 18/09/2023, <https://www.jusbrasil.com.br/artigos/como-conseguir-assistencia-juridica-gratuita-no-brasil/1971811182>

¹⁸⁸ See Leite L. (2017). *Esfera recursal no processo de reconhecimento da condição de refugiado: uma expectativa brasileira*, In: Jubilut, L. and Godoy, G. (Ed.). *Refúgio no Brasil: comentários à Lei 9.747/97*. São Paulo: Quartier Latin, p. 251.

¹⁸⁹ See de Sa e Silva F. (2022). *Private Law Practice and the Public Good: Individual Pro Bono's Institutionalization in São Paulo Law Firms*. In: Cummings SL, de Sa e Silva F, Trubek LG, eds. *Global Pro Bono: Causes, Context, and Contestation*. Cambridge Studies in Law and Society. Cambridge University Press, p. 162

¹⁹⁰ Esteves D., Alves C., and Castro A. (2027). *National Report Brazil*, International Legal Aid Group Conference, June 21-23, Harvard.

received”.¹⁹¹ The issue is especially difficult in border cities, where asylum seekers often arrive. In some areas, a DPU office doesn’t exist, which means there’s no immediate legal assistance available. For example, while the state of Roraima (northern border) has created a special unit to assist Venezuelans with various legal issues, this is not a widespread solution. In other border regions, this lack of DPU presence leaves asylum seekers without protection.¹⁹² Despite this, some civil society organizations in these areas work to fill the gap by connecting asylum seekers with the DPU for assistance. Despite this, some civil society organizations in these areas are working to meet the needs, connecting asylum seekers with the DPU so they can receive assistance. However, the excessive demand for services, which can overwhelm the organization’s capacity due to a lack of staff and financial resources, may prevent them from providing support in more complex and sensitive cases.¹⁹³

As mentioned before, asylum seekers could face a significant challenge in accessing free legal aid due to the DPU limited capacity to handle all cases immediately. This lack of timely legal assistance can have serious negative consequences, particularly in urgent situations such as being denied entry at the border or facing immediate expulsion. In these cases, delays in receiving legal aid can be especially detrimental to the individuals involved.

C. Lodging the appeal

Pushbacks: Under Brazilian law, there is no specific deadline for filing a lawsuit to challenge a border rejection or summary removal. When a defence attorney learns of an impending border return or summary deportation of a migrant or refugee who may need international protection, they must act quickly to prevent it. They do this by filing a writ of Habeas Corpus to suspend the removal order, like in Judicial Section of the State of Roraima, *Habeas Corpus No. 6447-87.2016.4.01.4200*, adjudicated on 31 March 2017. This legal procedure is the same for all types of borders (land, air, and sea)¹⁹⁴ and is the same type of habeas corpus petition used in cases of *de facto* detention, as mentioned in Part II.

Regarding the Public Civil Action (*Ação Civil Pública- ACP*), for instance in *No. 1001365-82.2021.4.01.4200*, adjudicated by the Judicial Section of Roraima, 2nd Federal Civil Court, on 28 July 2021, the process often begins with a pre-procedural phase where a civil inquiry (*inquérito civil*) is conducted by an authorized entity, such as the DPU, to gather crucial evidence and build a strong legal foundation for the case. Brazilian law strictly defines which entities have the active legitimacy (*legitimidade ativa*) to file an ACP, including the DPU, the Union, states, municipalities, and certain associations, provided they have been formally constituted for at least one year and their statutes include the protection of the relevant collective interests. When the action is officially filed, the plaintiff must clearly state the specific legal interest being protected, the damage caused, the responsible party, and the requested remedies. A vital procedural tool is the request for an urgent injunction (*tutela de urgência*), which can be granted to immediately suspend a harmful act and prevent irreversible damage while the lawsuit is being processed. Ultimately, a final judgment in an ACP has an *erga omnes* effect, meaning its outcome applies to everyone in the affected group, not just the parties directly involved.¹⁹⁵

Detention: In the event of unlawful deprivation of liberty, public defenders are called upon to file a writ of habeas corpus, for instance in Regional Federal Court of the 3rd Region 4th Chamber, *Habeas Corpus (1269) No. 5029663-44.2024.4.03.0000*, adjudicated on 11 November 2024, and 5th Federal Court of

¹⁹¹ De Oliveira R. (2021). *Judicialização do refúgio no Brasil: o papel das defensorias públicas*, In: de Carvalho Ramos A., Rodrigues G., de Almeida G., (Ed.) 70 Anos da Convenção relativa ao Estatuto dos Refugiados - (1951-2021) Perspectivas de Futuro, Brasília, ACNUR Brasil, 2021, p. 205

¹⁹² Ibidem.

¹⁹³ Chang Waldman T. [et al.] (2020). *Assistência jurídica à população migrante no Brasil*, cit., p. 52.

¹⁹⁴ Furquim A. and Miguel C. *Protocolo de Assistência Jurídica a Pessoas Migrantes e Refugiadas em Áreas de Fronteira Modelo Regional de Defesa de Pessoas em Contexto de Mobilidade*, Ferramentas Eurosocial No. 93, 2021, p. 19.

¹⁹⁵ Blog EPD, *Ação civil pública: o que é?*, 07/08/2024, <https://epd.edu.br/blog/acao-civil-publica-o-que-e/>

Guarulhos, and *Civil Habeas Corpus (1269) No. 5008037-42.2024.4.03.6119*, adjudicated on 14 November 2024. The habeas corpus is governed by articles 647 to 667 of the Code of Criminal Procedure ([Decree-Law No. 3.689](#), 3 October 1941), and can be filed by any person, on their own behalf or for someone else, as well as by the DPU's Office. A key aspect is that a judicial authority can issue a writ of habeas corpus on its own initiative (*de oficio*), whether for a single person or a group, if they see that someone's freedom is being illegally threatened during a legal process.

The jurisdiction for a habeas corpus request depends on the authority that is being accused of illegal coercion. Cases are handled by: The Supreme Federal Court (Supremo Tribunal Federal); Appeals Courts; and lower courts, though a judge's jurisdiction ends if the coercion comes from a judicial authority of equal or higher standing.

The procedural steps: a) Filing the petition: The habeas corpus petition must include the name of the person being coerced and the person or authority causing the coercion. It must also describe the type of coercion or the reasons for the fear of coercion. B) Immediate action: Upon receiving the petition, a judge or tribunal must act immediately. If the person is in custody, the judge may order them to be brought to court. Disobeying this order can result in a warrant for the detainer's arrest; c) Decision: The judge or tribunal will perform the necessary checks. If they find that the coercion has already stopped, the case will be dismissed. If illegal coercion is evident from the documents, the court will order it to cease immediately; d) Issuing the order: If the decision is favourable, the person must be released promptly unless they are being held for another legal reason. If the habeas corpus is granted to prevent a threat, the person is given a safe conduct order. E) Penalties for misconduct: An authority that ordered coercion in bad faith or with an abuse of power may be ordered to pay court costs. Obstruction or delay in the habeas corpus process by a jailer, police, or judicial official can also result in a fine.

Furthermore, as mentioned in Part II, the writ of mandamus (*mandado de segurança*) may be filed in cases of *de facto* detention at the airport, e.g. *Civil Writ of Mandamus (120) No. 5007368-86.2024.4.03.6119* (adjudicated by the 6th Federal Court of Guarulhos on 20 October 2024), as well as in cases of procedural barriers, e.g. *Civil Writ of Mandamus (120) No. 5002878-54.2019.4.03.6100*, adjudicated by the 9th Federal Civil Court of São Paulo on 22 September 2020. It is a distinct and expedited legal remedy, designed to protect a "clear and certain right" that has been violated by an illegal or abusive act of a public authority. Unlike a regular lawsuit, which has multiple phases (such as pleading, discovery, and trial), the writ of mandamus procedure is summary, typically consisting of only two phases: the pleading and the decision. The process is streamlined to quickly address an illegal act or omission by a public authority. The writ of mandamus is not applicable if there is a pending administrative or judicial appeal with a stay, or if the case has already received a final judgment. It also cannot be used to challenge a law in the abstract before it has been applied to a specific case. The deadline for filing is 120 days from the date the illegal act becomes known. Following the filing, the judge will request written information from the public authority, and after receiving it, will issue a decision.

A key feature of this procedure is the preliminary injunction (*liminar*), a preliminary injunction that allows for an immediate, temporary order. A judge can grant the preliminary injunction to protect a clear and certain right at risk of irreparable harm while the case is being processed. This is a crucial tool in urgent situations, such as an asylum case where an immediate deportation order needs to be halted. The preliminary injunction suspends the effects of the administrative act until the court can issue a final judgment, providing a vital, albeit temporary, safeguard for the applicant's rights.

Procedural barriers: In cases of procedural barriers, it is possible to file a writ of mandamus (*mandado de segurança*) following the procedure indicated above.

D. Hearing

Pushbacks: Public civil action cases do not include hearings. Furthermore, while a writ of habeas corpus grants the judge the power to order a person to appear in court for a hearing, the law does not require an in-person hearing. The judge may, and often does, make a decision based solely on the legal arguments presented in writing.

Detention: As stated above, although a habeas corpus order gives a judge the power to order that a person be brought before the court for a hearing, the law does not require an in-person hearing. The judge can, and often does, make a decision based only on the legal arguments presented in writing. For this reason, judges handling *de facto* airport detention cases have frequently decided on preliminary measures and even the entire case without ever speaking to the individuals involved, as the law allows this practice. The judge can still go to the person's location if they are too ill to come to court, and a decision must be issued within 24 hours of a hearing (Articles 660 and 657, Code of Criminal Procedure).

Furthermore, Writ of mandamus actions do not provide for hearings.

Procedural barriers: In challenges concerning procedural barriers, hearings are not convened, as the corresponding legal remedies do not encompass oral proceedings. Instead, judges issue rulings based solely on the arguments and evidence submitted in the written briefs.

To date, no sources have been identified that address the potential implications of the lack of hearings in legal actions against barriers to asylum. However, based on the cases of individuals *de facto* detained at Guarulhos Airport, the lack of a hearing may have hindered their ability to properly defend themselves. For instance, in *Civil Writ of Mandamus No. 5007368-86.2024.4.03.6119*¹⁹⁶ and *habeas corpus No. 5008037-42.2024.4.03.6119*,¹⁹⁷ the judges based their decisions on “pre-constituted” evidence, meaning only the written arguments and evidence submitted at the time of filing were considered. In both cases, the judges noted a lack of evidence regarding the individuals' ties to Brazil or their intent to remain, which might have been clarified in an oral hearing.

E. Deliberation

In Brazil, the procedural aspects regarding deliberation in asylum access adjudication do not vary according to the barriers analysed but rather according to the legal remedy used to challenge the barrier.

Pushbacks: A writ of habeas corpus is typically filed with a single judge at the lowest level of the judiciary. This judge must act immediately. The process is expedited and informal, with a focus on resolving the matter as quickly as possible. If the initial decision is denied, the applicant can appeal to a higher court, such as a state or federal appellate court. These appeals are heard and decided by a panel of three judges (*Turma*), ensuring a collective review of the lower court's decision. Appeals from the appellate panels can be taken to the National High Court of Brazil (STJ) or, in cases involving constitutional matters, the Supreme Federal Court (STF). These courts deliberate in panels or in the full court (*pleno*) for decisions of broader impact. Dissenting and concurrent opinions are legally permitted

Detention: As stated above, a writ of habeas corpus is typically filed with a single judge at the lowest level of the judiciary. This judge must act immediately. The process is expedited and informal, with a focus on resolving the matter as quickly as possible. If the initial decision is denied, the applicant can appeal to a higher court, such as a state or federal appellate court. These appeals are heard and decided by a panel of three judges (*Turma*), ensuring a collective review of the lower court's decision. Appeals from the appellate

¹⁹⁶ *Civil Writ of Mandamus (120) No. 5007368-86.2024.4.03.6119*, decided by the 6th Federal Court of Guarulhos on 23 October 2024.

¹⁹⁷ *Habeas Corpus (Civil) (1269) No. 5008037-42.2024.4.03.6119*, adjudicated by the 5th Federal Court of Guarulhos on 14 November 2024.

panels can be taken to the STJ or, in cases involving constitutional matters, the STF. These courts deliberate in panels or in the full court (*pleno*) for decisions of broader impact. Dissenting and concurrent opinions are legally permitted.

Procedural barriers: A writ of mandamus (*mandado de segurança*) is initially filed with a single judge. This judge, who could be a federal or state judge, is responsible for the preliminary analysis and issuing a preliminary injunction (*liminar*) if the requirements are met. If the initial decision is appealed, the case is reviewed by a panel of judges. For federal cases, this would be a panel of the Regional Federal Court, while for state cases, it would be a panel of the State Court of Justice. These panels are typically composed of three judges. Appeals from the appellate panels can be taken to the STJ or, in cases involving constitutional matters, the STF. These courts deliberate in panels or in the full court (*pleno*) for decisions of broader impact. Dissenting and concurrent opinions are legally permitted.

No sources have been identified that assess how differences between panel decisions and those of a single judge may affect the outcome of decisions on asylum access barriers. Furthermore, the review of available case law has not provided sufficient evidence to draw conclusions on this issue.

F. Review of decisions

In Brazil, the procedural aspects related to judicial review in asylum access adjudication do not vary according to the barriers analysed but rather according to the legal remedy used to challenge the barrier.

Pushbacks: Pushback cases that have been challenged through habeas corpus follow the same procedure as those used in habeas corpus cases against *de facto* detention. A party may file an ordinary appeal to the Superior Court of Justice to challenge a resolution that denies a writ of habeas corpus. This is applicable to decisions made by Federal Regional Courts or by State and Federal District Courts. The appeal must be filed within a strict five-day deadline and must include the specific reasons for requesting a review. Once the appeal is distributed, it is immediately sent to the DPU's Office for review within a two-day period. After this, the case is forwarded to the reporting judge, who is responsible for submitting it for trial without a fixed agenda, emphasizing the urgency of such cases. The procedural rules and resolution guidelines that apply to the original habeas corpus writ also apply, where relevant, to the appeal process. (Articles 30- 32, [Law No. 8.038](#), 28 May 1990, establish procedural standards for the proceedings specified before the Superior Court of Justice and the Supreme Federal Court).

Detention: As stated above, a party may file an ordinary appeal to the Superior Court of Justice to challenge a resolution that denies a writ of habeas corpus. This is applicable to decisions made by Federal Regional Courts or by State and Federal District Courts. The appeal must be filed within a strict five-day deadline and must include the specific reasons for requesting a review. Once the appeal is distributed, it is immediately sent to the DPU's Office for review within a two-day period. After this, the case is forwarded to the reporting judge, who is responsible for submitting it for trial without a fixed agenda, emphasizing the urgency of such cases. The procedural rules and resolution guidelines that apply to the original habeas corpus writ also apply, where relevant, to the appeal process. (Articles 30- 32, [Law No. 8.038](#), 28 May 1990, establish procedural standards for the proceedings specified before the Superior Court of Justice and the Supreme Federal Court).

Procedural barriers: An ordinary appeal to the Superior Court of Justice can be filed against a decision that denies a writ of mandamus (*mandado de segurança*) in the first instance. This applies to rulings from Federal Regional Courts, State Courts, and the Federal District Court. The appeal must be submitted within a 15-day deadline and must include the specific reasons for seeking to overturn the decision. The rules for admissibility and the procedure at the lower court level are governed by the Civil Procedure Code concerning appeals. Once the appeal is distributed, the case is immediately sent to the DPU's Office for a review period of five days. Following this review, the case is sent to the reporting judge, who will then

schedule a date for the trial. (Articles 33-35, [Law No. 8.038](#), 28 May 1990, establish procedural standards for the proceedings specified before the Superior Court of Justice and the Supreme Federal Court).

A civil appeal can be filed against a final judgment. An interlocutory appeal (*agravo de instrumento*) can be filed against non-final, or interlocutory, decisions made during the case. These appeals are filed with the Superior Court of Justice. The admissibility requirements and procedural rules are governed by the Civil Procedure Code. (Articles 36-37, [Law No. 8.038](#), 28 May 1990, Establishes procedural standards for the proceedings specified before the Superior Court of Justice and the Supreme Federal Court).

In Brazil's judicial system, the influence of higher courts on lower-ranking judges operates with a specific structure. As mentioned in Part II, the system is geographically divided into federal judicial regions. Decisions from a Federal Regional Court (a second-instance federal court) establish precedent for the lower federal courts within that specific region. While lower courts in other regions are not formally bound by this precedent, they may consider it for persuasive value when ruling on similar cases.

However, a different rule applies to the nation's highest courts. Decisions issued by the STJ or the STF create binding precedent that all courts throughout the country are obligated to follow.

G. Procedures in decentralized states

Although Brazil is a federal state, the procedural rules and applicable law do not vary across regions. All courts are required to apply the law in the same manner. This is a fundamental principle that ensures legal consistency and predictability throughout the country.

As mentioned before, legal procedures are consistent across the country. The laws governing the filing and evaluation of appeals are uniform for all federal states and courts, meaning there is no regional variation in these processes.

H. Influence of procedures in practice and the role of courts

Based on current knowledge, no specific practices have been identified that deviate from the formal legal procedures, such as conduct at hearings or requirements for legal representation.

The jurisprudence of Brazilian courts has directly shaped the interpretation and application of procedural protections and asylum rights in the country. Notably, decisions analysed in Part II on collective expulsions and the immediate disqualification of asylum claims for irregular entry during the COVID-19 pandemic have been pivotal. In these rulings, courts have emphasized the expanded definition of a refugee, influenced by the Cartagena Declaration, to include individuals fleeing situations of generalized violence or human rights violations, thereby broadening the scope of who can be granted protection. Furthermore, the courts have consistently reinforced the need for due process for every individual involved in asylum proceedings. For instance, judicial rulings have mandated that expulsion measures must comply with due process, ensuring adversarial proceedings and providing legal guarantees for filing judicial appeals against such decisions. This emphasis on due process and the right to appeal is a fundamental procedural protection shaped by judicial interpretation.

While there are no direct IACtHR decisions on asylum cases in Brazil, its jurisprudence has had a persuasive, albeit indirect, influence on Brazilian judges. Decisions like *Tineo Pacheco Family v. Bolivia* (2013), which pertains to the right to seek asylum, and *Vélez Loor v. Panama* (2010), which addresses due process in detention cases, have established key procedural standards within the Inter-American human rights system. These IACtHR interpretations of the right to asylum and related procedural guarantees serve as influential benchmarks that are considered by Brazilian judges when interpreting domestic laws. This external jurisprudence has reinforced procedural requirements, such as the right to legal aid and the right to be heard, even without a direct case against Brazil.

While the IACtHR has not decided any asylum cases directly involving Brazil, its jurisprudence and Advisory Opinions have nevertheless influenced Brazilian judicial bodies. Although Brazilian courts do not cite Inter-American rulings in asylum access procedures, the principles established by the court—particularly those related to due process and refugee status—have informed the interpretation of national law.

This influence is most evident in cases of collective expulsions, immediate removals, and the disqualification of asylum seekers during COVID-19 restrictions. In these instances, Brazilian judges have analysed the issues through a lens aligned with Inter-American standards. They have consistently upheld the right to seek asylum, the necessity of an individual assessment for each case, the right to a proper defence, and the need for clear rules to ensure a fair trial. These principles, developed through different Inter-American rulings have become a cornerstone of the Brazilian judiciary's approach to protecting asylum seekers' rights, thanks to their mobilization by legal intermediaries, as in the case 3rd Federal Civil and Criminal Court of SJAC, Public Civil Action No. 1004501-35.2020.4.01.3000 (17 August 2020), which aligned on the rights of vulnerable migrants facing immediate deportation and the necessity of upholding due process and *non-refoulement*. For instance:

- *Vélez Loor v. Panama* (2010):¹⁹⁸ The IACtHR was emphatic in stating that due process must be guaranteed to all persons regardless of their immigration status.
- *Nadege Dorzema and others v. Dominican Republic* (2012):¹⁹⁹ The IACtHR found that the State did not justify the expulsions without a formal procedure observing individual guarantees.
- *Tineo Pacheco v. Bolivia* (2013):²⁰⁰ Right to seek asylum and non-refoulement.
- *Expelled Dominicans and Haitians v. Dominican Republic* (2014):²⁰¹ The Inter-American Court of Human Rights affirmed the existence of a systematic pattern of expulsions, carried out through collective acts or procedures without individual analysis, and which were based on a discriminatory conception.

Moreover, Advisory Opinion No. 18 and Advisory Opinion No. 21 from IACtHR have significantly influenced the Brazilian judiciary's approach to asylum. As discussed in Part II, Opinion No. 18 establishes the principle of equality between nationals and migrants, asserting that migrants are a vulnerable population and must have equal access to public resources. It also affirms that due process is a fundamental right for all individuals, regardless of their immigration status. Opinion No. 21, which Brazil helped request, reinforces the right to due process by emphasizing the right to appeal. It clarifies that any administrative or judicial decision affecting a person's fundamental rights, such as the denial of asylum, must be subject to judicial review. While not always explicitly cited, these foundational principles have quietly guided Brazilian judicial decisions, ensuring that administrative actions affecting asylum seekers are subject to legal oversight.²⁰²

I. Other procedures

To date, no other procedural aspects have been identified that could influence access to the asylum procedure.

¹⁹⁸ IACtHR, *Case Vélez Loor v. Panama*, Judgment November 23, 2010 (Preliminary Objections, Merits, Reparations and Costs).

¹⁹⁹ IACtHR, *Case Nadege Dorzema et al. v. Dominican Republic*. Judgment of October 24, 2012 (Merits, reparations and costs), C. No. 251, 2012, §§ 151, 178.

²⁰⁰ IACtHR, *Case of the Pacheco Tineo family v. Plurinational State of Bolivia*, Judgment of November 25, 2013 (Preliminary objections, merits, reparations and costs).

²⁰¹ IACtHR, *Case of Expelled Dominicans and Haitians v. Dominican Republic*, Judgment of August 28, 2014 (Preliminary Objections, Merits, Reparations, and Costs), 2014, §171.

²⁰² Fregadolli Ferreira F. and Lima J.B. (2018) “O poder judiciário”, cit., pp. 317-318.

II. JUDICIAL BODIES IN ACCESS TO ASYLUM

A. Institutional configuration

As explained in Part II, CONARE is the tripartite body responsible for adjudicating asylum applications in Brazil. Its diverse composition unites government officials—from the Ministries of Justice, Foreign Affairs, Labour, Health, and Education, alongside the Federal Police—with representatives from civil society and UNHCR. Additionally, the committee includes the Attorney General’s Office and the DPU as observers to ensure a comprehensive review process. In Brazil, the DPU acts as the Ombudsman. It is an autonomous entity, with constitutional status, whose institutional functions are “to promote and defend human rights, both judicial and extrajudicial, individual and collective, in a comprehensive and free manner, for as many years as necessary” (art. 134, caput, Federal Constitution).²⁰³

On the other hand, the Brazilian Judiciary’s structure also includes the National Council of Justice (CNJ- *Conselho Nacional de Justiça*), an oversight body that monitors the administrative and financial performance of courts and the professional conduct of judges. The CNJ is chaired by the President of the Supreme Federal Court (STF). It is headquartered in the federal capital and operates nationwide.²⁰⁴

- *First instance judicial bodies:* Federal Court (*Vara Federal*), National Council of Justice (CNJ)
The organization of the first level of jurisdiction of the Federal Court is governed by Law No. 5.010 of 30 May 1966, which determines that in each of the states, as well as in the Federal District, a judicial section will be established. Located in the capitals of the states of the Federation, the judicial sections are formed by a set of federal courts, where federal judges work. They are responsible for the original judgment of most cases submitted to the Federal Court.²⁰⁵ Currently, the first level of the Judiciary is structured in 15,646 judicial units,²⁰⁶ distributed in 27 Judicial Sections, one for each Brazilian state and the Federal District.
- *Second instance judicial bodies:* Federal Regional Court (*Tribunal Regional Federal*), National Council of Justice (CNJ)

The Federal Regional Courts (TRFs) represent the second tier of the Federal Judiciary in Brazil. Created by the 1988 Constitution, there are currently six TRFs. In districts where there is no federal court, state judges are competent to process and judge certain types of cases (art. 15, Law No. 5.010/1966). Their main function is to hear appeals of decisions made by federal judges and by other judges exercising federal jurisdiction. They also have original jurisdiction for certain cases, such as those involving federal judges themselves. Rulings from the TRFs can be appealed to either the Superior Court of Justice (STJ) or the Supreme Federal Court (STF).²⁰⁷

- *Third instance judicial bodies:* National High Court (*Superior Tribunal de Justiça*- STJ), National Council of Justice (CNJ)

It is the highest court of the common courts (state and federal) for infraconstitutional cases (not directly related to the Federal Constitution), composed of 33 justices.²⁰⁸ Its main function is to standardize and interpret Brazilian federal legislation, except in matters within the jurisdiction of specialized courts (electoral and labour). Its powers are provided for in Article 105 of the Federal Constitution, including the judgment in special appeal of cases decided in the last or sole instance

²⁰³ See Sarmiento D. (2017). *PARECER “Dimensões Constitucionais da Defensoria Pública da União”*, ANADEF, https://www.adambrasil.com/wp-content/uploads/2017/05/Parecer_ANADEF_CERTO.pdf.

²⁰⁴ STJ, *Poder Judicial Brasileiro*, <https://international.stj.jus.br/es/Poder-Judicial-Brasileno>

²⁰⁵ National Justice Council -Conselho Nacional de Justiça (CNJ), *Justiça em Números 2024*, Brasília, 2024, p. 42.

²⁰⁶ CNJ, *Justiça em Números 2024*, Brasília, 2024, p. 46.

²⁰⁷ CNJ, *Justiça em Números 2024*, cit., p. 42.

²⁰⁸ National High Court, *Ministros*, <https://international.stj.jus.br/pt/Sobre-o-STJ/Ministros>

by the Federal Regional Courts, by the Courts of Justice, or by the Military Courts of Justice of the states when the appealed decision contradicts federal law.²⁰⁹

The STJ is organized in three specialized Sections (*seções*). Within each specialty, they hear writs of mandamus, complaints, and jurisdictional conflicts. They are also responsible for hearing repetitive appeals. Each Section brings together justices from two specialized Panels (*Turmas*). The Sections are composed of ten justices, and the Panels are composed of five justices each. The Panels hear special appeals that are not repetitive in nature, criminal habeas corpus cases, habeas corpus appeals, writs of mandamus, and other types of proceedings.²¹⁰

- *Constitutional instance*: Supreme Federal Court (*Supremo Tribunal Federal -STF*), National Council of Justice (CNJ)

The Supreme Federal Court (STF) stands as Brazil's highest judicial body, functioning as the ultimate guardian of the Federal Constitution as outlined in Article 102. The Court is composed of eleven Justices (*Ministros*), who serve permanently or until mandatory retirement age (75 years). The appointment process requires the President of the Republic to select a candidate, who must then be approved by an absolute majority of the Federal Senate. A restriction is in place, as specified in the Internal Regime, prohibiting the appointment of individuals related by blood or affinity to any current Justice up to the third degree.

STF's core responsibilities include adjudicating the constitutionality of federal and state laws, hearing declaratory actions for constitutionality, and ruling on claims of non-compliance with constitutional principles. Furthermore, the STF acts as the final court of appeals for writs such as habeas corpus and *mandado de segurança* when they have been denied by superior courts, and it considers extraordinary appeals for cases that involve violations of constitutional provisions. The Court's internal governance is structured around a Plenary, two Panels, and the President. The President and Vice-President are elected by the Plenary from among the Justices for two-year terms, with the Chief Justice also serving as the President of the National Council of Justice. Each of the two Panels is composed of five Justices and is presided over by the most senior member for a one-year term, with reappointment prohibited until all members have had the opportunity to serve.

The STJ also operates as a critical component of the judicial system, with a complex internal structure. The Plenary of the STJ, comprising all justices, has strictly administrative jurisdiction, handling matters such as the election of members to executive positions and voting on changes to internal rules. The Special Court, consisting of the 15 most senior justices, is the highest jurisdictional body and is responsible for hearing criminal cases against governors and other officials. It also resolves appeals where there are divergent interpretations among the specialized bodies of the STJ. Both the Plenary and the Special Court are presided over by the President of the Court. The STJ's work is further divided into specialized sections and panels, organized by subject matter. Each section, composed of ten justices from two specialized panels, hears writs of mandamus, complaints, and jurisdictional disputes, and is responsible for repetitive appeals. The panels themselves are each made up of five justices. Both the sections and panels are presided over by the most senior justice for a two-year term, with reappointment prohibited until all members have had their turn to serve.²¹¹

²⁰⁹ CNJ, *Justiça em Números 2024*, cit., p. 45.

²¹⁰ STJ, *Composição*, <https://www.stj.jus.br/sites/portalp/Institucional/Composicao>

²¹¹ See Supreme Federal Court, *Estrutura e Órgãos Julgadores*, <https://international.stj.jus.br/pt/Sobre-o-STJ/Estrutura-e-Orgaos>

To date, no implications have been identified regarding how the institutional configuration of the courts responsible for assessing the legality of asylum barriers affects asylum decisions in Brazil.

Power/competences of the judicial bodies responsible for asylum access adjudication

In Brazil, the role of judicial bodies in asylum cases is primarily to address legal questions rather than the merits of the asylum claim itself. While courts have occasionally assessed the substantive reasons behind an application, their main function is to ensure the correct interpretation and application of asylum law.

Once a court issues a ruling, its decisions are binding on administrative authorities. The case is then referred back to these authorities for appropriate action. For example, in cases where administrative barriers were challenged, courts have compelled authorities to accept and process previously blocked asylum applications or those submitted by third parties. Similarly, the judiciary has intervened to suspend attempts at collective expulsions at the border, forcing authorities to comply with court orders and process cases individually.

Implications of the available types of remedies on asylum access adjudication

As described in Part II, the most common remedies are the writ of mandamus (*Mandado de Segurança*) and, in urgent situations, habeas corpus and injunctions (*tutelas*). The writ of mandamus is primarily used to contest procedural irregularities or unlawful acts. While it can correct due process violations, courts have repeatedly declined to revisit the substantive merits of refugee determinations. By contrast, habeas corpus and urgent injunctions are typically invoked at borders to prevent immediate returns or refoulement and to secure the right to lodge an asylum claim. These remedies provide an essential—though often temporary—check on executive power at the point of entry. Yet higher courts have at times suspended such orders, underscoring the fragility of this protection and the executive’s capacity to reassert control.

Through these mechanisms, the judiciary is introduced as a potential counterweight to the executive. However, Brazilian courts generally treat refugee recognition as an act of administrative discretion rather than a judicially enforceable right.²¹² As a result, judicial intervention is largely confined to ensuring that administrative procedures are followed. Courts rarely engage with the core of an asylum claim. Even when procedural errors lead to a remand, the substantive outcome of the claim often remains unchanged.

This limited scope of review creates a structural tension. While the Constitution guarantees judicial oversight of acts affecting rights, courts have adopted a narrow interpretation of asylum, treating it as an administrative matter rather than a fundamental right. Consequently, remedies that appear robust on paper often prove less effective in practice, leaving asylum seekers with constrained recourse against decisions they view as arbitrary or erroneous.

In practice, then, these remedies are most valuable for correcting procedural flaws and preventing refoulement at borders. They do not, however, establish a multi-tiered system for substantive review outside the executive branch.

B. Independence

Before the 1988 Constitution, Brazil’s judiciary was weak and had little independence. For nearly a century, the executive branch held dominant power with few institutional checks. During the dictatorship, the judiciary remained timid and subservient. The long tenures of judges from this period meant that this culture of subservience persisted even after the country’s return to democracy.²¹³ The [1988 Constitution](#)

²¹² See Jubilit L.L., de Andrade C.S & Gilberto C. (2016) *Human Rights*, cit., p. 218; Magalhães B.B. and Sousa Corrêa G.T., (2019). *A judicialização do refúgio no STJ: deferência ao executivo e incoerência interpretativa*, Revista da Faculdade de Direito – UFPR, Curitiba, Vol. 64/1, p. 162; Ferolla M. (2025). *Failing Asylum-Seekers*, cit., p. 3.

²¹³ See Picci L. (2024). *Rethinking Corruption. Reasons Behind the Failure of Anti-Corruption Efforts*, Cambridge University Press, p. 131.

fundamentally changed this dynamic. In Article 2, it established that the powers of the Federal Union are independent and harmonious with each other, as well as key guarantees for its independence,²¹⁴ clear mechanisms for judicial review of laws and other normative acts (Article 102) and significantly expanded the list of those who could initiate constitutional challenges. This change went beyond traditional legal bodies, allowing organizations like the Brazilian Bar Association (OAB) and even civil society groups to bring cases before the courts. This institutional shift rebalanced power opened up new channels of communication between the state and civil society and paved the way for a more active and influential judiciary.²¹⁵

However, despite this newfound power, the judiciary has often adopted a cautious approach during moments of crisis. For instance, during the governance crisis of the late 1980s and early 1990s, the Supreme Court notably chose a policy of non-interference. This cautious behaviour, termed “prudentialism”, is not unique to Brazil; it has also been observed in other countries, like Spain and Portugal, as they transitioned from authoritarian rule to democracy.²¹⁶

Autonomy of the managing authority of the judicial bodies in the field of access to asylum

In general, the independence of judges, including those in managing and middle-management roles, is a central tenet of the Brazilian judicial system. Judges are admitted to their careers through competitive public examinations, which helps ensure their qualifications and reduces political influence in their selection. Their promotions are based on a system of merit and seniority. The National Council of Justice (CNJ), established by Constitutional Amendment No. 45 of 2004, with the president of the Supreme Federal Tribunal (STF) also serving as its president, reinforces the judiciary’s internal control and self-governance. The CNJ’s role is to supervise these activities and ensure the professional standards of judiciary are upheld. The Brazilian judiciary’s self-governing model and the constitutional guarantees for judges’ careers provide a strong foundation for the autonomy of both high-level and middle-level judicial managers.

Financial independence

Brazil’s judicial bodies have financial independence,²¹⁷ which is a cornerstone of their broader autonomy. The [1988 Constitution](#) of the Federative Republic of Brazil provides the primary legal basis for the financial independence of the judiciary. This is outlined in several key articles:

- Article 99 guarantees administrative and financial autonomy to the Judiciary. The courts are responsible for creating their own budget proposals, which must align with the limits set in the budget guidelines law in collaboration with the other branches of government. These proposals are submitted by the presidents of the respective high courts and must be approved by those courts. If the Judiciary fails to submit its budget proposal on time or if the proposal exceeds the set limits, the Executive Branch is authorized to make the necessary adjustments. During the budget’s execution, the Judiciary cannot incur expenses that go beyond the established limits unless supplementary or special credits have been authorized in advance.

²¹⁴ France G., (2019). Brazil: Overview of corruption and anti-corruption, Transparency International Anti-Corruption Helpdesk Answer, p. 15.

²¹⁵ Avritzer L. and Corrêa Marona M. (2014). *Judicialização da política no Brasil: ver além do constitucionalismo liberal para ver melhor*, Revista Brasileira de Ciência Política, N. 15. Brasília, p. 85. See also Rodrigues de Carvalho E. (2004), *Em busca da judicialização da política no Brasil: apontamentos para uma nova abordagem*, Rev. Sociol. Polít., Curitiba, Vol. 23, p. 118.

²¹⁶ Rodrigues de Carvalho E., *Em busca da judicialização*, cit., p. 120.

²¹⁷ France G., (2019). Brazil: Overview of corruption and anti-corruption, cit., p. 15.

- Article 168 states that the funds corresponding to the budget appropriations for the legislative and judiciary branches, as well as the Public Prosecution Office and the Public Defender's Office, must be delivered to them by the 20th day of each month.

Independence concerning human resource decisions

Brazil's judiciary has a high degree of independence in its human resource decisions for judges and court managers. The selection process for judges is highly meritocratic and independent.

The [1988 Constitution](#) of Brazil, Article 92, mandates that entry into the judicial career for substitute judges (first-grade) is based on a public competitive examination. This ensures candidates are selected based on their qualifications and performance, not on political connections. The Brazilian Lawyers' Order (OAB) participates in all phases, adding an external check and balance to the process. For appointments to second-grade courts (Article 93, II Constitution) and certain higher courts (Article 94 Constitution), a combination of seniority and merit is used, ensuring both experience and competence are valued. For high courts, there is also a "fifth" rule where a portion of the positions are reserved for experienced lawyers and members of the Public Ministry, ensuring diverse professional backgrounds within the judiciary.

Judges in Brazil are granted significant protections to ensure their independence. A key guarantee is life tenure (Article 95, I of the Constitution), which a judge acquires after a two-year probationary period. Once tenured, a judge can only be dismissed by a final court judgment, not by a political decision. Even during the initial two-year period, dismissal is a judicial matter, requiring a majority vote from the judge's affiliated court. The judicial career is structured as a vertical hierarchy, with judges advancing based on two alternating criteria: seniority and merit. The seniority criterion promotes the most experienced judge to the appellate courts. Conversely, the merit criterion considers a judge's productivity and technical proficiency. In practice, however, merit-based promotions are often influenced by political considerations and personal relationships with senior judges who oversee the process.²¹⁸

Moreover, to maintain judicial integrity and focus, Article 95 of the Brazilian Federal Constitution imposes several key prohibitions on judges. These include a ban on holding any other public office or function, with the sole exception of a teaching position, which prevents conflicts of interest and ensures full dedication to their judicial duties. Judges are also prohibited from receiving contingency fees or participating in cases where they have a personal stake, thereby eliminating any financial incentives that could compromise their impartiality. To ensure their decisions are free from political influence, judges are strictly forbidden from engaging in political-partisan activities. Furthermore, Constitutional Amendment 45/2004 introduced a three-year "quarantine" for retired or resigned judges, barring them from practicing law in their former court. This measure prevents them from leveraging personal relationships with former colleagues for an unfair advantage. Additional requirements include a residency mandate, as judges must be available to rule on urgent matters at any time, and a salary cap tied to the allowance of a Supreme Federal Court Minister, ensuring fiscal responsibility across the public service.²¹⁹

The courts themselves have exclusive responsibility for managing their human resources (Article 96 Constitution). Promotions for career judges are a matter for the courts themselves (Article 96, I, c, Constitution). This allows the judiciary to control its own internal hierarchy. Furthermore, courts are responsible for organizing their own administrative services and auxiliary staff (Article 96, I, b, Constitution), hiring the necessary personnel through public exams (Article 96, I, e, Constitution), and

²¹⁸ Mota C. (2023). Breaking the "Glass Ceiling": Brazil Moves Forward with the Creation of Affirmative Action to Promote Female Judges, WBO weekly newsletter, issue 89, <https://www.braziloffice.org/en/articles/breaking-the-glass-ceiling-brazil-moves-forward-with-the-creation-of-affirmative-action-to-promote-female-judges#:~:text=Although%20women%20make%20up%2038.8,percent%20of%20judges%20are%20women>.

²¹⁹ Rocha Barone W. (2016). *A estrutura do Poder Judiciário brasileiro e o Estatuto da Magistratura Nacional*, JULGAR – No. 30, pp. 152-153.

granting leave and vacations (Article 96, I, f, Constitution). Finally, the high courts have the authority to propose changes to the number of judges, create and abolish judicial positions, and even determine the salaries for their members and auxiliary services (Article 96, II, Constitution). This gives the judiciary a significant say in its own structure and budget, further reinforcing its autonomy in human resource matters.

Internal independence

In Brazil, the internal independence of the judiciary is a complex issue, with judges largely protected from external political influence, but subject to a powerful internal hierarchy and institutional guidelines. While individual judges at lower levels have significant discretion in their rulings, this autonomy is balanced by the influence of higher courts and the administrative authority of senior magistrates.

Through Constitutional Amendment No. 45 in 2004, Brazil implemented a judicial reform that significantly centralized authority in the Supreme Federal Court (STF). The reform achieved this in three keyways. First, it empowered the STF to create a binding summary of its jurisprudence, known as the *súmula vinculante*, which must be followed by all judges at every level of the judiciary. This move effectively unified legal interpretation across the country. Second, the reform streamlined the legal process by requiring that cases involving contradictions between state and federal law be submitted directly to the STF, passing the lower courts like the STJ. Finally, the reform created the National Judicial Council (CNJ), a body that reinforces the STF's position as the head of the judiciary. The CNJ, which is ultimately subordinate to the STF, handles the administration and discipline of the judiciary, further consolidating the STF's power and control over the entire system.²²⁰

This system, while promoting legal certainty and efficiency, also creates a hierarchical structure where the rulings of lower-level judges are subject to review and potential reversal by the STF.

Within the courts themselves, a hierarchy exists where senior judges and court presidents have significant influence. They are responsible for administrative functions, assigning cases, and managing staff. While this is necessary for the system to function, it creates a potential for informal influence or pressure on lower-ranked judges. The system's design, however, including the selection process and guarantees of life tenure, is intended to insulate judges from such influence, allowing them to make decisions based solely on the law.

Implications of various aspects of independence

The judiciary's independence in Brazil has significant implications for its capacity to check the executive branch. Courts across the country could theoretically challenge a government policy, even after the high court had already ruled it constitutional through its concrete review competency.²²¹ In this regard, policies and actions in sensitive areas such as immigration and asylum can be challenged in lower courts. An example of this could be the following cases analysed in Part II:

The case of asylum seekers in the international transit area of Guarulhos Airport illustrates how, despite constitutional guarantees, the judiciary's independence can be tested by political pressure and administrative barriers. Until December 2024, these individuals were able to formally lodge their asylum applications. However, a December 2024 court ruling validated the government's interpretation that transit travellers do not have the right to apply for asylum at the airport. This ruling was based on the premise that these individuals were attempting to circumvent migratory policies and lacked ties or a desire to remain in Brazilian territory. Since this decision, courts have increasingly sided with the administration

²²⁰ Kapiszewski D. (2012), *High Courts and Economic Governance in Argentina and Brazil*, Cambridge University Press, p. 99.

²²¹ Ivi, pp. 95, 96.

on this issue. In this regard, while judges are formally independent, they may be reluctant to issue rulings that directly contradict executive branch policies on matters of national security or foreign relations.

In contrast, the judiciary has demonstrated its independence by intervening to protect the rights of vulnerable groups, directly challenging executive actions. A notable example is the 2016 decisions in Roraima concerning the collective expulsion of Venezuelan Warao indigenous people. Federal judges, acting on their constitutional mandate, issued injunctions that blocked these expulsions. The judges ruled that the government's actions violated the rights of the indigenous people and international asylum principles. These rulings were crucial in upholding the rights of a vulnerable population against a politically expedient but legally questionable policy. This case serves as a powerful example of how the judiciary, leveraging its constitutional independence and life tenure for judges, can effectively overrule executive decisions and protect human rights.

The contrast between the Guarulhos and Roraima cases underscores a key implication: the judiciary's willingness to exercise its independence appears to be tied to the perceived political and social sensitivity of the issue. When dealing with highly visible and politically charged situations involving vulnerable populations, such as indigenous people at the border, the judiciary may be more inclined to assert its authority. In less visible cases, such as those involving transit travelers, the judiciary may be less assertive, allowing administrative barriers to persist.

Independence of the whole judicial system

Brazil's judiciary is designed to be highly independent, but this independence isn't applied uniformly, particularly in the complex area of asylum and refugee protection. The system's general independence is robust. This independence grants courts and judges the authority to review government actions, including those of administrative bodies such as CONARE, yet its practical application in asylum cases is often limited, with the judiciary's role primarily confined to reviewing administrative decisions.

The judiciary's influence on asylum policy is often reactive and indirect. Brazilian judges primarily review the legality of decisions made by the CONARE. This differs from other legal systems where a judicial body may handle asylum claims directly. By not re-evaluating the substance of the claims from the ground up, the judiciary's direct influence on asylum policy is limited. Some scholars argue this approach grants excessive power to the Executive Branch, sidelining the human rights aspect of asylum in favour of a national security perspective, where decisions are made based on convenience and opportunity.²²²

Furthermore, even when judges have the authority to act, practical and institutional barriers can impede their intervention. For instance, the issue of asylum applications for travellers in the international transit area of Guarulhos Airport demonstrates how the judiciary can be slow to challenge administrative interpretations that create legal loopholes. While judges have the power to grant Habeas Corpus to challenge illegal detention, they may face institutional pressure or lack sufficient resources to effectively monitor every case. The ability to overcome these barriers often depends on the individual judge's willingness to use their independence and the capacity of civil society organizations and public defenders to bring these cases to court.

C. Centralization/decentralization

The Brazilian judiciary is divided into five distinct branches: state, federal, labour, electoral, and military. The STF is at the apex of the judicial system. It functions as both a constitutional court, ruling on the constitutionality of laws, and a court of appeals that hears cases under diffuse judicial review.²²³ The Court

²²² See Araújo Dias T. (2023), *Proteção Constitucional e Infraconstitucional aos Refugiados no Brasil*, p. 95; Ferolla M. (2025). *Failing Asylum-Seekers*, cit.

²²³ Regarding the STF as a constitutional court see Kapiszewski D. (2012), *High Courts*, cit., p. 98; Calabresi S. (2021) *The History and Growth of Judicial Review, Volume 2: The G-20 Civil Law Countries*, Oxford University Press, p. 210.

handles constitutional matters, conflicts between federal entities, and high-profile criminal cases. Below the STF are the Superior Courts: The Superior Labour Court (TST), the Superior Electoral Court (TSE), the Superior Military Court, and the STJ, which serves as the final arbiter for non-constitutional issues. As a federal system, each of Brazil's 26 states and the Federal District has its own courts and appeals tribunals (Regional Federal Courts) covering different parts of the country. Both state and federal systems also include special courts for small-claims civil and minor criminal cases.²²⁴ The structure is established by the Federal Constitution of 1988, which provides for both federal and state-level courts, each organized into local units.

- *First instance judicial bodies: State Judiciary/court (Vara Justiça Estadual)*

Each of the 26 states of the Federation, as well as the Federal District, has its own judiciary, organized under a State Court of Justice (*Tribunal de Justiça – TJ*). These courts are decentralized in structure, with trial courts (*varas*) distributed across the municipalities within their jurisdiction. At present, the first instance of the Brazilian Judiciary comprises 10,451 judicial units, spread throughout the national territory.²²⁵

São Paulo Court of Justice (TJSP): 1,884 judicial units; Minas Gerais Court of Justice (TJMG) 962 judicial units; Rio de Janeiro Court of Justice (TJRJ) 855 judicial units; Bahia Court of Justice (TJBA) 614 judicial units; Rio Grande do Sul Court of Justice (TJRS) 606 judicial units; Paraná Court of Justice (TJPR) 550 judicial units; Pernambuco Court of Justice (TJPE) 518 judicial units; Goiás Court of Justice (TJGO) 464 judicial units; Ceará Court of Justice (TJCE) 407 judicial units; Santa Catarina Court of Justice (TJSC) 397 judicial units; Pará Court of Justice (TJPA) 322 judicial units; Espírito Santo Court of Justice (TJES) 318 judicial units; Mato Grosso Court of Justice (TJMT) 283 judicial units; Distrito Federal e Territórios Court of Justice (TJDFT) 242 judicial units; Maranhão Court of Justice (TJMA) 212 judicial units; Rio Grande do Norte Court of Justice (TJRN) 274 judicial units; Mato Grosso do Sul Court of Justice (TJMS) 270 judicial units; Paraíba Court of Justice (TJPB); 235 judicial units; Amazonas Court of Justice (TJAM) 188 judicial units; Piauí Court of Justice (TJPI) 179 judicial units; Alagoas Court of Justice (TJAL) 152 judicial units; Tocantins Court of Justice (TJTO) 133 judicial units; Sergipe Court of Justice (TJSE) 123 judicial units; Rondônia Court of Justice (TJRO) 108 judicial units; Acre Court of Justice (TJAC) 69 judicial units; Amapá Court of Justice (TJAP) 57 judicial units; Roraima Court of Justice (TJRR) 29 judicial units.²²⁶

- *Second instance judicial bodies: Federal Regional Court (Tribunal Regional Federal)*

The TRFs are distributed in different Brazilian states and cover two or more judicial sections, as defined below: TRF 1st Region, located in Brasília: Acre, Amapá, Amazonas, Bahia, Federal District, Goiás, Maranhão, Mato Grosso, Pará, Piauí, Rondônia, Roraima and Tocantins; TRF 2nd Region, located in Rio de Janeiro: Espírito Santo and Rio de Janeiro; TRF 3rd Region, located in São Paulo: Mato Grosso do Sul and São Paulo; TRF 4th Region, located in Porto Alegre: Paraná, Rio Grande do Sul and Santa Catarina; TRF 5th Region, located in Recife: Alagoas, Ceará, Paraíba, Pernambuco, Rio Grande do Norte and Sergipe; and TRF 6th Region, located in Belo Horizonte: Minas Gerais.²²⁷

²²⁴ See Da Ros L. & Taylor M.M. (2019). *Juízes eficientes, judiciário ineficiente no Brasil pós-1988*. Revista Brasileira de Informação Bibliográfica em Ciências Sociais, 89(3), p. 5.

²²⁵ CNJ, *Justiça em Números 2024*, cit., p. 48.

²²⁶ Ivi, p. 49.

²²⁷ Ivi, p. 42.

For instance, the Roraima Court of Justice (TJRR), in the north of the country, which faces high migration flows, is one of the smallest, with only 54 judges and 1,586 employees. In stark contrast, a larger and less affected court in a more developed region like Mato Grosso (TRMG) has 1,022 judges and 32,695 employees.²²⁸

D. Specialization

Institutional specialization on asylum

In Brazil, judicial bodies are not specialized in adjudicating asylum cases. The country lacks dedicated courts or judicial sections specifically for asylum and immigration matters. Instead, judges in the ordinary federal courts, most of whom handle a variety of civil cases, are responsible for reviewing and deciding cases related to asylum barriers.

Specialized training in asylum

Professionals involved in asylum adjudication in Brazil do have access to specialized training, although it is not mandatory. In recent years, a key initiative has been the project “Work in the network: training of actors involved in support, integration and internalization of refugees and migrants in Brazil” (*Atuação em rede: capacitação dos atores envolvidos no acolhimento, na integração e na interiorização de refugiados e migrantes no Brasil*), launched in June 2018 by the Training Network for Refugees and Migrants. This project aimed to build capacity for those involved in the reception and integration of refugees and migrants. Over 18 months, it provided free symposiums and workshops in cities that received a large influx of migrants and refugees, including Belém, Manaus, São Paulo, Boa Vista, Porto Alegre, Recife, João Pessoa, Curitiba, Florianópolis, Belo Horizonte, Campo Grande, Rio de Janeiro e Brasília. The initiative reached approximately 4,000 participants from 600 institutions, including public officials, civil society representatives, and journalists.²²⁹

The training network itself is a collaborative effort of several prominent organizations, including the Federal Public Ministry’s Higher School, the DPU, the Public Ministry of Labour, UNHCR, the International Organization for Migration (IOM), and various human rights NGOs. The involvement of these diverse partners ensures that the training covers a wide range of perspectives on refugee and migrant issues.

Likewise, other training initiatives have been carried out by the DPU, UNHCR, IMO and the National School for the Training and Improvement of Magistrates.²³⁰ However, to delve deeper into this aspect, it is considered appropriate to address the topic during the interview process.

As previously indicated in Brazil, there are no specialized asylum courts or judges. Furthermore, to date, no sources have been identified that assess the specialization of other professionals involved in granting asylum (e.g., clerks or lawyers).

²²⁸ See figures in CNJ, *Justiça em Números 2024*, cit., p. 60.

²²⁹ Higher School of the Public Prosecutor’s Office of the Union, *Atuação em rede: capacitação dos atores envolvidos no acolhimento, na integração e na interiorização de refugiados e migrantes no Brasil*, <https://escola.mpu.mp.br/plataforma-aprender/acervo-educacional/conteudo/atuacao-em-rede-capacitacao-dos-atores-envolvidos-no-acolhimento-na-integracao-e-na-interiorizacao-de-refugiados-e-migrantes-no-brasil>

²³⁰ See *STJ e Enfam realizam o seminário Refugiados e migrantes: responsabilidades compartilhadas*, 07/11/2016, <https://www.enfam.jus.br/stj-e-enfam-realizam-o-seminario-refugiados-e-migrantes-responsabilidades-compartilhadas/>; *Juízes federais participam de curso da ONU sobre fluxo de venezuelanos ao Brasil*, 07/12/2018, <https://brasil.un.org/pt-br/81837-ju%C3%ADzes-federiais-participam-de-curso-da-onu-sobre-fluxo-de-venezuelanos-ao-brasil>; *Representantes brasileiros de órgãos do sistema de justiça participam de capacitação da OIM em Genebra*, 02/10/2019, <https://brazil.iom.int/pt-br/news/representantes-brasileiros-de-orgaos-do-sistema-de-justica-participam-de-capacitacao-da-oim-em-genebra>

Discrepancies between the specialization provided on paper and the actual specialization

To date, existing literature scarcely addresses this issue. However, a significant discrepancy exists within the Brazilian judiciary regarding asylum claims: a lack of formal (*de jure*) specialized bodies contrasts with a practical (*de facto*) expertise driven by regional necessity. For instance, courts in border areas or near major international airports handle migration and refugee matters frequently, naturally developing an institutional familiarity that is virtually non-existent in other jurisdictions.

The overall absence of systemic expertise among judicial officers carries profound implications for the consistency of asylum decisions. Without a uniform framework, case outcomes often depend more on the assigned adjudicator than the actual merits of the claim. When generalist federal judges are tasked with complex persecution claims—often lacking specific training in international refugee law or country-of-origin nuances—their rulings vary widely.

This variability not only creates profound legal uncertainty for asylum-seekers but also drives a wedge between the constitutional rights to due process and equality before the law, and the practical reality these individuals face. How the judiciary navigates these specific access barriers despite structural limitations is a critical dynamic that will be explored further during the interviews.

E. Human resources

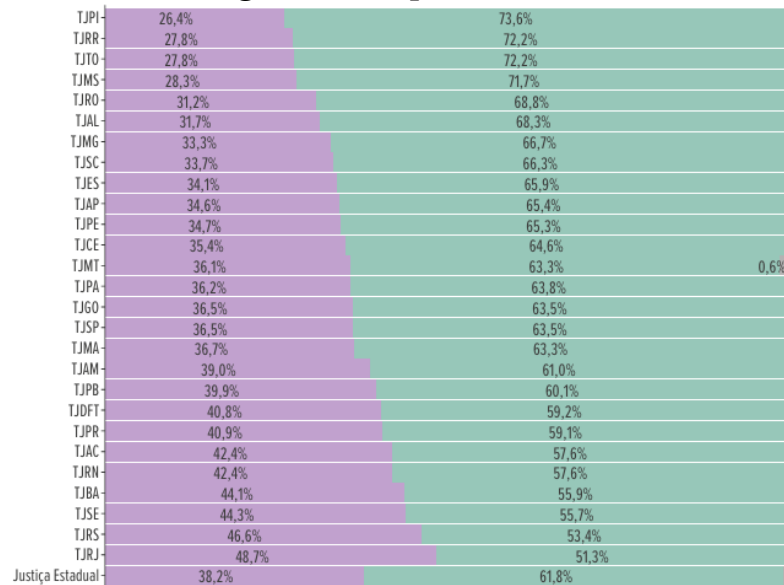
Profile of the group of adjudicators

- *First instance judicial bodies:* São Paulo Court of Justice (TJSP): 2,656 judges; Minas Gerais Court of Justice (TJMG) 1,022 judges; Rio de Janeiro Court of Justice (TJRJ) 885 judges; Rio Grande do Sul Court of Justice (TJRS) 888 judges; Paraná Court of Justice (TJPR) 931 judges; Bahia Court of Justice (TJBA) 692 judges; Santa Catarina Court of Justice (TJSC) 525 judges; Goiás Court of Justice (TJGO) 451 judges; Pernambuco Court of Justice (TJPE) 561 judges; Distrito Federal e Territórios Court of Justice (TJDFT) 384 judges; Ceará Court of Justice (TJCE) 467 judges; Pará Court of Justice (TJPA) 397 judges; Mato Grosso Court of Justice (TJMT) 275 judges; Maranhão Court of Justice (TJMA) 355 judges; Espírito Santo Court of Justice (TJES) 266 judges; Mato Grosso do Sul Court of Justice (TJMS) 219 judges; Rio Grande do Norte Court of Justice (TJRN) 260 judges; Paraíba Court of Justice (TJPB); 258 judges; Amazonas Court of Justice (TJAM) 200 judges; Piauí Court of Justice (TJPI) 188 judges; Rondônia Court of Justice (TJRO) 149 judges; Sergipe Court of Justice (TJSE) 161 judges; Alagoas Court of Justice (TJAL) 173 judges; Tocantins Court of Justice (TJTO) 119 judges; Amapá Court of Justice (TJAP) 77 judges; Acre Court of Justice (TJAC) 88 judges; Roraima Court of Justice (TJRR) 54 judges.²³¹

The state courts with the highest female representation in Brazil's judiciary are TJRJ (48.7%), TJRS (46.6%), and TJSE (44.3%).

²³¹ CNJ, *Justiça em Números 2024*, cit., p. 60.

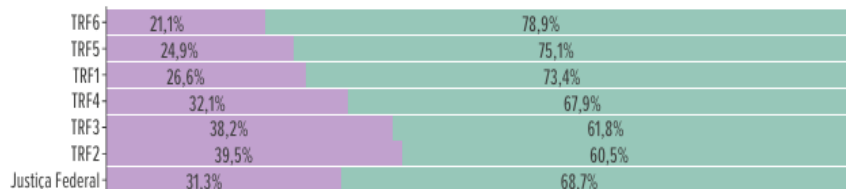
Percentage of female presence in Brazilian courts



Source: CNJ, Justiça em Números 2024, p. 116.

- *Second instance judicial bodies:* TRF 1st Region: Forty-three judges (*desembargador*), ten of whom are women;²³² TRF 2nd Region: Thirty-five judges (*desembargador*), of which only six are women;²³³ TRF 3rd Region: Fifty-three judges (*desembargador*), of which sixteen are women;²³⁴ TRF 4th Region: Thirty-eight judges (*desembargador*), ten of whom are women;²³⁵ TRF 5th Region: Forty judges (*desembargador*), of which only three are women;²³⁶ TRF 6th Region: Thirty-four judges (*desembargador*), of which only six are women.²³⁷

Percentage of female presence in Brazilian Federal courts



Source: CNJ, Justiça em Números 2024, p. 117.

- *Third instance judicial bodies:* National High Court (*Superior Tribunal de Justiça- STJ*): To August 2025, of the thirty-three judges currently serving, only five are women. A review of publicly available information indicates that none of the judges specialize in refugee or migration issues. The majority of judges specialize in civil law, civil procedure, public law, and criminal law. Notably, only one judge’s resume mentions his participation in an activity related to asylum: Third International

²³² See <https://www.trf1.jus.br/trf1/desembargadores-federais/em-atividade>

²³³ See <https://www.trf2.jus.br/trf2/institucional/lista-de-magistrados>

²³⁴ See <https://www.trf3.jus.br/seju/galeria-dos-desembargadores>

²³⁵ See https://www.trf4.jus.br/trf4/controlador.php?acao=pagina_visualizar&id_pagina=834&seq=1|327

²³⁶ See <https://www.trf5.jus.br/index.php/competencia-composicao-e-curriculo-dos-magistrados#aba-2>

²³⁷ See <https://portal.trf6.jus.br/institucional/desembargadores-federais/em-atividade/>

Conference of the Association of Refugee Law Judges (IARLJ) in October 1998, which focused on the role of the judiciary in the new millennium.²³⁸

This gender disparity is in stark contrast to the judiciary in the European Union, where women have achieved majority representation. In 2022, women made up 36.8% of the Brazilian judiciary on average, while in Europe, they constituted 59.7% of judges.²³⁹ Although women constitute 38.8% of the total judiciary, their representation drops significantly at higher levels. They account for only 25% of judges on appellate courts. The disparity is even more pronounced within the federal court system, where women represent just 32% of judges, and their presence on federal courts of appeal plummets to a mere 19%.²⁴⁰

All judges, in all instances, are professional judges, as established in the rules for the election of judges in Brazil. Their training varies between civil, criminal, and administrative law. This has been a characteristic of the Brazilian judicial system after the military dictatorship. Judges have extensive professional experience and rarely have strong ties to governments or political parties, although they may share their general ideological orientation.²⁴¹

Selection and appointment

- *First instance judicial bodies:*

In Brazil's State Judiciary, first-instance judges are selected through a public competitive examination of tests and academic merits, as required by Article 93, I of the 1988 Federal Constitution. Candidates must hold a law degree and have at least three years of legal practice. Successful candidates are appointed by the State Governor upon nomination by the respective State Court of Justice and initially assume office as substitute judges

- *Second instance judicial bodies:* Federal Regional Court (*Tribunal Regional Federal*),

The judges serving on Brazil's Federal Regional Courts (*Tribunais Regionais Federais – TRFs*) are referred to as federal appellate judges. In accordance with Articles 94 and 107 of the 1988 Federal Constitution, they are appointed by the President of the Republic from a list comprising federal judges, practicing lawyers, and members of the Federal Public Prosecutor's Office. They hold office until the mandatory retirement age of 75. At present, there are 214 such judges nationwide, with TRF-1 being the largest, composed of 43 judges, and TRF-6 the smallest, with 18 judges.²⁴²

- *Third instance judicial bodies:* National High Court (*Superior Tribunal de Justiça- STJ*)

The Superior Court of Justice (STJ) is composed of 33 justices, appointed by the President of the Republic with the approval of the Federal Senate. Pursuant to Article 104 of the 1988 Federal Constitution, appointees must be Brazilian, either by birth or naturalization, possess notable legal knowledge, and maintain an unblemished reputation. One-third of the justices are selected from federal appellate court judges, one-third of state appellate court judges, and the remaining third from among practicing lawyers and members of the Public Prosecutor's Office.²⁴³

- *Constitutional instance:* Supreme Federal Court (*Supremo Tribunal Federal -STF*)

The Federal Supreme Court (STF) is composed of eleven justices (*Ministros*), who must be Brazilian-born citizens between the ages of 35 and 70, possessing notable legal knowledge and an

²³⁸ See Francisco Cândido de Melo Falcão Neto, https://www.stj.jus.br/web/verCurriculoMinistro?parametro=2&cod_matriculamin=0001116

²³⁹ CNJ, *Justiça em Números 2024*, cit., pp. 107, 109.

²⁴⁰ Mota C., (2023). Breaking the “Glass Ceiling”, cit.

²⁴¹ Kapiszewski D. (2012), *High Courts*, cit., pp. 118.

²⁴² CNJ, *Justiça em Números 2024*, cit., p. 42.

²⁴³ National High Court, *Ministros*, <https://international.stj.jus.br/pt/Sobre-o-STJ/Ministros>

impeccable reputation. Pursuant to Article 101 of the 1988 Federal Constitution, the appointment process requires the President of the Republic to nominate a candidate, who must then be approved by an absolute majority of the Federal Senate. Additionally, the Court's Internal Rules prohibit the appointment of individuals related by blood or affinity to any sitting justice up to the third degree.

Implication of the characteristics of adjudicators and their appointment

Brazil's judiciary is known for its highly qualified professionals, broad public access, and significant independence. Most judges are selected through extremely competitive public exams, and they are widely regarded as top-tier legal experts. As a result, judicial decisions are largely respected and followed by both government officials and private parties.²⁴⁴ However, the Brazilian judiciary still faces challenges regarding its composition, particularly the limited representation of women and Afro-Brazilians.²⁴⁵ This lack of diversity can negatively affect judicial decisions, as judges may fail to account for different social realities.

The presence of women in courts is not simply a matter of social justice; it is crucial for improving judicial quality. Gender diversity can lead to more sensitive and balanced rules. For instance, the Inter-American Human Rights System (IAHRS) has twice declared that Brazil violated the rights to a fair trial, equality before the law, and judicial protection in cases of gender-based violence. The IAHRS found that gender stereotypes within the Brazilian legal system caused procedural delays in investigating and prosecuting these crimes.²⁴⁶ In this regard, the judiciary in Brazil must recognize the unique vulnerabilities women face, such as economic dependence, domestic violence, and excessive domestic workload, all of which differentiate their experiences from men's.²⁴⁷ Recognizing this systemic issue, the National Council of Justice implemented the Protocol for Judgment with a Gender Perspective (*Resolução CNJ No. 525/2023*), which aims to educate judges on structural inequalities and power dynamics. This mandatory protocol provides a framework for judges to break from discriminatory cultures and ensures that legal instruments are applied in a way that truly promotes equality, ultimately working towards an emancipatory legal culture that acknowledges and addresses gender discrepancies beyond mere legal provisions.

Finally, to date, no sources have been found that address the impact of gender issues on asylum access in Brazil.

Clerks, or experts supporting the adjudication function

In general, Brazilian judges are supported by extensive administrative structures. Civil servants, outsourced workers, interns, commissioned workers, seconded workers, and requisitioned workers total approximately 430,000 individuals, or about 207 non-judge employees in the judiciary per 100,000 inhabitants, a comparatively high proportion.²⁴⁸ However, Brazilian courts lack dedicated secretariats or experts to support judges' decisions on asylum-related barriers. The specific details of how these cases are handled will be further investigated through interviews with legal professionals and government officials.

Interpretation service

Before 2010, Brazilian law already stipulated that foreign applicants in the refugee status determination process had the right to an interpreter. However, in practice, the quality of this service was often poor. Translation was frequently provided by a refugee who already had recognized status and spoke the

²⁴⁴ Da Ros L. & Taylor M.M. (2019). "Juízes eficientes", cit., p. 8.

²⁴⁵ For further information see da Silva B. & Cavalcante M. (eds) (2023), "Reflexos: as mulheres e suas imagens no sistema de justiça", Brasília, DF, Associação Nacional dos Procuradores da República.

²⁴⁶ See IACHR, Report No. 54/01, *Case 12.051 Maria da Penha Maia Fernandes v. Brazil*, 16 April 2001; IACtHR, *case Barbosa De Souza et al. v. Brazil*, Judgment of 7 September 2021 (Preliminary objections, merits, reparations and costs)

²⁴⁷ Dias M.B. & Pereira Pupp B. (2024). *A mulher e a justiça: Perspectiva de gênero no poder judiciário*, <https://berenedias.com.br/a-mulher-e-a-justica-perspectiva-de-genero-no-poder-judiciario/>

²⁴⁸ Da Ros L. & Taylor M.M. (2019). *Juízes eficientes*, cit., p. 6.

applicant's language, rather than a professional interpreter, which violated the standards established by law.²⁴⁹

The DPU recognized that language barriers are a significant obstacle for vulnerable individuals, including migrants and asylum seekers, in accessing legal assistance. In response, the DPU implemented the NuTrad (*Núcleo de Tradução*) in 2019 to address these linguistic challenges, which were creating bottlenecks in its legal assistance workflow. The centre was established to handle the high demand for translating legal documents, a fundamental requirement for processing cases. Despite facing budget and staffing constraints, the DPU managed to create this internal service to ensure that vulnerable Brazilians abroad and foreigners within Brazil had the necessary means to communicate their needs and defend their rights. Similarly, Mobilang, based at the University of Brasília, created a volunteer interpreter bank to facilitate communication in public institutions, with its initial focus on assisting CONARE with asylum interviews. Following the creation of NuTrad, a formal partnership between the DPU and Mobilang was established. This collaboration led to a foundational training course for volunteer interpreters, after which Mobilang's interpreter bank was made available for a wider range of DPU's legal assistance activities. By 2021, the management of the interpreter bank was fully transferred to NuTrad.²⁵⁰

While Brazil has established frameworks for providing interpretation services in asylum procedures, the practical application of these services appears inconsistent and may have gaps.

Quality and availability of human resources

To date, no sources have been identified that specifically assess the quality and availability of human resources in judicial bodies responsible for asylum access in Brazil. However, general data on the Brazilian judiciary indicate significant caseload pressures. At the end of 2023, the judiciary had 83.8 million pending cases, of which 63.6 million were actively being processed. Most of these cases are concentrated in the State and Federal courts, with State courts handling 58.7% and Federal courts 41.3% of pending cases. High volumes of pending cases, particularly in first-instance courts, suggest that human resources, including specialized personnel for asylum adjudication, may be under strain.²⁵¹

Implications of human resources in judicial bodies responsible for asylum access

Brazil has a ratio of only 9 judges per 100,000 inhabitants, which is half the average in the European Union, where the ratio is 18 judges per 100,000 inhabitants. This low ratio is exacerbated by a significant number of vacant positions within the Brazilian judiciary.²⁵² As of late 2023, Brazil had 22,770 legally established magistrate positions, but nearly 20% of them (4,505 positions) were vacant. This vacancy rate has remained consistently high since 2017. Of the positions filled, the vast majority (85.1%) are first-instance judges. The remaining magistrates are distributed among appellate court judges (14%), substitute second-instance judges (0.9%), and ministers (0.4%). Furthermore, 2.6% of magistrates are assigned to administrative and managerial roles in higher courts, pulling them away from their primary judicial duties. The high vacancy rate is not uniform across the country; for example, the TJAC state court has a particularly high vacancy rate of 44%.²⁵³

²⁴⁹ Jubilut L.L. & Apolinário S.M., *A população refugiada*, cit., p. 26.

²⁵⁰ Azevedo Larroyed A., Leal B. and de Souza Sá L., (2022). *A experiência do núcleo de tradução da Defensoria Pública da União: contribuições e possibilidades na defesa dos direitos linguísticos como direitos humanos*, In: Ribeiro Pinchemel E. and Szabo I. (ed.), *Brasil, país de refúgio: a atuação da defesa na temática de refúgio*, Brasília, pp. 74, 75, 80.

²⁵¹ CNJ, *Justiça em Números 2024*, cit., pp. 133-138.

²⁵² Ivi, p. 99.

²⁵³ Ivi, p. 101.

F. Tools supporting adjudication

So far, no tools have been identified to support the adjudication of asylum access cases in the responsible judicial bodies.

Functioning, role, and implementation of IT tools

The Brazilian judiciary is undergoing a significant transformation by integrating technology, IT, and AI to boost efficiency and transparency. Under the “Justice Program 4.0” initiative,²⁵⁴ the Brazilian judiciary is using collaborative technologies and artificial intelligence to streamline court operations and case management. These efforts include automating procedural documents, summarizing case files, transcribing hearing videos, and identifying similar cases. The effort is widespread, with at least half of the nation’s courts adopting AI projects to handle their growing caseloads.²⁵⁵

Key IT tools of the Brazilian judiciary include:²⁵⁶

IT Tool / Initiative	Function / Description	Benefits
Electronic Judicial Process <i>Processo Judicial Eletrônico (PJe)</i>	Fully digital case management system for procedural acts and document handling	Enables secure electronic submission of applications and evidence; reduces delays caused by paper-based processes
Judiciary Digital Platform <i>Plataforma Digital do Poder Judiciário (PDPJ-Br)</i>	Multiservice digital platform integrating courts nationwide	Standardization procedures across jurisdictions; facilitates access to case information
100% Digital Court <i>Juízo 100% Digital</i>	Remote adjudication of cases without physical presence	It allows plaintiffs or lawyers to participate remotely; increases efficiency and access in geographically distant areas
Justice Center 4.0 <i>Núcleo de Justiça 4.0</i>	Specialized virtual units for complex or high-volume cases	Centralizes cases that require specialized attention; reduces backlog and speeds up decisions
Virtual Counter <i>Balcão Virtual</i>	Real-time virtual contact with court service desks via videoconference	Provides immediate procedural guidance for plaintiffs; reduces barriers to communication with the judiciary
Digital Inclusion Points <i>Pontos de Inclusão Digital (PIDs)</i>	Physical spaces with digital access to judicial services, including remote hearings	Facilitates participation of plaintiffs in remote locations; ensures equitable access to justice
Codex	Centralized repository of judicial documents and structured data	Supports data-driven decisions, research, and tracking of cases
DataJud / Statistics Panel <i>DataJud / Painel de Estatísticas</i>	Judicial statistics and dashboards on caseloads, pending cases, and productivity	Enables monitoring of case backlog and performance indicators; informs resource allocation and management

Source: Author’s elaboration (2025) based on information from the report *Justiça em Números 2024*.

²⁵⁴ CNJ, *Justice 4.0 program*, cit.

²⁵⁵ Campos E., (2023) Artificial Intelligence, the Brazilian judiciary and some conundrums, Scieces Po, Chair Digital, Governance and Sovereignty, <https://www.sciencespo.fr/public/chaire-numerique/en/2023/03/03/article-artificial-intelligence-the-brazilian-judiciary-and-some-conundrums/>

²⁵⁶ See CNJ, *Justice 4.0 program*, cit.; CNJ, *Justiça em Números 2024*, cit., pp. 217-250.

Moreover, key AI projects include the Supreme Court's VICTOR tool and the Superior Court of Justice's ATHOS and SOCRATES systems. VICTOR, developed in partnership with the University of Brasília (UnB), can classify and filter extraordinary appeals. The SOCRATES system similarly groups cases for block judgment and screens out unrelated ones, while the SIGMA program at the Federal Court for the 3rd Region (TRF3) assists in drafting legal documents.²⁵⁷ State courts, such as those in Rio Grande do Sul and Ceará, have also launched their own projects to automate tasks like summarizing files and transcribing videos.²⁵⁸ To ensure a coordinated approach, the National Council of Justice (CNJ) created the Synapses platform, a centralized repository for AI models that promotes collaboration and standardization across the judiciary.²⁵⁹ While these technological advancements have improved speed and consistency, they have also raised ethical and regulatory concerns. The CNJ's Resolution 332, which governs AI use, has been criticized for its vagueness and for not explicitly mandating human supervision of AI-assisted decisions. Additionally, the use of non-institutional AI tools like ChatGPT by judges and staff has led to debates about data privacy, intellectual property, and the right to be judged by a human being.²⁶⁰ The goal is to use AI to support, not replace, human judgment, thereby enhancing the quality of justice.

Implications of organizational tools (especially IT tools) in asylum access adjudication

The IT tools implemented by the Brazilian judiciary have significant potential to influence asylum access adjudication by increasing efficiency, accessibility, and transparency. Systems such as the *Juízo 100% Digital* and *Balcão Virtual* allow parties, including asylum-seekers and their legal representatives, to participate in hearings and submit procedural documents remotely, reducing geographic and logistical barriers that could otherwise delay or obstruct access to justice. Platforms like PJe and PDPJ-Br standardize case management and enable secure electronic document exchange, ensuring that all parties have timely access to relevant information. Additionally, tools such as Codex and DataJud support evidence-based monitoring of caseloads and judicial performance, which can facilitate better allocation of resources to overburdened courts and potentially accelerate decision-making in asylum cases.

G. Management

Judicial bodies' managers and middle managers

- *First instance judicial bodies:* As mentioned before, each state in Brazil has a Court of Justice, led by a president who manages the court's administrative tasks, including case distribution, budget oversight, and personnel management. (Law No. 5.010/1966)
- *Second instance judicial bodies:* Each of the Regional Federal Courts is headed by a president responsible for overseeing the court's operations, managing its budget, and ensuring the timely resolution of cases within their jurisdiction.
- *Third instance judicial bodies:* The President of the STJ leads the highest appellate court for non-constitutional federal matters. Duties encompass representing the court, managing its administrative functions, and ensuring the efficient processing of cases. The STJ is divided into sections, and each section is led by a president responsible for managing the section's docket, coordinating judges, and ensuring the efficient handling of cases.

²⁵⁷ De Sanctis, F.M. (2021) Artificial Intelligence and Innovation in Brazilian Justice. *International Annals of Criminology*, Paris, Vol. 59, No. 1, pp. 1-10.

²⁵⁸ Silva, A. (2025) Is Artificial Intelligence Making Magistrates and Servants of the Brazilian Judicial Power Mentally Ill?. *International Journal of Intelligence Science*, Vol. 15, pp. 103-124.

²⁵⁹ De Sanctis, F.M. (2021) *Artificial Intelligence*, cit.

²⁶⁰ Campos E., (2023) *Artificial Intelligence*, cit.

Direct or indirect influence on asylum access adjudication

In Brazil, managers in the judiciary have no direct authority over the content of asylum rulings, since cases are randomly distributed among judges in line with the principle of the “natural judge,” ensuring formal independence in decision-making. Still, their influence can be felt indirectly through institutional mechanisms that shape the environment of adjudication. Court leadership and the National Council of Justice oversee docket management through digital platforms such as PJe, define productivity targets, and evaluate performance criteria that can affect judicial career advancement. These frameworks, while not dictating outcomes, create incentives that may influence how much time and attention judges allocate to complex asylum matters, particularly when urgent deportation suspensions or constitutional claims are involved. At the same time, broader contextual factors, including the judiciary’s historically cautious stance toward confronting executive branch decisions, and the possibility of performance evaluations or promotions overseen by higher-ranking judges, can weigh indirectly on how asylum access barriers are addressed.²⁶¹ Thus, while the substantive independence of judges remains intact, managers exercise a degree of indirect influence by structuring the procedural and institutional context in which asylum adjudication unfolds.

Professional performance measures

Brazil has implemented professional performance measures for judges, including those involved in asylum access adjudication. The National Council of Justice (CNJ) plays a pivotal role in this regard through its annual national goals (*metas nacionais*), which set productivity targets for federal and state courts. These metrics encompass case clearance rates, time to disposition, and backlog reduction, influencing how judges allocate time and resources across various case types, including asylum-related matters. While these performance measures aim to enhance efficiency, they may inadvertently affect the quality of asylum adjudication. Judges might prioritize speed over thoroughness to meet targets, potentially leading to less comprehensive scrutiny of complex asylum cases. Moreover, the emphasis on productivity could influence judicial independence, as judges may feel pressured to align with performance expectations rather than focusing solely on the merits of each case.

H. Caseload and delays

Caseload of judicial bodies responsible for asylum access adjudication

In general, Brazilian courts hold one of the world’s heaviest workloads:²⁶²

- *First instance judicial bodies:* The first instance courts in Brazil manage a substantial portion of the country’s judicial work. In 2023, approximately 143 new legal cases were filed for every 1,000 inhabitants, marking an 8.4% increase from the previous year. This metric accounts for new cases related to non-criminal matters and extrajudicial enforcement but excludes judicial executions. The number of cases varies significantly across state courts, from a high of 15,510 new cases per 100,000 residents in the Court of Justice of Rondônia (TJRO), border with Bolivia, to a low of 5,040 in the Court of Justice of Pará (TJPA), border with Guyana and Suriname.²⁶³
- *Second instance judicial bodies:* In an analysis of new cases per 100,000 inhabitants by tribunal, in 2023, the Federal Regional Tribunal for the 4th Region (TRF4) shows the highest demand with 3,300

²⁶¹ Regarding the possible influence see Villalonga Torrijó C., Judicial Independence and Accountability in Latin America: The Challenges of Assessing the Judges’ Performance, UC Berkeley Law, https://www.law.berkeley.edu/research/the-robbins-collection/judicial-independence-and-accountability-in-latin-america-the-challenges-of-assessing-the-judges-performance/?utm_source=chatgpt.com

²⁶² CNJ, Justice 4.0 program, 2022, p. 4.

²⁶³ CNJ, *Justiça em Números 2024*, cit., p. 144.

cases. The Federal Regional Tribunal for the 5th Region (TRF5) follows with 2,481 cases, and the Federal Regional Tribunal for the 2nd Region (TRF2) has 2,365 new cases. The tribunals with the lowest caseloads per 100,000 inhabitants are the Federal Regional Tribunal for the 1st Region (TRF1) at 1,880 cases and the Federal Regional Tribunal for the 6th Region (TRF6) with 1,316 cases. Overall, the average for all Federal Courts is 2,197 new cases per 100,000 inhabitants.²⁶⁴

- *Third instance judicial bodies:* n/a

Implications of caseload on asylum access adjudication

The significant caseload and extensive delays in Brazil’s judicial system likely present substantial challenges for asylum seekers, impacting the quality of justice they receive. The judiciary faces a massive workload, with a record of 35.3 million new cases in 2023, and a total of 83.8 million pending cases by year’s end. This high caseload, combined with a limited number of human resources -approximately 9 judges per 100,000 people, less than half the European average²⁶⁵ -suggests that judges may have less time for each case. This scarcity of resources could result in superficial case evaluations, potentially compromising the thoroughness and fairness required.

Delays and backlogs characterizing judicial bodies responsible for asylum access adjudication

In general, a massive backlog and delays characterize the Brazilian judicial system, with courts finishing 2023 with 83.8 million pending cases. This volume of cases means that it would take approximately 2 years and 5 months to clear the backlog, even if no new cases were filed and the current productivity of judges and staff was maintained. This metric is known as the “Backlog Turnover Time” (*Tempo de Giro do Acervo*).²⁶⁶

- *First instance judicial bodies:* Brazil’s first-instance courts concluded 2023 with 83.8 million pending cases, representing the highest number in the nation’s history. Out of this total, 18.5 million cases were suspended or temporarily archived, waiting for a future legal resolution. This growing volume of suspended cases increased by 1.6 million (9.4%) between 2022 and 2023. The caseload has been on a rising trend since 2020, with an increase of 896,000 cases between 2022 and 2023. A contributing factor to this backlog is a change in judicial procedure implemented in 2020, which now includes the counting of “*Termos Circunstanciados*” (procedures for low-level offences) in judicial statistics. These procedures alone accounted for an additional 1.2 million pending cases in 2023. While the total number of pending cases is at a historical high, the backlog of “liquid pending cases”—those actively moving through the court system—has decreased since 2015.²⁶⁷ In the State Courts, cases that were pending at the end of 2023 had an average duration of 4 years and 5 months. In contrast, cases that were dismissed in 2023 were resolved in an average of 2 years and 10 months.²⁶⁸
- *Second instance judicial bodies:* Second-instance courts (TFRs) have also seen an increase in their caseload, albeit at a lower rate than first-instance courts. The volume of pending cases at this level grew by 3.3% in 2023. Nevertheless, the TRF3 has a backlog turnover time of 4 years and 10

²⁶⁴ Ivi, p. 146.

²⁶⁵ Ivi, p. 99.

²⁶⁶ Ivi, p. 138.

²⁶⁷ CNJ, *Justiça em Números 2024*, cit., p. 134.

²⁶⁸ Ivi, p. 279.

months.²⁶⁹ In the Federal Courts, where pending cases have an average age of 4 years and 3 months, while cases dismissed in 2023 were resolved in an average of just 2 years and 3 months.²⁷⁰

- *Third instance judicial bodies:* The highest level of the judiciary experienced a 2.5% increase in pending cases between 2022 and 2023. This is part of a broader trend of rising caseloads in these courts since 2020. The total number of pending cases at this level is a ratio of 1.2 cases for every new case filed. Based on the current rate of work, clearing the existing backlog would take approximately 1 year and 2 months.²⁷¹

According to a report from the Centre for Justice Studies of the Americas (CEJA), Brazil's judicial system has shown a mixed performance in its resolution and congestion rates (*tasa de resolución*- TR and *tasa de congestión*- TC). The resolution rate (TR) was 1.04 in 2018 but dropped to 0.92 in 2020 due to the impact of the COVID-19 pandemic. It has since shown a pattern of recovery, reaching 0.94 in 2024, but has not yet consistently achieved an optimal performance level (TR \geq 1.0). In terms of congestion, Brazil's judicial system is in a critical situation. The congestion rate (TC) has consistently been above the critical threshold of 2.0, with a rate of 3.56 in 2024. The report projects that by 2030, Brazil will maintain a positive resolution rate (1.05) but will continue to face a high congestion rate (2.65), indicating a structural issue where an adequate capacity to resolve cases is not enough to overcome a deep-rooted backlog. This suggests that while Brazil's courts are resolving a significant number of cases, the accumulation of pending cases remains a serious problem.²⁷²

To date, no sources have been found that specifically address the potential implications of workload on the allocation of asylum access.

Implications of backlog and delays in asylum access adjudication

Delays and backlogs in Brazil's judicial system can pose a significant challenge for asylum seekers who rely on timely judicial intervention to overcome obstacles to accessing asylum. As noted in the report, certain barriers, such as border rejections, summary removals, and *de facto* detentions in airport areas, necessitate prompt judicial action to prevent violations of an individual's rights. Even in cases of procedural hurdles, such as when individuals with irregular immigration status are blocked from applying for asylum by administrative bodies, judges must act quickly to provide protection. The ability of the justice system to respond promptly is therefore crucial for safeguarding the rights of affected individuals.

I. Influence of judicial or quasi-judicial bodies on access to asylum

Impact of case law in the field of asylum access adjudication on legislation

To date, no legislative changes directly stemming from judicial decisions on asylum access have been identified.

Impact of case law in the field of asylum access adjudication on asylum policies

The Brazilian government's border control measures during the COVID-19 pandemic prompted a significant increase in judicial intervention concerning migrant and refugee rights. As analysed in Part I, this period saw a rise in legal challenges, primarily initiated by the Federal Public Defender's Office and the Federal Public Prosecutor's Office. These bodies filed public civil actions against federal government orders that restricted immigration and closed territorial borders. The resulting judicial decisions consistently rejected deportation actions against migrants and asylum seekers and directly countered the

²⁶⁹ Ivi, p. 134.

²⁷⁰ CNJ, *Justiça em Números 2024*, cit., p. 279.

²⁷¹ Ivi, p. 134.

²⁷² See Center for Justice Studies of the Americas (CEJA) (2025) *Índice de Congestión Judicial en las Américas: Estudio Comparado de Poderes Judiciales 2025*, Santiago de Chile, pp. 14, 24.

immediate disqualification to apply for refugee status. These rulings were anchored in the principle of migration as a fundamental human right, a concept expressly regulated and protected under Brazil's Migration Law (Law No. 13,445 of 2017). The courts affirmed that these government measures were incompatible with the human rights framework enshrined in national legislation.

The case law from this period demonstrates a clear trend: the Brazilian judiciary acted as a critical guarantor of migrant and refugee protection.²⁷³ This judicial oversight served as a counterbalance to the executive branch's emergency powers, ensuring that the government's restrictive policies did not violate fundamental human rights and national law.

Impact of case law in the field of asylum access adjudication on executive practices

Case law has had an impact on executive practices related to barriers to asylum access in Brazil, though this influence is not absolute. Judicial decisions have primarily served to check administrative overreach and reinforce existing legal protections, rather than to fundamentally reshape the entire asylum system. For instance, during the COVID-19 pandemic, the government's attempts to close land borders and deport individuals who had entered irregularly were challenged in court. Case law was paramount in ensuring that asylum seekers could still access refugee status determination procedures despite these restrictive regulations. This forced a change in practice, compelling border agents to suspend administrative and criminal proceedings for irregular entry and instead allowing individuals to register their asylum claims. This legal action highlighted the principle that the act of seeking asylum is not a crime, a concept that judicial decisions have consistently reinforced.

However, this influence hasn't always favoured asylum seekers. A significant example is the December 2024 Supreme Court ruling concerning travellers in transit at Guarulhos International Airport. As detailed in Part II of this report, the court sided with immigration authorities, affirming that travellers who use a visa exemption for a Brazilian layover cannot apply for asylum at the airport unless they demonstrate a clear intent to remain in the country or have established ties to Brazil. This decision validated the administrative practice of denying asylum claims from transit passengers and set a legal precedent for similar future cases.

L. Judicialization of politics

Some cases outlined in this report reveal a notable divergence between the executive and judicial branches regarding the legality of barriers to asylum access. These differing interpretations highlight a fundamental tension between the executive's emphasis on border control and the judiciary's commitment to due process and international obligations.

In cases of "immediate removal" and "disqualification" for irregular entry during the pandemic, the Executive Branch asserted its authority to restrict territorial access and impose disqualification as a sanction. Conversely, the Judiciary consistently held that individuals could not be removed without prior procedure. It also rejected disqualification as a sanction, arguing that it was contrary to both national law and international commitments. Similarly, the judiciary has challenged the executive's stance on airport rejections and the inability of transit travellers to apply for asylum. However, a final court decision in favor of the executive branch aligned with the argument that these measures were necessary to prevent abuse of the asylum system and combat trafficking.

Further divergence is evident in the collective removal of foreigners at the northern border. While the executive branch justified these actions based on immigration control and legislative authority, the judiciary advocated for an individual analysis of each case to ensure due process.

²⁷³ Ferolla M. (2025). *Failing Asylum-Seekers*, cit., p. 3; de Paiva Gonçalves A.G. (2023), *Judicialização da política migratória e de refúgio brasileira: um reflexo pandêmico?*, Século XXI, Vol. 14(1), pp. 105-109.

Despite these clear disagreements, a review of available sources indicates a lack of individual judicial pronouncements directly criticizing the government's actions or public critiques by the executive of judicial decisions. This suggests a more formal, institutional conflict rather than an overtly public one.

Restriction or expansion of the jurisdiction or competence

To date, no legislative restrictions or expansions have been identified regarding the functions of judicial bodies to analyse barriers to access to asylum in Brazil.

Ways to influence policy outcomes

Court decisions have significantly shaped Brazilian asylum and immigration policy, particularly in cases involving border rejections, collective expulsions, and pandemic-era restrictions.

In cases of collective expulsions, the judiciary has consistently intervened to halt the removal of individuals. These rulings have compelled administrative authorities to conduct individual assessments for each person, ensuring that claims for international protection are properly considered. Similarly, during the pandemic, courts played a crucial role in preventing the removal of individuals and ensuring their right to apply for asylum. Judicial decisions required national authorities to allow foreigners to remain in the country and pursue either asylum or immigration regularization, effectively preventing their expulsion for violating pandemic-related restrictions.

These examples underscore the judiciary's influential role in upholding the rights of asylum seekers and shaping a more humane approach to immigration policy in Brazil.

Influence policy outcomes in practice, particularly given the volume of cases they decide and review? According to relevant sources

As discussed, the judiciary has significantly influenced the practical application of asylum and immigration policies, particularly in response to challenges stemming from pandemic-era restrictions. Courts across Brazil consistently ruled against the administrative authorities' power to remove individuals without due process or to disqualify them from the asylum process.

Assessment of the judicialization of politics in the country

Brazil's judicialization of politics could be defined as the tendency to expand the executive and legislative action of the courts into social, economic, and political life, leading democracy to increasingly depend on judicial decisions.²⁷⁴ This happens in two main ways: judicial decisions directly affecting political matters and the application of judicial procedures to political processes. This trend has led to a "proceduralizing of law" (*procedimentalização do direito*), which allows citizens to participate in legal proceedings and policymaking. As a result, judicial decisions have become more deliberate and, in turn, have gained greater procedural legitimacy. This shift represents a significant institutional change within the judiciary, making it more accessible to society and strengthening the participatory dimension of Brazilian democracy.²⁷⁵ Likewise, it has been suggested that the judicialization of politics in Brazil refers to the use of the judiciary as a tool to achieve political objectives, with two main uses identified: first, as an opposition tactic to delay, block, or discredit government policies; and second, as a means to arbitrate conflicting interests, favoring institutional norms for specific groups. Furthermore, a new, albeit subtle, form of judicialization has emerged: its use as an instrument of governance.²⁷⁶

²⁷⁴ Faria J.E. (2021). Judicialization of politics, judicial activism, and institutional tensions, Fundação Fernando Henrique Cardoso, <https://fundacaofhc.org.br/debate/judicialization-of-politics-judicial-activism-and-institutional-tensions/>

²⁷⁵ See Meira Zauli E. (2011). *Judicialização da política, poder judiciário e comissões parlamentares de inquérito no Brasil*, Revista de Informação Legislativa, No. 185, pp. 7-25.

²⁷⁶ Taylor M & Da Ros L. (2008). *Os Partidos Dentro e Fora do Poder: A Judicialização como Resultado Contingente da Estratégia Política?*. DADOS—Revista de Ciências Sociais, Rio de Janeiro, Vol. 51, No. 4, pp. 825-864.

Academic sources confirm the judicialization of asylum access policy. This is evidenced by the growing number of court cases related to obstacles to asylum access. This trend reflects the judiciary's increasing role as a crucial forum for resolving conflicts between administrative policies and the constitutional and international rights of asylum seekers.²⁷⁷ For analytical purposes, the judicialization of asylum in Brazil can be classified into five categories: a) cases concerning the outcome of the asylum application process, in which formal issues are discussed; b) cases in which the concept of refugee and its application as a right are discussed; c) cases involving the enjoyment of human rights by refugees; d) cases involving conflicts of rights between the protection of refugees and nationals in general; and e) cases in which the principles of International Refugee Law are the central focus.²⁷⁸ While a full understanding of refugee rights as a legal issue is still developing within Brazilian courts, which may be reluctant to play their role in this area, the judicialization of asylum is becoming an increasingly important way to ensure the comprehensive protection of refugees.²⁷⁹

Nevertheless, critics have argued that the country's asylum jurisprudence remains sparse and inconsistent, often delegated to the executive branch, as some judges consider the matter to be within its jurisdiction²⁸⁰ and that judicial interference would be undue. According to the STJ, as a general rule, the judiciary should limit itself to analysing the legal defects of the asylum-granting procedure, without re-evaluating the criteria of convenience and opportunity.²⁸¹ Furthermore, there is a possible predisposition toward judicialization as a tactic to delay administrative decisions, or simply a lack of knowledge of the issue.²⁸²

This reluctance on the part of the judiciary was particularly notable during the previous expulsion system, under the Foreigners' Statute, which limited judicial review of deportation, expulsion, and extradition to mere formal requirements, preventing the courts from examining the merits of the case. However, the Migration Law (Law No. 13.445/17) radically changed this approach by explicitly allowing judicial intervention in all forced expulsion proceedings from Brazilian territory.²⁸³

III. OTHER ACTORS IN ASYLUM ACCESS ADJUDICATION

A. Bodies of the executive branch in asylum access adjudication

As mentioned in Part II, section B, CONARE, established in 1998, is the primary quasi-judicial body responsible for asylum adjudication in Brazil. It operates as a deliberative, collegiate body within the Ministry of Justice and Public Security.

CONARE's structure is tripartite, drawing representatives from government, civil society, and UNHCR. Its members include representatives from key ministries such as Justice, Foreign Affairs, Labour, Health, and Education. This multi-ministerial representation is intended to bring a broad range of expertise to the decision-making process. The committee also includes delegates from the Federal Police, a civil society organization, and UNHCR, which holds a non-voting observer status.²⁸⁴ Since 2021, the Office of the Prosecutor General and the DPU have also had observer status, potentially enhancing oversight and legal advocacy. Notably, this composition centralizes authority at the federal level, excluding sub-national states

²⁷⁷ See Magalhães B.B. and Sousa Corrêa G.T., *A judicialização do refúgio*, cit.

²⁷⁸ Jubilut L.L. *A Judicialização do Refúgio*, cit., p. 175; Magalhães B.B. and Sousa Corrêa G.T., *A judicialização do refúgio*, cit., p. 139; de Paiva Gonçalves A.G., *Judicialização da política*, cit., p. 106.

²⁷⁹ De Oliveira R. *Judicialização do refúgio*, cit., p. 233.

²⁸⁰ Fregadoli Ferreira F. and Lima J.B. (2018). *O poder judiciário*, cit., p. 324.

²⁸¹ See TSJ, REsp 1174235/PR, rapporteur Justice Herman Benjamin, Second Panel, decided on 11/04/2010.

²⁸² Jubilut L.L. *A Judicialização do Refúgio*, cit., pp. 175-176.

²⁸³ Magalhães B.B. and Sousa Corrêa G.T., *A judicialização do refúgio*, cit., p. 145.

²⁸⁴ Medina Araújo N. (2021). Country Fiche Brazil, cit., p. 6.; Jensen K. (2023). *The Color of Asylum*, cit., pp. 37-38; Ferolla M. (2025). *Failing Asylum-Seekers*, cit., p. 5.

and municipalities despite their significant role in receiving and integrating asylum seekers. Despite this tripartite structure, critics argue that CONARE's composition remains flawed. The main criticisms focus on the limited representation of civil society organizations and the exclusion of key government ministries, such as the Ministry of Cities and the Secretariat for Human Rights, even though their work directly impacts the lives of refugees. Additionally, there is a notable lack of representation from state and municipal bodies, which, while not affecting refugee status determination (RSD) directly, hinders the comprehensive protection of this population. Finally, a persistent demand from advocates is the inclusion of refugee representatives themselves, arguing that their presence is essential for ensuring their right to participation, promoting true representation, and fulfilling human rights principles, particularly in shaping public policies.²⁸⁵

Critics also question the process of selecting representatives from each agency to serve on CONARE. The lack of transparency in appointments and the absence of specific training requirements in refugee protection are major concerns. This raises doubts about whether the committee's staff has the necessary expertise to make informed decisions and ensure the effective protection of refugees.²⁸⁶

During the process, the applicant's interview is conducted in person by CONARE's trained officials, with only the applicant, the interviewer, and, if needed, an interpreter or a guardian for unaccompanied minors present. For families arriving together who share a common narrative, a joint interview is permitted with the consent of all members. The DPU, through a Technical Cooperation Agreement, provides support for the execution of the eligibility interviews. In this regard, the DPU may also interview asylum seekers in cities where the General Coordination of CONARE is not present.²⁸⁷ Furthermore, the DPU provides support by reviewing and screening cases scheduled for monthly plenary decisions and attending meetings. A particularly challenging aspect of this role is preparing Country of Origin Information (COI) research.²⁸⁸

Involvement, efforts, and interests that executive bodies display

CONARE's extensive involvement within the Brazilian executive branch undoubtedly has the potential to influence the outcomes of individual asylum applications. This close relationship could create a dynamic where political or administrative interests may affect decisions.

While this research has not yet identified any specific instances where the executive branch's interests have directly shaped the handling of a particular case or influenced asylum barriers, this remains a crucial area for further investigation. In this sense, a deeper understanding of this relationship can be gained through direct interviews with key stakeholders and individuals involved in the asylum process.

Role of executive bodies and their implications in asylum access adjudication

The Brazilian executive branch is involved in all stages of the asylum process, playing a critical role in how access is granted and adjudicated. The executive, primarily through the Federal Police, is the initial authority responsible for receiving asylum applications at the country's entry points and issuing provisional documents while the asylum application is being analysed.²⁸⁹ This first step is fundamental to accessing the asylum procedure. Furthermore, when the legality of an asylum barrier is challenged in court, the executive branch participates directly in the litigation. Its representatives present evidence and arguments to defend their policies and actions. The executive's most extensive participation, however, is in the final decision-making stage. As a central and decisive member of CONARE, its representatives participate in all

²⁸⁵ Jubilut L.L. and Agútolí Pereira G. *Mudanças no procedimento*, cit., p. 181.

²⁸⁶ Ivi, pp. 184-185.

²⁸⁷ Leão, F. (2017). *Do Procedimento de Determinação da Condição de Refugiado: da solicitação até a decisão pelo Comitê Nacional para Refugiados (CONARE)*. In: Jubilut, L. and Godoy, G. (eds). *Refúgio no Brasil: comentários à Lei 9.747/97*. São Paulo: Quartier Latin, p. 220.

²⁸⁸ Szabo I., *Aportes da coordenação*, cit., p. 58.

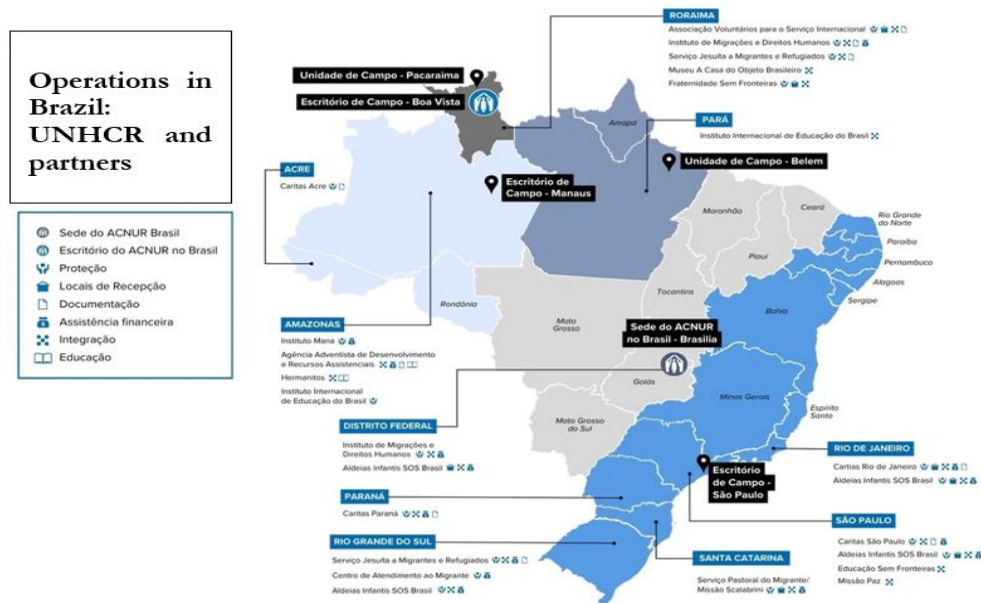
²⁸⁹ Leão, F. (2017). *Do Procedimento de Determinação*, cit., pp. 216, 2018.

deliberations and cast votes on whether to grant or deny an asylum application. This involvement at every level of the process underscores the executive's deep and multifaceted influence on asylum outcomes in Brazil.

B. International or regional organizations

UNHCR in Brazil is primarily specialized in asylum and migration, with a strong focus on protecting the human rights of refugees, asylum seekers, and other forcibly displaced people. Its main goal is to ensure these individuals have access to fair asylum procedures and their fundamental rights.

UNHCR's presence in Brazil has evolved strategically in response to regional displacement crises. Initially opening an office in Rio de Janeiro in 1982 to assist Latin American refugees, it later moved its central operations to Brasília in 1988. Over time, as displacement patterns shifted, UNHCR expanded its footprint to better serve displaced populations. It opened offices in Manaus in 2007 and again in 2017 to address the influx of Colombians and later Venezuelans. The organization also established a presence in São Paulo in 2013 to assist a diverse group of people seeking protection and integration. In response to the Venezuelan crisis, UNHCR opened offices in Boa Vista in 2017 and Pacaraima in 2018, and a field unit in Belém in 2019 to coordinate aid for arriving indigenous populations. This decentralized approach demonstrates UNHCR's adaptability and commitment to addressing specific regional needs within Brazil.²⁹⁰



Source: UNCHR, *Organizações parceiras*

Involvement, efforts, and interests that international and regional organizations display

As previously indicated in Part II, UNHCR exhibits extensive involvement in asylum access adjudication in Brazil, driven by its mandates and collaborative relationships with the executive branch and civil society. UNHCR's engagement is multifaceted, encompassing direct participation in CONARE, where it holds speaking but not voting rights, as established by Decree No. 9.277 of February 5th, 2018. This involvement provides a formal platform for influence within the adjudication process.

²⁹⁰ UNCHR, Sobre o ACNUR, <https://www.acnur.org/br/sobre-o-acnur/acnur-no-brasil>

UNHCR’s extensive geographical presence in Brazil, reaching beyond its central office in Brasília, is instrumental in addressing the varied barriers to asylum access across the national territory. This includes decentralized units in São Paulo, strategically located near Brazil’s main international airport, and in border regions like Manaus (bordering Colombia, Peru, and Venezuela) and Boa Vista (directly bordering Venezuela).²⁹¹ This localized network is crucial for responding to specific regional challenges. For instance, in 2024, UNHCR significantly increased its monitoring and support for local border authorities and protection networks in key Amazonian land borders, including Assis Brasil (Acre), Oiapoque (Amapá), and Bonfim (Roraima). This expansion was a direct response to a 31% surge in Cuban arrivals, many of whom report irregular entry with the aid of smugglers and instances of pushbacks by border authorities due to a lack of entry visas.²⁹²

Similarly, at airports, UNHCR supports Advanced Posts for Humanized Assistance to Migrants in Guarulhos, Rio de Janeiro (Galeão), Manaus, and Belém. These posts receive assistance through training, informative materials, data management, and support in establishing and updating identification and referral procedures. This aims to address the unique challenges faced by individuals arriving by air, including advocating for protection-sensitive entry systems and accelerated refugee status determination procedures to prevent refoulement. A working group at Guarulhos Airport, involving various stakeholders, provides direct support and legal assistance to unadmitted individuals and monitors their situation. Beyond these specific points of entry, UNHCR conducts monitoring visits to borders with Uruguay, Paraguay, Guyana, and French Guiana, coordinating efforts with neighbouring UNHCR operations to ensure a comprehensive approach to border protection.²⁹³

Moreover, UNHCR in Brazil created “[Help](#)”, an online resource designed to provide reliable, up-to-date information to refugees, asylum-seekers, and stateless people in Brazil. Available in five languages—Portuguese, English, Spanish, French, and Arabic—the site helps new arrivals and long-term residents navigate their rights and access essential services. It serves as a single, coordinated source for information compiled from various government agencies, NGOs, and international organizations. Users can find details on legal processes, healthcare, education, housing, employment, and social assistance, all aimed at facilitating their successful reception and integration in the country.

In 2024, UNHCR assisted 59,393 asylum-seekers, helping them file claims on the digital platform for asylum pre-documentation (SISCONARE) and renew expired documents, with specialized support extended to indigenous refugees. In addition, UNHCR and its partners expanded individual registration efforts, reaching over 63,000 people. This initiative was crucial for the early identification of individuals with specific needs, facilitating appropriate responses and referrals.²⁹⁴

Role of international or regional organizations and their implications

UNHCR’s efforts extend to significant technical support to CONARE, including two fully seconded staff and four partially dedicated UNHCR staff working at the CONARE Coordination to improve the fairness and efficiency of procedures. Moreover, its role as co-lead of the R4V Platform with IOM and the Results Group 5 on Humanitarian and Development Initiatives demonstrates a commitment to coordinated responses, optimizing resources, and ensuring evidence-based approaches through initiatives like the Joint Needs Assessment.²⁹⁵

²⁹¹ UNHCR, ACNUR no Brasil, <https://www.acnur.org/br/sobre-o-acnur/acnur-no-brasil>

²⁹² UNHCR (2025), Annual Results Report 2024 Brazil, pp. 9-11, https://www.unhcr.org/sites/default/files/2025-06/brazil_arr_2024.pdf

²⁹³ UNHCR (2025), Annual Results Report, cit.

²⁹⁴ Ibidem.

²⁹⁵ Ibidem.

C. NGOs and bar associations

NGOs and bar associations involved in asylum access adjudication

The main organizations that offer legal assistance in Brazil on refugee and migration issues are:

- [Caritas Arquidiocesana de São Paulo \(CASP\)](#): Its expertise is focused on five key areas: initial reception and vulnerability assessment (*Acolhida*), basic assistance (*Assistência Social*), local integration (*Integração Local*), mental health support (*Saúde Mental*), and, most critically, legal protection (*Proteção*). CASP operates as an organization of the Catholic Church, but functions as a non-profit civil association with its own administrative and financial autonomy. Its leadership consists of a board with a president, a director, and a finance director.²⁹⁶
- [Instituto Migrações e Direitos Humanos \(IMDH\)](#): The IMDH is headquartered in Brasília and, since 2018, to address the humanitarian crisis in Venezuela, has had an office in Boa Vista, Roraima. It is affiliated with the Scalabrinian Foundation (based in Rome), and aims to promote the reception, protection, and integration of migrants, refugees, and stateless people. IMDH has an annual capacity to assist up to 3,500 individuals, operates through a dedicated team of professionals, and relies on substantial financial resources from partnerships with organizations like UNHCR. The organization's efforts are centred on providing a wide range of services, including legal assistance, social integration, and protection, to refugees, asylum seekers, and stateless people. The scope of their work covers multiple locations, with a primary focus on Brasília-DF and its surrounding areas, and addresses the needs of a diverse population from over 60 different nationalities. IMDH's approach is highly coordinated, involving collaboration with key entities like UNHCR and CONARE, to strengthen the support system for this vulnerable population.²⁹⁷

Involvement, efforts, and interests that NGOs and bar associations

Brazil's asylum system is notable for the direct involvement of civil society in the adjudication process, a feature that distinguishes it from other countries in South America.²⁹⁸ This involvement dates back to a time when no government procedures existed. During that period, UNHCR relied heavily on civil society organizations to provide any protection to refugees in the country.²⁹⁹

As mentioned in Part II, CONARE, which is the Brazilian government body responsible for deciding asylum claims, formally includes a civil society representative. This position is held by [Caritas Arquidiocesana de São Paulo \(CASP\)](#) and its counterpart in Rio de Janeiro, and their participation on the committee ensures that humanitarian principles and the perspectives of refugees are represented at the highest level of the decision-making process.

- [Caritas Arquidiocesana de São Paulo \(CASP\)](#): As a formal member of CONARE, CASP directly participates in monthly meetings, engaging in discussions and decisions on both individual asylum cases and broader refugee policy in Brazil.³⁰⁰ Beyond its seat on the committee, CASP provides crucial, multi-disciplinary services to asylum seekers. Under its legal protection work, CASP offers individualized and confidential services, including preparing asylum seekers' files, providing legal guidance, and submitting legal opinions to CONARE to support a claim's eligibility. This work is

²⁹⁶ Caritas, "Quem somos", <https://caritassp.org.br/quem-somos/>

²⁹⁷ Instituto Migrações e Direitos Humanos (IMDH) (2024). *Relatório de atividades 2024*, Brasília – DF.

²⁹⁸ L. Brumat & A. Geddes. (2023). *Refugee recognition*, cit., p. 484.

²⁹⁹ Jubilit L.L & Apolinário S.M. (2008) Refugee Status Determination in Brazil: A Tripartite Enterprise, *Refugee*, Vol. 25, No. 2, p.

³⁰⁰ Caritas, "Nossas ações", <https://caritassp.org.br/nossasacoes/tema-refugio/>

considered vital for preventing politically motivated or overly restrictive denials of asylum. The organization's resources are strengthened through extensive collaborations with a variety of institutions, including UNHCR, government bodies like the Federal Police, and other civil society organizations.³⁰¹ Through these partnerships, CASP helps refugees access legal, social, and economic resources to ensure their full integration into Brazilian society.

CASP has evolved beyond its origins in Catholic activism to become a highly institutionalized organization, largely funded by external resources. This enduring role of the church in shaping refugee public policy in Brazil is rooted in its long history and expertise in assisting and supporting migrants and refugees. Caritas has historically played a central role in Brazil's migration management model, often described as a "governance" approach. This model involves a collaborative, though often informal, division of labour between the government, the military, and civil society. While the government handles documentation and the Armed Forces manage the internal distribution of migrants, civil society, particularly religious organizations, takes the lead on integration. This prominence is due to their established organizational structures, their own resources, and a volunteer base driven by moral principles. Caritas's long-standing partnership with UNHCR, which began in 1977, highlights this historical role. At that time, Brazil's military government was reluctant to accept refugees, primarily political asylum seekers from neighbouring military regimes, viewing them as a national security threat. In this context, UNHCR provided resources to Caritas, allowing the organization to become a crucial operational partner in refugee assistance and establishing its foundational expertise and institutionalized role that continues to shape public policy today.³⁰²

However, critics point to several issues regarding the participation of civil society in Brazil's asylum process, particularly concerning the role of Caritas. While Caritas holds a permanent position on the CONARE, it was not elected by civil society and has no direct accountability to the broader community it represents. This lack of democratic representation raises questions about whether a single institution should hold such a powerful and long-standing position. Furthermore, internal discrepancies have been noted, with the opinions of Caritas lawyers and protection assistants sometimes differing from those of the members who participate in CONARE's final decisions.³⁰³ Moreover, Caritas's role in CONARE plenary sessions is marked by a "certain ambiguity". Formally representing civil society, its position often also expresses that of UNHCR on the matter, as the latter does not have the right to vote.³⁰⁴

- Instituto Migrações e Direitos Humanos (IMDH): The IMDH demonstrates a significant and comprehensive level of involvement in asylum access and adjudication in Brazil. Since 2020, the IMDH has been providing assistance for the migration regularization to Venezuelan Warao Indigenous communities in the Federal District.³⁰⁵ Furthermore, IMDH actively engages in the asylum adjudication process by focusing on the legal and social dimensions of migration. The organization has a significant role in rule interpretation through its efforts to advance legislation and public policies in favour of the cause of migrants and refugees. Moreover, its mission includes providing legal assistance to refugees, which implies the involvement of legal experts to guide individuals through the asylum process. By promoting legal and social reflection on the theme of migration and refuge, the organization positions itself as a centre for expertise. Finally, it plays an active role as an observer member in CONARE. Its main activities in this context include a) Analysing cases discussed in

³⁰¹ https://caritassp.org.br/nossas_acoes/tema-refugio/

³⁰² de Souza A.R. and Ruseishvili S. (2020) *As organizações cristãs de abrangência nacional em face da questão dos refugiados*, Contemporânea, Vol. 10, No. 2, pp. 543, 544.

³⁰³ Rodrigues de Castro F. (2020). *A atuação da sociedade civil no processo brasileiro de refúgio*, REMHU, Rev. Interdiscip. Mobil. Hum., Brasília, Vol. 28, No. 58, p. 147-165.

³⁰⁴ de Souza A.R. and Ruseishvili S. (2020). *As organizações*, cit., p. 545.

³⁰⁵ Instituto Migrações e Direitos Humanos (IMDH) (2024). *Relatório de atividades 2024*, Brasília – DF.

CONARE plenary sessions; b) Conducting country-of-origin research to support case defence; c) Collaborating in the preparation of Country-of-Origin Studies (CPOs); d) Participating in CONARE's preliminary technical meetings and plenary sessions.³⁰⁶

Role of NGOs and bar associations and their implications

Some NGOs play a direct and impactful role in Brazil's asylum access adjudication, with significant implications for how rules are interpreted, evidence is collected, and legal expertise is applied. The most prominent example is *Caritas Arquidiocesana de São Paulo* (CASP), which holds a permanent seat on CONARE. This formal position allows CASP to directly participate in discussions and decisions on both individual cases and broader policy, making it a key actor in rule interpretation. It also provides crucial legal services to asylum seekers, including preparing case files and submitting legal opinions to CONARE, thereby directly influencing case outcomes. Likewise, the IMDH demonstrates this involvement, acting as an observer member of CONARE and contributing to the collection of evidence by conducting and collaborating on country-of-origin research. Both organizations leverage their legal and social expertise to advocate for asylum seekers and to shape public policy.

Organized or formal involvement of civil society, apart from NGOs

Several civil society organizations and academic institutions are actively involved in providing aid to asylum seekers and migrants throughout Brazil. These groups are distinct from NGOs and generally focus on migration, human rights, or humanitarian assistance. Their services are crucial, as they provide essential support to asylum seekers, even though they are not directly involved in the legal adjudication process.³⁰⁷

- [Centro de Direitos Humanos e Cidadania do Imigrante \(CDHIC\)](#), in São Paulo, works to promote and defend the human rights of migrants. Its free program, *Espaço Migrantes*, offers services for migrants, refugees, asylum seekers, and stateless persons, providing legal counselling and psychosocial support from multidisciplinary and specialized professionals.
- In the Amazonas, organizations like CARE (*Centro de Apoio e Referência a Refugiados e Migrantes*) and the *Hermanitos* organization assist with documentation, legal aid, and employment opportunities. They also offer Portuguese and professional courses and emergency financial assistance. In Rio de Janeiro, universities such as the State University of Rio de Janeiro and the Federal Fluminense University (UFF) provide legal aid, mental health support, and language classes. In Roraima, due to the large refugee population, associations like [Fraternidade – Federação Humanitária Internacional](#) (FFHI) and the [Serviço Jesuíta para Migrantes e Refugiados](#) (SJMR) focus on education, psychological first aid, reception, and legal assistance.
- Beyond these civil society organizations, various Catholic Church organizations play a significant role. They serve as a bridge between the state and civil society, not only providing humanitarian aid but also representing the migrant community in government agencies. For example, in São Paulo, [Missão Paz](#), run by the Scalabrinian Congregation, advocates for migrant rights and provides shelter, legal aid, and job placement. Other congregations, such as the [Sisters of the Holy Cross](#), [Sisters of San Jose of Chambery](#), and [Consolata Missionary Sisters](#), offer temporary shelter, food, and social care services, often collaborating with NGOs and UNHCR to support vulnerable groups.

³⁰⁶ IMDH (2024). *Relatório de atividades 2024*, cit., p. 26

³⁰⁷ See Vatican, Migration Profile BRAZIL, May 2022, <https://migrants-refugees.va/>; Pelicione A.B., Catholic institutions and the integration of immigrants and refugees in Brazil, 18/12/2021, <https://www.routedmagazine.com/catholic-institutions-immigrants-brazil>

- Other NGOs may work on refugee issues or may advocate for changes in legislation, but their work is more related to the reception, integration, and reintegration of refugees, such as the Institute for the Reintegration of Refugees, known as [Instituto Adus](#) (in São Paulo), focuses primarily on cultural and social initiatives. It also plays a key role in raising public awareness through campaigns to combat the racism and xenophobia that refugees often face. Its team is composed entirely of volunteers, with about 30 individuals officially registered, and around 20 actively involved. Refugees themselves are part of the volunteer staff, with two holding administrative roles in project management³⁰⁸.

D. Supranational courts

In Brazil, rulings and interpretations from the IACtHR and the IACHR have a notable but often indirect influence on national judicial approaches to asylum barriers. While not frequently cited directly in a formal capacity by Brazilian courts, the principles from these rulings serve as a crucial interpretive framework. These principles are frequently invoked by legal counsel, such as the DPU, to reinforce international protection standards in their arguments.

As highlighted in Part II, in the case of collective expulsions, in a 2017 ruling (*Habeas Corpus No. 6447-87.2016.4.01.4200*), a Brazilian Federal Regional Court deemed the mass deportation of Venezuelan nationals illegal. The court explicitly referenced Article 22(9) of the American Convention on Human Rights, which prohibits the collective expulsion of foreigners. The ruling also highlighted the violation of the *non-refoulement* principle enshrined in the American Convention, demonstrating how a supranational instrument directly influenced the court's decision to halt the deportation.

Furthermore, in the cases of immediate removal during the pandemic for COVID-19, a 2021 ruling by the Judicial Section of Roraima (*No. 1001365-82.2021.4.01.4200*) highlighted the principle of *non-refoulement* as articulated in the American Convention. The court found that the summary deportation of irregular migrants during the COVID-19 pandemic violated both national law and Brazil's international commitments. In 2018, the IACHR had already issued a condemnation of a border closure in Roraima, deeming it a violation of the right to seek asylum. The IACHR also noted with concern the use of the armed forces in migration control, which reinforces the judicial scrutiny of executive actions.

Moreover, in the cases of *de facto* detention, the jurisprudence of the IACtHR, particularly cases like *Vélez Looz v. Panamá* (2010), has been instrumental in shaping procedural protections in Brazil. While not cited directly, the principles from this ruling—emphasizing due process, the right to legal counsel, and judicial review of detention for all individuals regardless of their immigration status—have a persuasive influence on Brazilian judges. This has reinforced the need for courts to rigorously scrutinize summary expulsion procedures and uphold due process rights, particularly in situations of collective expulsions or expedited deportations.

Finally, the expanded refugee definition from the Cartagena Declaration and its interpretation has had a significant influence on Brazilian law by broadening the definition of a refugee. This expanded definition, which includes individuals fleeing generalized violence or massive human rights violations, has been incorporated into Brazil's Refugee Law. This has enabled Brazilian courts to grant a wider range of asylum claims, particularly for those from countries like Colombia and Venezuela. The STF has also made direct reference to Inter-American instruments regarding this expanded refugee definition.

³⁰⁸ Draghi Manoel D.F. and Serau Júnior M.A. (2018). *A assistência concedida aos imigrantes e refugiados no Brasil*, Annoni D. (ed) Direito Internacional dos Refugiados e o Brasil, Curitiba: Gedai/UFPR, pp. 583-584.

E. Other actors

So far, no additional actors involved in facilitating access to asylum in Brazil have been identified.

IV. THE SOCIO-POLITICAL CONTEXT

A. Migratory routes and entry points

Brazil is mainly a host country for migrants and refugees. However, as previously stated in Part I (Pushbacks at the airport), in recent years, its territory has also become a transit point for migrants, especially those from Asia and Africa, who are heading to North America.³⁰⁹

Main migration routes towards the country since 2010

1. *The Northern Region, which includes the states of Acre, Amapá, Amazonas, Pará, Rondônia, Roraima and Tocantins. Mostly land routes*



Source: *Relatório Anual OBMigra 2024. Série Migrações*

Since the 1960s, Brazil's Northern Region has become a significant hub for international migration, initially serving as a point of departure for Brazilians heading to neighbouring countries like Guyana and Venezuela. These early movements were often irregular, driven by illegal gold mining and sometimes involving human trafficking. For instance, the Brazilian presence in French Guiana grew from under 1,000 in the 1960s to an estimated one-fifth of the population by the 2010s, including their descendants.³¹⁰

This outward flow also generated a reverse migration, with Guianese immigrants becoming a notable presence in Roraima, Brazil, particularly due to political and economic crises in their home country. Similarly, in the 1970s, Venezuela became a key destination for Brazilian emigrants from Roraima, a movement that occurred in two main phases related to the rise and decline of mining activities.³¹¹

Although part of the northern region borders Colombia, its “inhospitable geography” explains why fewer Colombians migrated to Brazil than to other countries in this area. The two countries are separated by the Amazon region and its dense tropical rainforest.³¹² By 2010, the migration trend shifted, with the Northern Region becoming a major entry point for immigrants, primarily Haitians entering via Acre and Amazonas.³¹³ After 2010, Haitian immigration to Brazil became more prominent in national statistics and the press. This increase was driven by several factors, including the international economic crisis, a civil war and humanitarian crisis in Haiti, and the country's ongoing economic and political instability. At the

³⁰⁹ See Sprandel A., et al. (2013), *Migración extracontinental*, cit., pp. 136 ss; Freier L., (2013), *Migración contemporánea*, cit., p. 103; Rojas R. (2020), *Latin America's*, cit.; Freier L.F., Oba L.L. and Fernández M.A., (2024). *Inter-regional Migration*, p. 346.

³¹⁰ Oliveira T., “Região Norte”, In: Cavalcanti, L.; Oliveira, T.; Silva, S.L. (Ed.) *Relatório Anual OBMigra 2024. Série Migrações*. Observatório das Migrações Internacionais; Ministério da Justiça e Segurança Pública/ Conselho Nacional de Imigração e Coordenação Geral de Imigração Laboral. Brasília, DF: OBMigra, 2024, pp. 40-41.

³¹¹ Oliveira T., *Região Norte*, cit., pp. 40-41.

³¹² Zarama Santacruz J.M. (Ed.) (2018). *Exilio colombiano. Huellas del conflicto armado más allá de las fronteras*, Centro Nacional de Memoria Histórica, p. 123.

³¹³ Oliveira T., *Região Norte*, cit., p. 41.

same time, Brazil, and particularly the state of Rio Grande do Sul, was experiencing economic and labour growth that made it an attractive destination for immigrants.³¹⁴ Between 2010 and 2012, Haitian nationals predominantly entered Brazil via Tabatinga in Amazonas state, and Assis Brasil and Brasileia in Acre state.³¹⁵ Many used overland routes, the “Pacific Corridor”,³¹⁶ traversing Ecuador and Peru to reach Brazil.³¹⁷ From Quito, Ecuador, migrants would take a bus south to the Peruvian border, entering through the Peruvian cities of Tumbes and Piura before proceeding to Lima. From Lima, Peru, the journey branched into two main paths. One route led to Cusco, then to Puerto Maldonado in the Peruvian Amazon, and finally to Iñapari, a border town with Brazil, from which it was an hour’s drive to Brasileia (Acre state). The second route went from Lima (Peru) to Iquitos, where migrants travelled by river to the Brazilian city of Tabatinga in Amazonas state, and then continued to Manaus (Roraima state- northern border). Upon arrival in Brazil, Haitian citizens underwent an expedited entry process at Federal Police checkpoints, where their Haitian nationality was verified, allowing them immediate passage without initial forms or registration. Full registration only began in Brasileia, facilitated by a dedicated migration portal for Haitians, a privilege not extended to other foreign nationals like African migrants. From the Assis checkpoint, taxis, often coordinated via cell phone, transported Haitian migrants to Brasileia.³¹⁸

Due to increasing pressure from Brazil, which wanted to limit the number of asylum seekers crossing its borders, Peru began requiring visas for Haitian citizens around 2012.³¹⁹ This action made the route through Peru much more difficult for Haitian migrants and was considered an externalization of Brazil’s border control policy. Similarly, in August 2015, Ecuador’s Ministry of Foreign Affairs and Human Mobility introduced new entry requirements, demanding that all Haitian tourists register online with a consulate and receive authorization to travel before their trip. These measures, along with a drastic reduction in the flow of Haitian migrants through Brazil’s northern border, led authorities in Acre to close a major shelter in Rio Branco in 2016.³²⁰

The Brazilian government initially imposed annual entry quotas for Haitian nationals, but as the flows increased, these limits were lifted in 2013. However, bureaucratic hurdles at Brazilian consulates made it difficult to obtain visas, prompting many Haitians to use irregular routes facilitated by smugglers (“coiotes” in Portuguese), often traveling through multiple countries to reach Brazil.³²¹ The other three less common

³¹⁴ Uebel R., (2016). *O imigrante como objeto, a fronteira como um portão: como a mídia impressa percebe o imigrante haitiano e o papel das fronteiras no Brasil e no Rio Grande do Sul*, In: Tempo da Ciência, Toledo, Vol. 23. No. 46, p. 113.

³¹⁵ See Godoy, G. (2011). *O caso dos haitianos no Brasil e a via da proteção humanitária complementar*. In: Carvalho Ramos A., Rodriguez G. and Almeida G. (Eds.), 60 anos de ACNUR. São Paulo: Perspectivas de futuro, p. 45; Fernandes D. and de Faria V.A. (2017), *O visto humanitário como resposta ao pedido de refúgio dos haitianos*, R. bras. Est. Pop., Belo Horizonte, Vol. 34, No.1, p. 150; Domenech E. and Dias G. (2020). *Regimes de fronteira e “ilegalidade” migrante na América Latina e no Caribe*, Sociologias, Porto Alegre, Vol. 22, No. 55, p. 57; Palisse M. and Wilmont J (2022). *Migración haitiana, papeles y refugio en la Guayana francesa*” In: Handerson J. and Cédric A. (Eds.) *El sistema migratorio haitiano en América del Sur proyectos, movilidades y políticas migratorias*, Ciudad Autónoma de Buenos Aires: CLACSO, p. 105; Cotinguiba G. and Pimentel-Cotinguiba M., *Una baz en la Amazonía Brasileña: interconexiones migratorias haitianas*, In: Handerson J. and Cédric A. (Eds.) *El sistema migratorio haitiano*, cit., p. 138.

³¹⁶ Dias G., Jarochinski Silva J. and da Silva S.A., (2020). *Travellers of the Caribbean: Positioning Brasília in Haitian migration routes through Latin America*, Braz. Anthr. 17, p. 3.

³¹⁷ Fernandes D. and Virgínia de Faria A. (2017). *O visto humanitário*, cit., p. 150

³¹⁸ See Bernal Carrera G., (2014). *La migración haitiana hacia Brasil: Ecuador, país de tránsito*, in IMO, *La migración haitiana hacia Brasil: Características, oportunidades y desafíos*, Cuadernos migratorios No. 6, pp. 88, 89; Nieto C., (2014) “*Migración haitiana a Brasil: redes migratorias y espacio social transnacional*”, Ciudad Autónoma de Buenos Aires: CLACSO, pp. 71-72; Uebel R., *O imigrante como objeto*, cit., pp. 116, 117.

³¹⁹ Nieto C., *Migración haitiana a Brasil*, cit., p. 78; Ceja I. and Ramírez J. (2022). *Continuum migratorio: Una década de migración haitiana en y por Ecuador*. In Handerson J. and Cédric A. (Eds.) *El sistema migratorio haitiano en América del Sur proyectos, movilidades y políticas migratorias*, Ciudad Autónoma de Buenos Aires: CLACSO, pp. 297-298.

³²⁰ Fernandes D. and de Faria V.A. (2017). *O visto humanitário*, cit., pp. 156, 157.

³²¹ Fernandes D., de Castro M.C., (2014). *A migração haitiana para o Brasil: Resultado da pesquisa no destino*, In: *La migración haitiana hacia Brasil: Características, oportunidades y desafíos*, Cuadernos Migratorios No. 6, IMO, p. 54; Véran J.F., da Silva Noal D., and Fainsta T. (2014). *Nem Refugiados, nem Migrantes: A Chegada dos Haitianos à Cidade de Tabatinga (Amazonas)*, DADOS–Revista

routes for Haitian immigrants to Brazil were identified. The first was the most expensive and least-used option, going directly from Port Prince to Panama City, and then to Porto Alegre. The second also started in Port of Prince to Panama City, but the destination was São Paulo. The final and least-used route was a direct flight.³²²

Over the last decade, Brazil's North Amazon border has shifted from a peripheral area to a central topic in political and academic debates on migration.³²³ Beginning in 2015, there was a dramatic increase in Venezuelan immigration, largely driven by the country's political and economic crisis. A significant number of these migrants entered Brazil through the border city of Pacaraima in the state of Roraima. This influx is reflected in the official numbers: the number of Venezuelans seeking residency or refugee status in the Northern Region soared from just 180 in 2015 to over 26,000 in 2017. As a result, 13 official shelters, managed by the Brazilian Armed Forces and UNHCR, were established in Boa Vista and Pacaraima to accommodate the new arrivals. However, despite these efforts, local authorities report that at least 1,500 Venezuelans in Boa Vista are homeless, including nearly 500 minors.³²⁴

Between 2010 and mid-2024, the Northern Region recorded over 344,000 residency applications and nearly 293,000 refugee applications. Most of these requests came from Venezuelan migrants, underscoring the region's growing role in international migration and the urgent need for new public policies to address this human mobility.³²⁵

Furthermore, the Brazil-Guyana border, specifically between the twin cities of Bonfim (Brazil) and Lethem (Guyana), has become a major, though often illegal, migration route. Fuelled by a history of commercial and cultural exchange, this border area has seen a surge in clandestine migration, particularly of Cubans and Haitians. These migrants, fleeing economic hardship, political instability, and natural disasters in their home countries, are drawn to the region's economic dynamism and seek to enter Brazil. The issue has been exacerbated since 2017, with reports of illegal crossings involving local taxi drivers who act as intermediaries for human trafficking. Despite efforts by Brazilian Federal Police in partnership with other security forces, a lack of effective border control and the presence of organized networks make the journey dangerous for migrants and contribute to a rise in illegal activities.³²⁶

More recently, the Northern Region has also become a transit hub for a diverse range of migrants—including Haitians, Venezuelans, Afghans, and Indians—who are traveling toward Central America and the United States via the Darién Gap.³²⁷ Brazil is an entry country to South America for people from various Caribbean, African, and Asian countries, since it is possible to request asylum upon arrival and remain in the country while the request is processed. For those who wish to continue north, this situation offers the possibility of staying temporarily in the country and beginning the south-north journey from there.³²⁸

de Ciências Sociais, Rio de Janeiro, Vol. 57, No. 4, p. 1012; Oliveira T., *Região Norte*, cit., p. 42; Fernandes D. and de Faria V.A. (2017), *O visto humanitário*, cit., p. 155, Vatican, *Migration Profile BRAZIL*, cit. Dias G., Jarochinski Silva J. and da Silva S.A., (2020) *Travellers of the Caribbean*, cit., p. 7.

³²² Fernandes D. and de Faria V.A. (2017), *O visto humanitário*, cit., p. 150; Uebel R., *O imigrante como objeto*, cit., p. 118.

³²³ Tonhati, T., Cavalcanti, L., & de Oliveira, A. T. (2022). A Decade of Growth in Migration in Brazil (2010–2020) and the Impact of the COVID-19 Pandemic. In G. Herrera & C. Gómez (Eds.), *Migration in South America IMISCOE Regional Reader* (p. 113).

³²⁴ Vatican, *Migration Profile BRAZIL*, cit.

³²⁵ Oliveira T., *Região Norte*, cit., p. 42.

³²⁶ da Silva P.V. and da Silva A.B. (2024). *Fluxos migratórios na fronteira Brasil – Guiana*, *Revista de Administração de Roraima-UFRR*, Vol. 16, n. 1, Special issue, pp. 72-77.

³²⁷ Tonhati, T., Cavalcanti, L., & de Oliveira, A. T. *A Decade of Growth*, cit., p. 113.

³²⁸ IMO, *Migraciones Sur-Norte*, cit., p. 13.

2. *The Southeast Region, which includes the states of Espírito Santo, Minas Gerais, Rio de Janeiro and São Paulo. Mostly air route*



Source: *Relatório Anual OBMigra 2024. Série Migrações*

Brazil's Southeast Region is a significant entry point for international migration, with its airports in São Paulo and Rio de Janeiro accounting for over 70% of the country's border movements in 2023. That year, the number of movements surged to 19.5 million, marking a 35.5% increase from 2022. The region has also seen a rise in asylum applications, particularly from nationals of Angola, Cuba, and Vietnam.³²⁹

Beyond air travel, the port of Santos in São Paulo has seen cases of stowaways arriving on merchant ships from Africa.³³⁰ Brazil is also considered a major hub for human trafficking, specifically for migrants,³³¹ especially for Asian and African nationals. For instance, migrants from Bangladesh might receive visa documents and flights to São Paulo through smuggling networks, often traveling from Dhaka to Brazil with a stop in Addis Ababa. Once in Brazil, smugglers then facilitate their onward journey, including arranging flights to the border with Peru and into that country. Similarly, a smuggling network operating between Brazil and South Africa, uncovered in 2016, provided fake visas to Africans, arranging flights between the two continents. Many African migrants have entered Brazil with these fraudulent documents supplied by smugglers. Once in Brazil, smugglers continue to facilitate onward travel, such as arranging flights to the border region with Peru.³³²

3. *The Midwest Region, which includes the states of Goiás, Mato Grosso, Mato Grosso do Sul, and the Federal District. Land route*



Source: *Relatório Anual OBMigra 2024. Série Migrações*

³²⁹ Simões A., *Região Sudeste* (2024). In: Cavalcanti, L.; Oliveira, T.; Silva, S. L. (Ed.) *Relatório Anual OBMigra 2024. Série Migrações*. Observatório das Migrações Internacionais; Ministério da Justiça e Segurança Pública/ Conselho Nacional de Imigração e Coordenação Geral de Imigração Laboral. Brasília, DF: OBMigra, 2024, pp. 10-22.

³³⁰ Sprandel A., et al. (2013), *Migración extracontinental*, cit., pp. 137-138.

³³¹ Rojas, R. et al. (2020). *Un Negocio Cruel. Migrantes de Otro Mundo*, <https://migrantes-otro-mundo.elclip.org/un-negocio-cruel/un-negocio-cruel.html>

³³² Tines N., *Getting it together*, cit., p. 18.

The Midwest Region presents three distinct scenarios for international migration. Mato Grosso and Mato Grosso do Sul, which share extensive borders with Paraguay and Bolivia, are characterized by a historical flow of migrants from these neighbouring countries. Data from 2022 to mid-2024 shows that Bolivian and Paraguayan nationals dominate border movements in this region. Goiás, by contrast, has no international borders and typically experiences the lowest international migration flow in the region.

The Federal District, as the nation's capital, has a diverse migrant population, historically including embassy staff and international organization employees, a trend that has been amplified by Operation Welcome. Overall, the region's migration landscape is primarily defined by movements from neighbouring South American countries, particularly Bolivia and Paraguay, with a smaller, more varied flow in the non-border states and the capital.³³³

4. The Southern Region, which includes the states of Paraná, Santa Catarina and Rio Grande do Sul. Land and sea routes



Source: *Relatório Anual OBMigra 2024. Série Migrações*

The migration landscape in Brazil's Southern Region has a rich history, beginning in the 19th century with European settlers from Italy, Germany, Poland, Ukraine, and Spain who significantly shaped the region's culture and agriculture. For a long period, international migration to the South was limited, with the primary movements being internal or from neighbouring countries. This trend shifted dramatically around 2010 with the arrival of migrants from Haiti and Venezuela, who were drawn to the region for employment opportunities. The Southern Region shares borders with Argentina and Uruguay, and historical border traffic has been dominated by nationals from these two countries.

However, recent data on immigration records reveal a different picture, with a significant increase in registrations from Venezuelans, and to a lesser extent, Haitians, showing that the Southern Region has become a key destination for these groups.³³⁴

The primary modes of both regular and irregular migration to Brazil are terrestrial and aerial, yet a small but significant number of migrants also arrive as maritime stowaways (“clandestinos”) on merchant vessels.³³⁵ A review of data from 2006 to 2017 identified 234 stowaways from 27 nationalities, most originating from West African nations, with the main disembarkation points being the ports of Santos (São Paulo), Vitória (Espírito Santo), and Paranaguá (Paraná). This mode of migration is often seen as a last resort rather than

³³³ Hachem Z.I. (2024). *Região Centro-Oeste*, In: Cavalcanti, L.; Oliveira, T.; Silva, S. L. (Ed.) *Relatório Anual OBMigra 2024. Série Migrações*. Observatório das Migrações Internacionais; Ministério da Justiça e Segurança Pública/ Conselho Nacional de Imigração e Coordenação Geral de Imigração Laboral. Brasília, DF: OBMigra, pp. 52-54.

³³⁴ Tonhati T. (2024). *Região Sul*, In: Cavalcanti, L.; Oliveira, T.; Silva, S. L. (Ed.) *Relatório Anual OBMigra 2024. Série Migrações*. Observatório das Migrações Internacionais; Ministério da Justiça e Segurança Pública/ Conselho Nacional de Imigração e Coordenação Geral de Imigração Laboral. Brasília, DF: OBMigra, pp. 68-72.

³³⁵ See Nunes J. (2018). *Africanos resgatados no Maranhão querem pedir refúgio ao Brasil*, Agência Brasil, 23/05/2018, <https://agenciabrasil.abc.com.br/direitos-humanos/noticia/2018-05/africanos-resgatados-no-maranhao-querem-pedir-refugio-ao-brasil>; Machado L. (2023) *O que pode acontecer com nigerianos que chegaram ao Brasil escondidos em navio*, BBC, 12/07/2023, <https://www.bbc.com/portuguese/articles/c21902p2el0o>; *PF resgata imigrantes africanos clandestinos em navio na Baía de Guanabara, no RJ*, 19/08/2024, <https://exame.com/brasil/pf-resgata-imigrantes-africanos-clandestinos-em-navio-na-baia-de-guanabara-no-rj/>; *PF resgata três imigrantes clandestinos em navio cargueiro em Paranaguá*, 07/05/2025, <https://www.gov.br/pf/pt-br/assuntos/noticias/2025/05/pf-resgata-tres-imigrantes-clandestinos-em-navio-cargueiro-em-paranagua>

a planned entry strategy.³³⁶ Migrants from Central Africa and West Africa report using ships to travel to Brazil, and many also have complex journeys that include internal migration within Africa or travel through other continents like Europe or Asia before arriving in Brazil.³³⁷

Main entry points in the country since 2010

Brazil shares a land border with nine South American countries: Uruguay, Argentina, Paraguay, Bolivia, Peru, Colombia, Venezuela, Guyana, and Suriname, and with the Department of French Guiana, with a total length of 16,886 kilometres, involving 11 federative units and 588 municipalities, which corresponds to approximately 27% of the national territory.³³⁸ The primary entry points into Brazil are land borders, with air and sea routes being less common for migrants and asylum seekers. As mentioned before, the main entry localities and areas are concentrated along the northern and southern land frontiers. Brazil has no border walls or migrant detention centres; control relies on road/bridge checkpoints, riverine patrols, airport control, and documentary/biometric checks by the Federal Police (*Polícia Federal*). Asylum can be requested on arrival. The registration is done by the Federal Police, and the claim is lodged/managed in SISCONARE.

Land entry points:

- **Paracaima (Roraima state-RR):** The main entry point for migrants into Brazil is the northern border with Venezuela. At the border, there are no physical barriers like walls or fences, only a road checkpoint managed by the Federal Police in the border city of Pacaraima. In response to the Venezuelan migratory crisis, Brazil launched Operation Welcome (*Operação Acolhida*) in 2018, a large-scale humanitarian effort led by the Brazilian Armed Forces, designed to manage the influx of Venezuelan migrants and refugees entering through the state of Roraima. The operation has three main pillars: border management, providing shelter for those in need, and the relocation of migrants to other states across the country. The official narrative of a “migration crisis” is used to legitimize this exceptional and securitized response, turning the “humanitarian infrastructure” into a tool for “border planning” and control rather than purely a mission of support.³³⁹ Operation Welcome is a joint effort that brings together various municipal, state, and federal agencies, as well as international bodies like UNHCR and other NGOs. Alongside this humanitarian work, the armed forces also conduct Operation Control (*Operação Controle*), a simultaneous effort to combat cross-border crimes and support migratory control on the border.³⁴⁰ Since August 2018, through the Pacaraima Mission, the DPU has become part of the Operation Welcome.³⁴¹

³³⁶ See de Oliveira M. and Giacometti R. (2020). *Imigração clandestina no Paraná, 2006-2017: uma análise a partir de dados da Marinha do Brasil -Diretoria de Portos e Costas*, Nueva época año 13, Suplemento Especial de Invierno, pp. 185-207; Álvarez Velasco S. (2020). From Ecuador to Elsewhere. The (Re)Configuration of a Transit Country, *Migration and Society: Advances in Research*, Vol. 3, p. 41.

³³⁷ Sprandel A., et al. (2013), *Migración extracontinental*, cit., pp. 137-138. See also Freier L.F., Oba L.L. and Fernández M.A., (2024), *Inter-regional Migration*, cit., p. 343.

³³⁸ Federal Government, *Informações históricas*, 20/04/2023, <https://www.gov.br/mre/pt-br/assuntos/demarcacao-de-limites/informacoes-historicas>

³³⁹ Araújo N. & Barros P. (2025). Status, Vulnerability and Rights in Brazil: Operation Welcome and Its Impacts on Asylum and Social Inclusion of Refugees, Asylum Seekers and Immigrants, In Nunez S. et al. (ed) *Global Asylum Governance and the European Union's Role Rights and Responsibility in the Implementation of the United Nations Global Compact on Refugees*, Springer, p. 99.

³⁴⁰ See Penido A., Kalil Mathias S. and Sousa Barbosa L., (2022). *A defesa da Amazônia e sua militarização*, Novos Cadernos NAEA, Vol. 25, No. 1, p. 103-128; Riggiozzi, P., Cintra, N., Grugel, J., Garcia Garcia, G., & Carvalho Lamy, Z. (2023). Securitisation, humanitarian responses and the erosion of everyday rights of displaced Venezuelan women in Brazil. *Journal of Ethnic and Migration Studies*, 49(15), p. 3762.

³⁴¹ DPU (2021), Pacaraima Mission, 4th Action Report: 2nd Semester, p. 5.

Once in Brazil, people are directed to the city of Boa Vista, the central hub for arrivals, leading to more than 48,000 individuals being granted formal refugee status, with Venezuelans making up about 97% of that number.³⁴² In Boa Vista, migrants and asylum seekers receive comprehensive assistance through Operation Welcome.³⁴³ Since 2018, the *Instituto Migrações e Direitos Humanos (IMDH)* has had an office in Boa Vista, Roraima. Furthermore, in response to the number of vulnerable Venezuelan refugees and migrants arriving in Pacaraima in 2021, UNHCR, in partnership with Operation Welcome and AVSI Brazil, opened a shelter. This emergency shelter provided a safe space for 13,850 people before UNHCR’s administration of the site concluded in May 2022.³⁴⁴

In this area, the Federal Police (FP) and customs are the main actors. The FP is responsible of official controls and assists with SISCONARE registration. The armed forces are responsible for Operation Welcome while national and international organizations work with migrants and refugees such as UNHCR and IMO. As mentioned in Part I, in 2021, Brazil launched the “Border Tech Project”, investing about \$618,000 to enhance surveillance along its southern border with Venezuela. The project introduced a suite of advanced technologies to Pacaraima. This included smart lights with cameras, facial and license plate recognition software, speed dome cameras, a thermal drone, and a data centre to manage the collected information.³⁴⁵ This initiative raises significant concerns, as the collection of both basic and complex data from individuals crossing the border lacks transparency and poses risks to data security.³⁴⁶

- Manaus (Amazonas state- AM): As a key hub within Brazil’s national Operation Welcome program, the city of Manaus serves as a vital secondary entry point, rather than a direct border crossing. Migrants, primarily from Venezuela, are relocated to Manaus from border areas like Pacaraima as part of the Interiorization Strategy, which aims to decongest border regions and facilitate social and economic integration. To support these arrivals, the municipality has established a Relocation and Screening Station, which provides essential services such as regularization of migration status, issuance of taxpayer IDs, and initial care.³⁴⁷
- Tabatinga (Amazonas state- AM): The town of Tabatinga, located in the state of Amazonas, serves as a crucial tri-border crossing point where Brazil meets both Colombia and Peru. It is considered a “porous” border,³⁴⁸ defined by a combination of river and land access, with control managed primarily by the Federal Police through port control and dedicated river patrols. The Federal Police was the primary authority for processing sporadic asylum applications from Colombians. However, the arrival of Haitian migrants placed extreme pressure on the border post, which suddenly found itself on the

³⁴² Government of Brazil, Brazil is an example in welcoming immigrants, Jun 21, 2022, <https://www.gov.br/en/government-of-brazil/latest-news/2022/brazil-is-an-example-in-welcoming-immigrants>

³⁴³ See UNHCR, Protection Brief Brazil, October 2024, pp. 4-8; Nascimento L., Brazil welcomed 194,331 migrants in 2024, Agência Brasil, 10/02/2025, Agência <https://agenciabrasil.ebc.com.br/en/direitos-humanos/noticia/2025-02/brazil-welcomed-194331-migrants-2024>

³⁴⁴ UNHCR, Activities and results report, Bv-8 Annex Pacaraima, October 2021 to May 2022.

³⁴⁵ A. Lemos, 2021, Brazil Installs Intelligent Border Control Systems, <https://dialogo-americas.com/articles/brazil-installs-intelligent-border-control-systems/>

³⁴⁶ J. Camargo and A. Alencar (2024). Exploring Venezuelans’ perspectives on border technologies, Forced Migration Review, No. 23/2024.

³⁴⁷ See International Organization for Migration (IOM), 2024. Migration Governance Indicators Local Profile 2023 – Municipality of Manaus (Brazil). IOM, Geneva.

³⁴⁸ Regarding Tabatinga as a “porous” border and the border movement between Brazil and Colombia see Euzébio E.F. (2014) *A porosidade territorial na fronteira da Amazônia: as cidades gêmeas Tabatinga (Brasil) e Leticia (Colômbia)*, Cuadernos de Geografía, Revista Colombiana de Geografía, Vol. 23, No. 1, Bogotá, Colombia, pp. 109-124

front lines of handling an unexpected migratory influx.³⁴⁹ The presence of NGOs is generally less consistent here compared to the main humanitarian centres in Roraima. Nevertheless, the Federal Police and various local services are consistently present to manage the border and assist migrants arriving at this entry point. Representatives from *Cáritas Diocesana do Alto Solimões*, the *Casa Irmã Sebastiana Baldine Shelter Service*, and the *Specialized Reference Center for Social Assistance (CREAS)*, managed by the City of Tabatinga (AM), provided support to the mission. UNHCR, IOM, and the Federal Public Defender's Office provide assistance to refugees and migrants in different missions to the territory.³⁵⁰

It is important to highlight that, beginning in the 1980s, drug trafficking and the internal conflict in Colombia began to affect Brazil's border regions, but it wasn't until the 2000s that these issues became a central element of bilateral relations. One of the most significant impacts was the forced displacement of Colombians, as illegal armed groups, state military actions, and the expansion of coca cultivation drove people from their homes to neighbouring countries. This mass migration, coupled with the environmental damage caused by aerial spraying and the tactical use of border areas by armed actors, made the conflict a major concern.³⁵¹ As a response, between 2000 and 2010, the Brazilian Armed Forces maintained a significant military presence in the Amazon state, with the goal of protecting Brazil's borders and asserting its territorial sovereignty. Although the military presence has diminished over the years, the role of the armed forces in this region has been reshaped by new dynamics and technologies,³⁵² such as the SISFROM system, as indicated in Part I, for border control.

- Assis Brasil (Acre state- AC): Assis Brasil, along with the Epitaciolândia and Brasiléia crossings in the state of Acre, serve as important entry points to Brazil, primarily from the neighbouring countries Bolivia and Peru. However, in recent years, it has also been a point of entry for nationals from other countries such as Colombia and, more recently, Venezuela.³⁵³ The border is a combination of highway and river crossings, managed by the Federal Police (PF). While the PF handles official controls and assists with SISCONARE registration, the area sees fluctuating arrivals that require support from various humanitarian actors during peak periods. In addition to the Federal Police and local/state services, the border is a point of activity for NGOs and UN agencies, which provide assistance to migrants arriving via this southern land route.
- Bonfim (Roraima state- RR): The border crossing at Bonfim, in the state of Roraima, serves as a land entry point from Guyana, characterized by a bridge crossing. The Federal Police (PF) manages the flow of migrants and asylum seekers. The PF also handles SISCONARE registration and the issuance of provisional protocols. In addition to the FP, the border is staffed by agents from various local services to manage the flow of people and goods.

³⁴⁹ Véran J.F., da Silva Noal D., and Fainsta T. (2014). *Nem Refugiados*, cit., p. 1025.

³⁵⁰ OIM, *Na tríplice fronteira amazônica, ACNUR, OIM e Defensoria Pública da União prestam assistência a refugiados e migrantes*, 06/11/2021, <https://brazil.iom.int/pt-br/news/na-triplice-fronteira-amazonica-acnur-oim-e-defensoria-publica-da-uniao-prestam-assistencia-refugiados-e-migrantes>

³⁵¹ Rego Monteiro L.C. (2016). Brazilian Security Policy in the Amazon Border and securization of the Colombian Conflict, HEMISFERIO. *Revista del Colegio Interamericano de Defensa*. Vol. 2, p. 85.

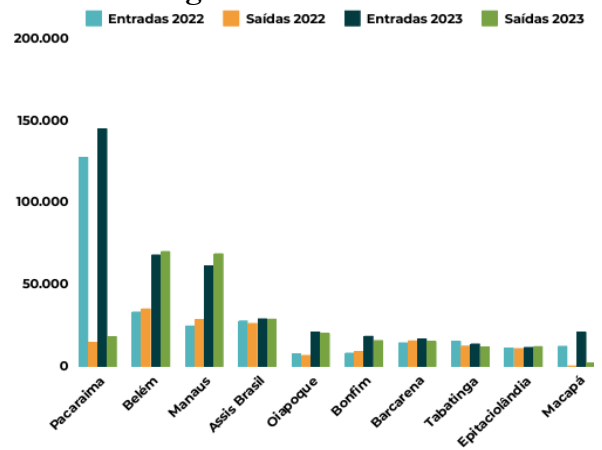
³⁵² Rego Monteiro L.C. (2020). *Segurança de fronteiras*, cit., p. 181.

³⁵³ OBMigra, *Movimentação nas fronteiras*, [Sistema de Tráfego Internacional](#)

Main entry and exit points to the northern region



Entries and exits from the Brazilian Northern Region



Source: *Relatório Anual OBMigra 2024. Série Migrações*

- Foz do Iguacu (Paraná state-PR):** The city of Foz do Iguacu, located in the state of Paraná, is a significant regional migration hub on Brazil’s triple border with Paraguay and Argentina. Its official entry points, the bridges *Ponte da Amizade* and *Ponte Tancredo Neves*, are formally managed by the Federal Police. While it does not experience the same large-scale humanitarian crises as the border with Venezuela, the city’s migration patterns are deeply tied to regional mobility and economic activity, with the number of new registrations increasing significantly between 2010 and 2020. The city is part of the Operation Welcome internal relocation program, which has brought hundreds of Venezuelan migrants from the northern border. Foz do Iguacu is also home to key support services for migrants, including the government-run Migrant’s House and the *Cáritas Diocesana*, which provide essential services, legal aid, and guidance on a range of issues from social protection to employment.³⁵⁴



Source: *Relatório Anual OBMigra 2024. Série Migrações*

The possibility of building a wall along the Paraná River in Foz do Iguacu, just below the bridge connecting Brazil and Paraguay, was previously considered. It was intended as a border control measure, but the project was never implemented.³⁵⁵ As mentioned in Part I, along its southern border with Argentina and Paraguay, Brazil is deploying border control technology through the “*Muralha Inteligente*” (Smart Wall) project since 2019. While framed as a strategy to combat trafficking and smuggling, the project’s use of facial recognition cameras and drones has sparked debate concerning the implications and utilization of the data gathered, raising questions about privacy and surveillance in the border region.³⁵⁶

³⁵⁴ See International Organization for Migration (IOM) (2022). Migration Governance Indicators Local Profile 2022 – City of Foz do Iguacu. IOM, Geneva.

³⁵⁵ Haesbaert R. (2020). *Do muro ao drone: novos-velhos dispositivos geográficos de segurança*, Nunes J. and Rodrigues, L.C. (eds) Crise e reinvenção dos espaços da política, Rio de Janeiro: Consequência, p. 160.

³⁵⁶ E. Carrillo et al., 2023, *Technologies and Human Rights*, cit.

Air entry points:

- São Paulo/ Guarulhos International Airport (Governor André Franco Montoro) (GRU): As the busiest airport, GRU is the main gateway. Reception is handled by the Federal Police, and the Advanced Post for Humanized Service to Migrants (PAAHM) provides on-site information and referrals with UN and NGO partners. The PAAHM operates 24 hours a day, every day, and works to protect and promote humanitarian and supportive solutions for migrants, providing services that involve identifying potential victims of trafficking, refugees, deportees, and migrants in general. There are “restrictive areas” where travellers are held in transit zones.
- Rio de Janeiro/ Tom Jobim International Airport (Galeão): In 2020, the Advanced Post for Humanized Service to Migrants (PAAHM) was reopened at Galeão’s Airport in a new, more accessible location in front of international arrivals. The post, which operates 24/7, is staffed by eight municipal guards who have been specifically trained by UNHCR and other organizations, including the Archdiocesan Caritas of Rio de Janeiro. Since its initial opening in 2010, the centre has become difficult to access after its original location in Terminal 1 was closed in 2016, leading to a significant drop in its effectiveness. The relocation was the result of a joint effort by multiple entities, including the Municipal Guard, Federal Police, UNHCR, and Caritas RJ, who worked together in the “Galeão Working Group” to re-establish a more relevant and accessible service. The specialized PAAHM team now provides information and referrals to asylum seekers, vulnerable migrants, and victims of human trafficking, with a new focus on serving refugees, and aims to provide more specialized support to those in need of international protection.³⁵⁷



Source: *Relatório Anual OBMigra 2024. Série Migrações*

Sea and fluvial entry points:

- Port of Santos (São Paulo state- SP): The Port of Santos, Brazil’s largest seaport and a major cruise terminal, serves as a significant point of entry for international travellers and maritime workers. At the port, the Federal Police (PF) manages migration control for all crew and passengers. For asylum seekers arriving by ship, the Federal Police provides an official avenue to request protection directly at the port or at the nearest PF unit. The port’s operations involve a range of actors, including the PF for migration, the Brazilian Health Regulatory Agency (Anvisa) for sanitary inspections, the Port Authority for customs, and, on occasion, UN or NGO representatives who assist with referrals for vulnerable individuals.

³⁵⁷ See UNHCR, *Novas instalações do Posto de Atendimento ao Migrante são inauguradas no Aeroporto Internacional Tom Jobim, com apoio do ACNUR*, 05/02/2020, <https://www.acnur.org/br/noticias/comunicados-imprensa/novas-instalacoes-do-posto-de-atendimento-ao-migrante-sao-inauguradas#:~:text=Novas%20instala%C3%A7%C3%B5es%20do%20Posto%20de,apoio%20do%20ACNUR%20%7C%20ACNUR%20Brasil>; Caritas, *Posto de atendimento a refugiados é reinagurado no aeroporto Galeão*, 13/02/2020, <http://www.caritas-rj.org.br/posto-galeao.html>

Implications that migratory routes towards the country have on judicial bodies

While the specific migratory routes to Brazil do not impact how judicial institutions evaluate the legality of barriers to asylum access, they do influence the number and type of legal challenges brought before the courts. For asylum seekers arriving via land routes, particularly from Venezuela, the judicial system often becomes a critical check against summary expulsions, taking into account the humanitarian situation in the neighbouring country. Federal Courts in border states like Roraima are frequently petitioned to intervene and, in doing so, often set precedents that challenge the executive's authority to implement policies violating the principle of *non-refoulement*. The legal arguments in these cases frequently rely on Brazil's progressive migration law (Law No. 13.445/2017) and international conventions, compelling judges to rule against such expulsions.

In contrast, migratory routes by air present a different set of legal challenges. At major international airports, such as in São Paulo, barriers to asylum access are typically administrative and procedural, rather than tied to a humanitarian crisis at a land border. These cases often involve the legality of in-transit asylum applications, where individuals are denied the right to apply for protection while in an international airport's transit zone. The courts must, in turn, assess these barriers within the framework of national security and border control, with the legal debate tending to focus more on the interpretation of legal norms and the discretionary power of immigration authorities.

Implications of countries' points of entry on what happens in judicial institutions

The entry point in Brazil could influence judicial adjudication through the types of courts responsible for appeals and the legal precedents that are established. Since Brazil has a decentralized legal system, an asylum seeker's case is initially heard in a federal court within the jurisdiction where they entered the country. This can lead to a divergence in judicial outcomes. Judges in border states like Roraima, who are constantly dealing with asylum cases, may become more specialized and develop a body of case law that is sensitive to the realities of forced migration. For instance, these courts have often been on the front lines of challenging federal policies that violate the principle of *non-refoulement*. Conversely, courts in other regions may not have the same level of expertise or be subject to different regional political pressures. This can lead to inconsistent or less favourable rulings for asylum seekers. The formal and informal practices at specific borders—such as the arbitrary denial of entry or the issuance of provisional documents—can become the central points of contention in a judicial appeal. Consequently, the legal challenges and the resulting judicial decisions are a direct reflection of the administrative practices at the point of entry.

In contrast, asylum seekers who enter the country through airports, like Guarulhos, face a different set of challenges. Here, the legal norms and practices are often less focused on mass migration management and more on national security concerns. The Supreme Court's decisions regarding asylum access at airports have been influenced by a more restrictive discourse, reflecting a greater emphasis on individual screening and potential "abuse" of the asylum system. This shows how the type of entry point can dictate the specific barriers and the legal norms that are invoked.

B. Composition and spatial distribution of forced migration population

In general:

Asylum seekers (January 2010 - August 2024)		Recognized refugees (January 2010 - August 2024)	
<i>Nationality</i>	<i>Total</i>	<i>Nationality</i>	<i>Total</i>
Angola	17,859	Angola	104
Afghanistan	1,723	Afghanistan	1,347
Bangladesh	7,014	Bangladesh	44
China	7,814	China	21

Colombia	4,331	Colombia	350
Cuba	41,800	Cuba	1,093
Democratic R. Congo	2,442	Democratic R. Congo	1,158
Haiti	40,483	Haiti	4
India	4,611	India	21
Lebanon	2,892	Lebanon	399
Mali	599	Mali	324
Nigeria	4,704	Nigeria	214
Pakistan	2,524	Pakistan	374
Palestine	617	Palestine	333
Senegal	9,599	Senegal	22
Syria	5,543	Syria	4,100
Venezuela	257,186	Venezuela	134,089
Other	80,393	Other	2,112
Total	450,752	Total	146.109

Source: Prepared by the author using data from [Migração no Brasil Informative Bulletin N° 4 – October/2024](#) and [OBMigra](#) (Observatório das Migrações Internacionais), 2025.

Between January 2010 and August 2024, a total of 450,752 individuals sought asylum in Brazil, of whom 146,109 were officially recognized as refugees. The vast majority of asylum seekers were from Venezuela, accounting for 257,186 applications, and this group also had the highest number of recognized refugees at 134,089. Following Venezuela, Cuba and Haiti had the next highest number of asylum claims with 41,800 and 40,483, respectively, though their rates of recognized refugees were significantly lower, at 1,093 for Cuba and only four for Haiti. In the case of Haiti, it should be noted that after the 2010 earthquake, Brazil became the first South American country to receive a large number of Haitian migrants. In response to this influx, the Brazilian refugee system categorized Haitians not as refugees, but as migrants. The government implemented specific policies, such as granting permanent residency to those already in the country in 2011 and, in 2012, creating a humanitarian visa.³⁵⁸ These measures sought to provide a legal path to entry and prevent human trafficking but also led to a significant number of regularization processes, including one in 2015 that granted permanent residency to more than 43,000 Haitians, thus closing their asylum applications.³⁵⁹ Despite these actions, Haitian citizens in Brazil find themselves in a unique situation, halfway between traditional refugees and voluntarily displaced migrants. They are granted authorized residence, but at the same time they face a precarious and unstable reception.³⁶⁰

Other notable trends include a high number of asylum applications from Angola (17,859), Bangladesh (7,014), China (7,814), and Senegal (9,599), but with very low rates of refugee recognition, with fewer than 200 recognized refugees for each of those nationalities. In contrast, Syria, with 5,543 asylum seekers, had a high recognition rate, with 4,100 refugees. Similarly, Afghanistan, with 1,723 asylum seekers, had 1,347 recognized refugees, indicating a high rate of successful claims. In contrast to other groups, asylum seekers from Syria and Afghanistan have a notably higher rate of recognition due to Brazil's specific legal responses to their respective crises. Following the ongoing civil war and widespread human rights violations in Syria, Brazil began granting *prima facie* recognition, which allows the government to recognize all individuals fleeing a country under a state of generalized conflict as refugees without an individual case-by-case assessment. Similarly, after the Taliban's return to power in Afghanistan, Brazil implemented a special

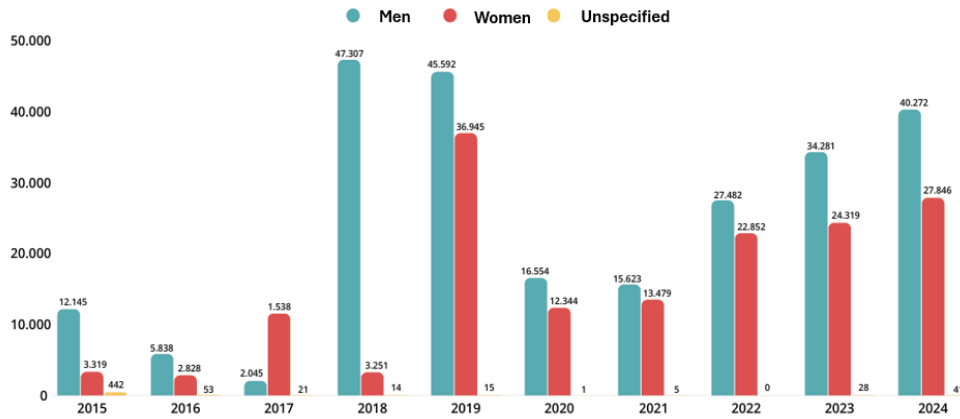
³⁵⁸ Domenech E. and Dias G. (2020). *Regimes de fronteira*, cit., p. 58.

³⁵⁹ IMO, *Migraciones Sur-Norte*, cit., p. 26.

³⁶⁰ Araújo N. & Barros P. (2025). *Status, Vulnerability and Rights*, cit., p. 99.

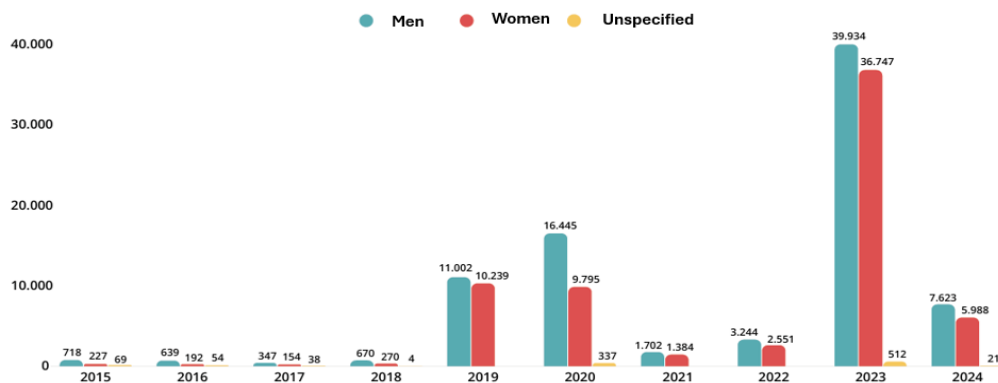
humanitarian visa and temporary residence permit policy to fast-track entry and asylum applications for Afghan nationals.

Number of applicants for refugee status, according to year of application, by gender 2015 - 2024.



Source: [OBMigra, Refúgio em Números 2025](#), p. 13.

Number of recognized refugees, according to year of recognition, by sex, 2015 - 2024



Source: [OBMigra, Refúgio em Números 2025](#), p. 15.

Regarding the sex composition, men are more frequently the subjects of refugee status recognition decisions in Brazil compared to women. Out of the total decisions, 81,000 (55.13%) were for males, while 65,000 (44.24%) were for females. A very small fraction, 1,000 (0.63%), was not specified by sex.³⁶¹

Furthermore, in 2024, 13,191 individuals were recognized through prima facie procedures, while 253 cases were individually processed by CONARE per regional and international standards. Additionally, 188 individuals received refugee derivative status.³⁶²

Implications on what occurs in judicial institutions

The Brazilian judiciary plays a fundamental role in safeguarding the rights of refugees and asylum seekers by ensuring that the government upholds its international commitments on the matter. There are three key stages where this judicial oversight is crucial. First, upon a refugee’s arrival in Brazil, the courts are vital in guaranteeing they aren’t penalized for irregular entry, as a refugee’s flight is often urgent due to

³⁶¹ [Migração no Brasil Informative Bulletin N° 4 – October/2024](#) and [OBMigra](#) (Observatório das Migrações Internacionais)

³⁶² UNHCR (2024, Annual Results Report 2024 Brazil, p. 5.

dangerous circumstances in their home country. The courts have a responsibility to review any detention orders, ensuring they are not arbitrary and are only used as a last resort. Second, during the administrative process for determining refugee status, the judiciary exercises legal control over decisions made by CONARE. Third, after recognition, the judiciary continues to be essential by guaranteeing refugees access to public policies and social assistance, which are often difficult to obtain through administrative channels due to legal and bureaucratic obstacles.³⁶³

Considering the initial phase of refugee protection, where courts ensure migrants are not penalized for irregular entry, it is evident that the judiciary in Brazil's major entry point states has been instrumental in addressing situations related to guaranteeing the right to remain in the territory and seek asylum. The case law from these states, particularly from the regions identified as points of entry, demonstrates the courts' role in resolving issues such as mass deportations and *de facto* detentions. For instance, collective expulsions in Roraima and the *de facto* detentions at Guarulhos Airport highlight the courts' dedication to these matters. Judicial intervention in these cases has been timely despite the heavy caseload, in part due to the use of joint legal actions like "collective habeas corpus", which groups individuals in similar situations. This approach, exemplified in the collective expulsion cases in Roraima and many of the Guarulhos airport detentions, streamlines the process by reducing the need for individual appeals and analyses. However, further analysis is needed to fully assess the potential impact of a massive influx of displaced persons in a short period on the outcomes and adjudication process in Brazil.

Finally, it is important to highlight the collaboration agreement between the Roraima Court of Justice and UNHCR from 2018,³⁶⁴ in response to the massive influx of Venezuelan migrants into the state of Roraima. The agreement, considered one of the most successful actions by the government in partnership with civil society, provides fast and accessible legal assistance to Venezuelan immigrants in their shelters. The legal services offered include both contentious and non-contentious actions, such as recognizing stable unions, child custody, and paternity, as well as addressing administrative barriers to public services like healthcare and education.³⁶⁵

Implications that the number of asylum seekers has on what occurs in judicial institutions

Beginning in 2014, the Warao, a vulnerable indigenous population fleeing crisis in Venezuela, faced systematic deportation from Brazil. Federal authorities viewed them as undocumented migrants rather than asylum seekers, a practice often justified by local officials as a response to public annoyance with begging. The Brazilian government's approach was inconsistent, offering humanitarian protection on paper while failing to provide a structured national policy that respects indigenous customs and self-determination. This has led to the Warao being denied protection as both indigenous people and refugees, often being labelled as "nomads" or "beggars" and receiving only inconsistent, *ad-hoc* state assistance. This systemic flaw forces the DPU into court battles to prevent more deportations that violate international law and human rights.³⁶⁶

³⁶³ See Moraes, T.G. (2014). *O Papel do Judiciário na Proteção aos Refugiados*. In: Revista da Faculdade de Direito da UFRGS, Special Issue. pp. 164-181.

³⁶⁴ Judicial Branch of the State of Roraima, *Imigrantes venezuelanos receberão atendimentos da Justiça Itinerante*, 25/06/2018, <https://www.tjrr.jus.br/index.php/noticias-nucri/2862-imigrantes-venezuelanos-receberao-atendimentos-da-justica-itinerante>

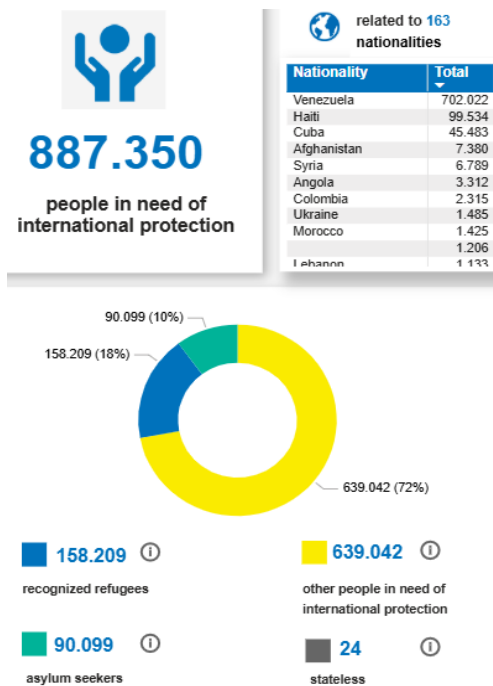
³⁶⁵ See de Souza A.G. and Linhares E. (2020). *Migrações massivas no norte do Brasil: um estudo do acordo de colaboração celebrado entre o judiciário de Roraima e o Alto Comissariado das Nações Unidas para Refugiados*, In: Revista de Estudos Jurídicos do Superior Tribunal de Justiça, pp. 54-70.

³⁶⁶ See Pinheiro Da Silveira M. (2019). *Fronteiras e Mobilidade Indígena: O veto da nova Lei de Migração ao direito de livre circulação e ao povo Warao*, unpublished master's degree thesis, University of São Paulo; Gualano de Godoy, G. (2021). *Refugiados indígenas: entre o passado e o futuro do regime de proteção internacional*, In: Carvalho Ramos A., Rodrigues G., Assis de Almeida G., 70 anos da

As indicated in Parts I and II of this report, in a landmark 2016 case, a habeas corpus petition filed by the DPU successfully prevented the deportation of 450 Warao individuals. The DPU argued that the expulsions violated due process, human dignity, and the fundamental principle of *non-refoulement*. The court’s decision was a turning point, recognizing their right to seek asylum and compelling the state to provide shelter and aid. This precedent, combined with a later policy change by CONARE, introduced a simplified process for Venezuelan nationals to obtain refugee status.

However, during the COVID-19 pandemic, new policies restricting border entry and denying asylum applications presented renewed challenges. The DPU was forced to file a new lawsuit to prevent the summary deportation of a vulnerable group of Warao, including women, children, and adolescents. The court in this case, while acknowledging the state’s right to implement pandemic-related measures, also recognized the extreme vulnerability of this population, particularly the high number of minors. This ruling, like the one before it, underscored the judiciary’s role in protecting the rights of highly vulnerable migrants despite broader administrative barriers.

Displaced persons who are not asylum seekers or recognized refugees



Between 2010 and December 2024, the population in need of international protection in Brazil reached an estimated 887,350 individuals. This group is primarily composed of 639,042 people with other legal statuses (72% of the total), alongside 158,209 recognized refugees and 90,099 asylum seekers. These individuals have been forcibly displaced due to situations of serious and widespread violation of human rights or humanitarian emergencies in their countries of origin.

The vast majority of this population comes from Venezuela (more than 700,000) and Haiti (more than 90,000), reflecting the significant regional crises driving migration to Brazil. The data reveal that Brazil’s humanitarian approach transcends formal refugee and asylum frameworks, opting for pragmatic legal statuses that circumvent the traditional asylum process.

Source: [Global Compact on Refugees](#)

Individuals from countries such as Iraq, Burkina Faso, Mali, Syria, Afghanistan, Ukraine, Haiti, and Venezuela are often granted alternative legal documentation like humanitarian visas or temporary residence permits.³⁶⁷ This form of protection is not always directly related to barriers to accessing asylum, as it provides state protection even when their specific circumstances do not fully meet the legal definition

Convenção relativa ao Estatuto dos Refugiados: (1951-2021) perspectivas de futuro, Brasília: ACNUR Brasil, pp. 279-299; *Direitos dos migrantes indígenas Warao no Brasil: jurisprudência das justiças dos estados de Roraima e Pernambuco*. In: Suzuki J.C., Castro R.C., Moreira J. (Ed.) Povos indígenas e a jurisdição brasileira [Série: diálogos interdisciplinares], São Paulo: FFLCH/USP, PROLAM/USP, 2021, pp. 147-187; De Almeida Corrêa M., (2023). *A atuação da Defensoria Pública da União em favor dos migrantes Warao no Brasil*, unpublished undergraduate thesis, University of Brasília.

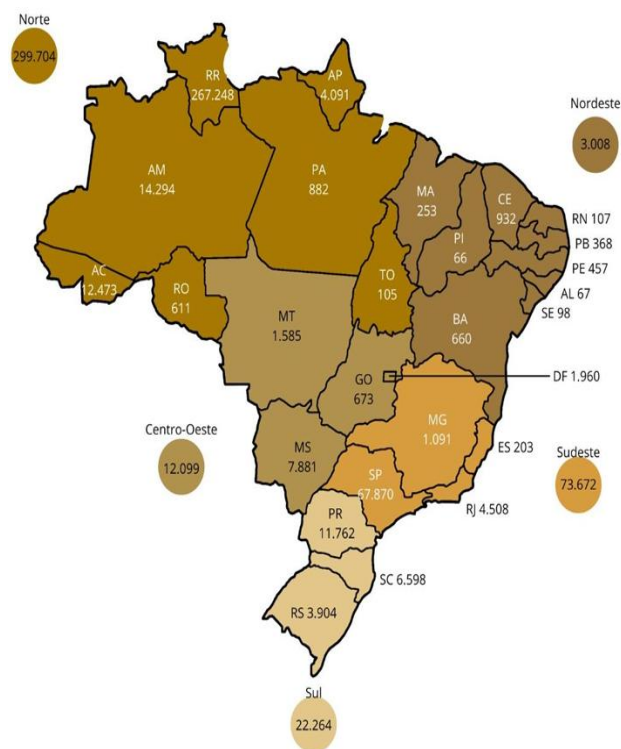
³⁶⁷ UNHCR (2024), Protection Brief Brazil, October 2024, p. 2.

of a refugee. This demonstrates a more expansive strategy by Brazil to accommodate a large number of people in need of international protection.

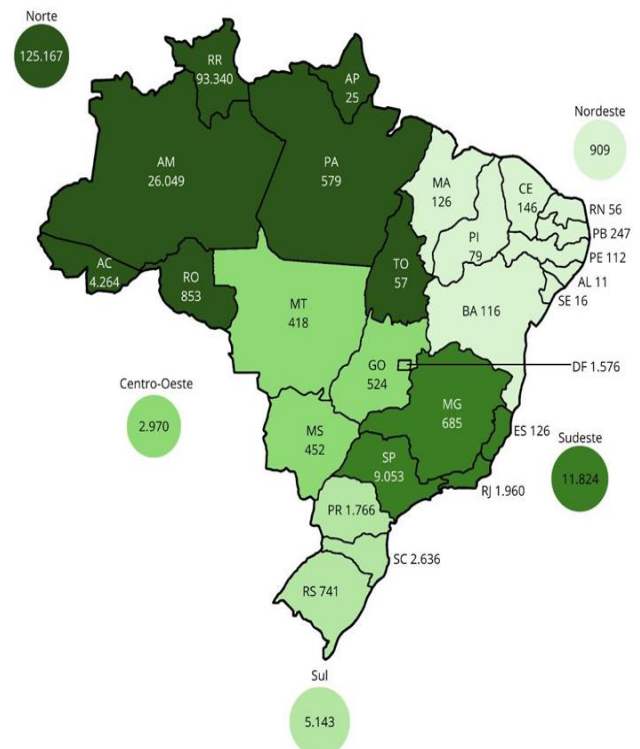
The analysis of asylum and refugee status applications in Brazil from 2010 to August 2024 reveals a strong correlation between the volume of applications and major entry points into the country. The data indicates that the highest number of applications originates from states situated on land borders or housing significant international airports. For instance, Roraima (RR), bordering Venezuela and Guyana, received a staggering 267,248 applications with 93,340 recognitions, while São Paulo (SP), home to a major international airport (Guarulhos), processed 67,870 applications with 9,053 recognitions. This trend continues with other border states, including Amazonas (AM) which shares a border with Venezuela, Colombia, and Peru and saw 26,049 applications with 14,294 recognitions; Acre (AC) with borders to Bolivia and Peru, which had 12,473 applications and 4,264 recognitions; Paraná (PR) bordering Paraguay and Argentina, with 11,762 applications and 1,766 recognitions; Mato Grosso do Sul (MS) which borders Bolivia and Paraguay, with 7,881 applications and 452 recognitions; and Santa Catarina (SC) which borders Argentina, with 6,598 applications and 2,636 recognitions.

Interestingly, the Federal District (DF), which is not a point of entry, stands out with 1,960 applications and a disproportionately high number of 1,576 recognitions. When analysing the composition of the population granted refugee status in Brasília, the following are found in descending order: Venezuela, Syria, Pakistan, Cuba, Iraq, and Afghanistan, among others.

Asylum seekers (Jan. 2010 – Aug. 2024) per region



Recognized refugees (Jan. – Aug. 2024) per region



Source: [Migração no Brasil Informative Bulletin N° 4 – October/2024](#)

Between 2010 and 2024, the total number of asylum applications in Brazil was concentrated in the country's northern border regions. However, the distribution of applicants was different in 2014, with the majority of applications filed in São Paulo (26%), Acre (22%), Rio Grande do Sul (17%), and Paraná (12%).

This meant that, at a regional level, applications were primarily concentrated in the South (35%), Southeast (31%), and North (25%), directly correlated with the insertion of asylum seekers into the job market.³⁶⁸ This distribution has since shifted due to the massive influx of Venezuelan nationals who have crossed Brazil's northern border and requested asylum in those border areas.

Implications of the spatial distribution of the forced migration population

Displaced individuals concentrated in remote or peripheral areas often face significant barriers to accessing legal support. As mentioned before, in Brazil, key legal services provided by the DPU are not evenly distributed across the country. Asylum seekers located in border regions or smaller cities may lack adequate legal counsel, which is crucial for navigating complex asylum procedures and presenting a compelling case. The absence of robust legal representation in these areas can lead to procedural errors, delays, and a higher rate of negative decisions, as applicants may not be aware of their rights or have the means to challenge administrative barriers effectively.

Moreover, the spatial distribution of forced migrants also affects the caseload and specialization of local judicial bodies. Judges in regions with a high concentration of asylum seekers, such as Roraima (on the border with Venezuela), have to deal with a much larger volume and a more consistent flow of immigration and asylum-related cases. This can lead to judicial overload and a potential backlog of cases. Conversely, courts in areas with a smaller displaced population may lack the experience and expertise to handle the complexities of asylum law. This creates a disparity in the quality of legal outcomes, as courts in major entry points may develop a greater degree of specialization in asylum law, while courts elsewhere may treat these cases as less common and more difficult to adjudicate.

Finally, the decentralized nature of the Brazilian legal system, combined with a varied spatial distribution of migrants, can result in inconsistent judicial decisions. Without a centralized or uniform approach, different judges and courts may interpret asylum laws and precedents differently. This inconsistency can be exacerbated by the influence of local public opinion and political pressure, particularly in areas with a high migrant presence.

C. Political and public debate in the country

Relevance of the topic in political debate

Brazilian political discourse on immigration has primarily focused on general migration flows rather than specific barriers to asylum. In recent decades, the country has experienced several distinct migration waves, beginning with the influx of Haitian migrants after the 2010 earthquake,³⁶⁹ followed by a surge in 2013–2014, and a more recent boom driven by the crisis in Venezuela. These shifts have directly influenced the political agendas of successive Brazilian governments, whose responses can be characterized as either constructing symbolic “walls” to restrict entry for certain groups or building “bridges” to facilitate the arrival of others.³⁷⁰ Despite the electoral rise of political forces that presented themselves as anti-neoliberal, they did not produce drastic or dramatic ruptures in the political system, the financial market, or the dominance of national elites.³⁷¹

The government of Luiz Inácio Lula da Silva (2003–2010) marked a significant shift toward a more welcoming and humane migration policy. Defined by an “active and proud” foreign policy, his

³⁶⁸ dos Santos G.M. and Lima Júnior J.B. (2018). *Refugiados no Brasil: Caracterizando as novas faces pelo país*, Annoni D. (ed) Direito Internacional dos Refugiados e o Brasil, Curitiba: Gedai/UFPR, pp. 60, 61.

³⁶⁹ Feldman-Bianco B. (2018). *O Brasil frente ao regime global de controle das migrações: Direitos humanos, securitização e violências*, TRAVESSIA, Revista do Migrante, Vol. XXXI, No. 83, p. 18.

³⁷⁰ Uebel R. and Ranincheski S. (2017). *Pontes ou muros? As diferentes ações dos governos de Lula da Silva, Dilma Rousseff e Michel Temer em relação às migrações internacionais para o território brasileiro*, OIKOS, Rio de Janeiro, Vol. 16/2, p. 92.

³⁷¹ Domenech E. and Dias G. (2020). *Regimes de fronteira*, cit. p. 45.

administration re-engaged with Latin America, Africa, and the Middle East, leading to a notable increase in immigration. Instead of viewing migration as a threat, Lula's rhetoric framed it through a human rights lens, criticizing xenophobic policies in developed nations and promoting Brazil as a place of tolerance. His government exemplified this stance by legalizing hundreds of thousands of undocumented immigrants. This principled approach reasserted Brazil's role on the global stage while simultaneously embracing a more humane stance on migration.³⁷²

Inheriting this momentum, Dilma Rousseff's government (2011–2016) attempted to create a more structured national immigration policy. Key initiatives included a special humanitarian visa for Haitians and the organization of the first-ever National Conference on Migration and Refuge (COMIGRAR) in 2014, intended to be the foundation for a permanent national migration strategy. However, this progressive agenda was ultimately derailed. Widespread national protests, an economic crisis, and Rousseff's eventual impeachment brought government action to a halt. The resulting political and economic instability led to a sharp increase in unemployment, with immigrants often being the first affected, causing Brazil's first-ever wave of re-migration. The impeachment not only ended her presidency but also abruptly cut short her proactive migration policies.³⁷³

Following Rousseff's impeachment, the government of Michel Temer (2016–2018) represented a significant departure from these progressive policies. While officially claiming to continue past initiatives, the administration's focus on a pro-business agenda revealed a more restrictive and disconnected approach to migration. Temer's government responded to the new influx of Venezuelan migrants with deportations and tightened border controls. It also stalled key legislative efforts, such as the new migration law, and dismantled inter-ministerial cooperation on the issue. This period is best characterized as a retreat from Brazil's recent humanitarian stance on migration, replaced by a more reactive and security-focused posture.³⁷⁴ Despite the ultimate passage of the 2017 Migration Law, the law was heavily amended by presidential vetoes,³⁷⁵ driven by concerns from the Ministry of Defence and Federal Police, who emphasized national security and border control over human rights. This shift reintroduced the notion of immigrants as a problem and linked undocumented migration with "new threats" like drug trafficking and terrorism. These vetoes, combined with the new law's regulatory decree, which allowed for the detention of undocumented migrants and granted extensive power to the Federal Police, underscored a growing national security and militarization agenda. This trend, extending to border protection programmes and the use of anti-terrorism laws, signals a move away from Brazil's humanitarian tradition toward a more restrictive and punitive stance on migration and refugee issues.³⁷⁶

The state of Roraima, on Brazil's northern border, serves as a crucial case study in the intersection of migration and political discourse. Beginning in 2016, the massive arrival of Venezuelan migrants placed migration at the forefront of local politics, especially during the 2018 regional elections. The political rhetoric of the time, particularly from the incumbent governor seeking re-election (Suely Campos), focused heavily on the challenges that Venezuelan migration posed to border cities. This climate led to controversial actions, including attempted mass expulsions in 2016 and a formal request to the Supreme Court to order the federal government to close the border with Venezuela in 2018 (Original Civil Action No. 3.121 Roraima). Then-President Michel Temer rejected the request, stating that closing borders was not Brazil's policy, a position ultimately upheld by the Supreme Court in August 2018. The Court emphasized immediate humanitarian reception, in accordance with all the international standards. For the Court, "the indiscriminate use of measures aimed at restricting irregular migration can end up depriving

³⁷² Uebel R. and Ranincheski S. (2017). *Pontes ou muros?*, cit., pp. 83-85; Feldman-Bianco B. (2018). *O Brasil frente*, cit., pp. 12-13.

³⁷³ Uebel R. and Ranincheski S. (2017). *Pontes ou muros?*, cit., pp. 85-88; Feldman-Bianco B. (2018). *O Brasil frente*, cit., pp. 14-15.

³⁷⁴ Uebel R. and Ranincheski S. *Pontes ou muros?*, cit., pp. 88-92.

³⁷⁵ Acosta, D., Vera Espinoza, M. and Brumat, L. (2018). Brazil's Migration Governance: Hidden Actors, the New Law and the 2018 Presidential Elections, Migration Policy Centre blog, EUI, 19/02/2018.

³⁷⁶ Feldman-Bianco B. *O Brasil frente*, cit., pp. 18-21.

individuals not only of access to the territory, but of access to the procedure itself for obtaining refuge in the State of destination, or which could, depending on the situation, be configured, in addition to the breach of protection requirements”.³⁷⁷

Furthermore, during the 2018 Brazilian presidential campaign, the influx of Venezuelan migrants into the state of Roraima became a central political issue. Candidate Jair Bolsonaro aligned his stance with restrictive policies, framing immigration as a negative force to be contained. He advocated for a strong border control with Venezuela and proposed setting up refugee camps within the border zone,³⁷⁸ arguing that Brazil had “too many problems already”. While other candidates offered proposals to manage migration flows and provide public services, Bolsonaro’s platform was characterized by a focus on security and the negative consequences of migration. His rhetoric linked migration to the failures of left-wing governments and suggested that his administration would be tough on international transit and settlement. These positions, including a push to revoke the new Migration Law, ultimately resonated with voters, as his political ally, Antonio Denarium, who also campaigned on strict border control, was elected governor of Roraima. This period marked a clear shift toward a securitized and restrictive approach to migration in Brazilian political discourse.³⁷⁹ Bolsonaro won the 2018 presidential elections and governed from 2019 to 2023. In January 2019, Brazil announced its withdrawal from the United Nations Global Compact for Migration.³⁸⁰

In his current term, President Lula da Silva (2023-2026) has maintained a focus on migration within the executive agenda. This is evidenced by his public statements advocating for the welcome and protection of refugees arriving through the state of Roraima.³⁸¹ However, this stance is complemented by a more restrictive approach to certain migratory flows. For instance, the 2024 debate over asylum applications at Guarulhos International Airport highlights this dual dynamic. Immigration authorities argued that limiting applications at the airport was a necessary measure to prevent migrants from circumventing established immigration policies and to protect individuals from human trafficking networks. This issue has since become a central topic on the federal government’s agenda and is being discussed with the Brazilian parliament and other relevant stakeholders through the Permanent Joint Commission on International Migration and Refugees.³⁸²

Relevance of the topic in public debate

Reports on media coverage confirm that Brazilians are more concerned with general migration policies than with specific asylum issues. Reports indicate that the influx of Haitian migrants into Brazil caused significant alarm among some segments of society, conservative government factions, and certain national media outlets, who framed it as an “invasion”.³⁸³ In this regard, after 2014, Brazil’s severe economic recession and a rise in anti-immigrant and anti-Black sentiment created a hostile environment for Haitian

³⁷⁷ STJ, *Ministra nega pedido de RR de fechamento da fronteira com a Venezuela*, 06/08/2018, <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=386012>; Hermes M. “*Migración venezolana en Brasil: reflexiones a la luz de las regulaciones del Mercosur y la nueva ley de Inmigración*”. *Latin American Law Review*, no. 05 (2020): 159-179,

³⁷⁸ Ramírez, J. (2018). *De la era de la migración al siglo de la seguridad: el surgimiento de “políticas de control con rostro (in)humano*. *Urvio*, No. 23, FLACSO –Ecuador, pp. 10-28.

³⁷⁹ Mendes, J.S. and Menezes, F.B. (2019). *Política migratória no Brasil de Jair Bolsonaro: “perigo estrangeiro” e retorno à ideologia de segurança nacional*. *Cadernos do CEAS: Revista Crítica de Humanidades*, N. 247, pp. 304-306.

³⁸⁰ Conectas, *Governo Bolsonaro deixa Pacto Global para Migração*, 09/01/2019, <https://conectas.org/noticias/governo-bolsonaro-deixa-pacto-global-para-migracao/>; Mendes, J.S. and Menezes, F.B. *Política migratória no Brasil*, cit., p. 308.

³⁸¹ Agência Brasil, *Lula diz que Brasil continuará a receber refugiados venezuelanos*, 11/09/2024, <https://agenciabrasil.abc.com.br/politica/noticia/2024-09/lula-diz-que-brasil-continuara-receber-refugiados-venezuelanos>

³⁸² Deputies’ Chamber, *Comissão debate política nacional para atender migrantes, refugiados e apátridas*, 06/08/2024, <https://www.camara.leg.br/noticias/1086345-comissao-debate-politica-nacional-para-atender-migrantes-refugiados-e-apatridas>

³⁸³ Fernandes D. and Virgínia de Faria A. (2017). *O visto humanitário*, cit., p. 157.

and other migrant communities, leading to deadly attacks.³⁸⁴ A “process of misinformation” regarding Haitian migration to Brazil was observed in both media and society. This rampant spread of unverified information, often fuelled by unknown motives, led to xenophobic attitudes and repulsion toward Haitian immigrants.³⁸⁵

Relevance of the topic in public opinion

In Brazil, the public debate on access to asylum is not a direct focus, as public understanding of the specifics of asylum is limited. The responsibility for managing asylum-related complexities largely falls to civil society and migrant advocacy groups.³⁸⁶ Instead, public opinion is more engaged with the broader topic of migration control, revealing a complex mix of pro- and anti-immigrant sentiments. A [2024 Ipsos survey](#) showed that a strong majority of Brazilians (82%) support the right to seek refuge, a figure that saw a slight decline to 77% in a [2025 report](#). This compassionate stance, however, is tempered by significant skepticism about refugees’ motives. In 2024, 44% of Brazilians believed most asylum seekers were primarily economic migrants, a perception that increased to 48% by 2025. Additionally, over 62% of respondents in 2024 were concerned about refugees’ ability to successfully integrate into society. These findings highlight a public that is, on one hand, empathetic to the plight of refugees but, on the other, holds significant reservations about the practical impacts of migration, which can complicate the implementation of progressive policies.

Despite these concerns, anti-immigrant sentiment does not manifest in strong support for building physical or legal barriers to asylum, as only 24% of Brazilians in 2024 favoured entirely closing borders to refugees. A [2024 LATAM Pulse Brazil](#) survey further supports this, revealing that 55% of Brazilians prefer to maintain the current migration policies, significantly outweighing the 33.2% who advocate for stricter measures. This perspective remained stable in a [subsequent survey](#) from late 2024 to mid-2025, where, despite security and drug trafficking being ranked as the second most significant problem, migration was consistently ranked last among perceived national issues.³⁸⁷

Nevertheless, this does not mean the Brazilian population is immune to racism or xenophobic rhetoric. As mentioned in Part I (Bureaucratic failures), tendencies towards discrimination, xenophobia, or racism against migrants and refugees have permeated the Brazilian society.³⁸⁸ For instance, Afro-Brazilians, who were actively fighting against racism and discrimination in their own country, found it difficult to show solidarity with Haitian migrants, referred to as “different blacks” (*negros diferentes*). Although colour-based racism isn’t as prominent in Brazil, the distinction of nationality created a division between the two groups, despite their shared Afro-descendant heritage.³⁸⁹ Moreover, it has been argued that the rise of xenophobic discourses influenced the speeches of politicians, particularly in the lead-up to the 2018 general elections.

³⁸⁴ Herns Marcelin L. and Cela T. (2024). The Making of Migration Trails in the Americas: Ethnographic Network Tracing of Haitians on the Move, In: Crawley H. and Kofi Teye J. (Eds.) *The Palgrave Handbook of South–South Migration and Inequality*, p. 275.

³⁸⁵ Uebel R., *O imigrante como objeto*, cit., p. 114.

³⁸⁶ Acero L. (2025). Contemporary Public Understanding on Refugees in Brazil and Chile: Trends and Reasons for Approval or Rejection, *Issues in Social Science*, Macrothink Institute, Vol. 13, No. 2, p. 35.

³⁸⁷ See Latam Pulse Atlas & Bloomberg, Brazil October 2024, <https://atlasintel.org/poll/latam-pulse-brazil-october-2024-2024-10-31>; Latam Pulse Atlas & Bloomberg, Brazil June 2025, <https://www.atlasintel.org/poll/latam-pulse-brazil-june-2025-2025-07-08>

³⁸⁸ See Severo F. (2015). *O procedimento de solicitação*, cit., p. 41; UNCHR, (2020), *Vozes das pessoas refugiadas no Brasil*, pp. 14, 17; Mariana Corrêa (2022). *O caso Moïse: Brasil, um país acolhedor?*, <https://migramundo.com/o-caso-moise-brasil-um-pais-acolhedor/>; Acero L. *Contemporary Public Understanding*, cit., p. 27. Silva P. et al. (2022). *Relación entre la policía*, cit.; Missão Paz (2022) “*It’s become normal*”, cit.; Freier L.F., Oba L.L. and Fernández M.A., (2024) “*Inter-regional Migration*”, cit., pp. 357, 358.

³⁸⁹ Marroni M.G. and Mora Caicedo A.R. (2024). *Migración haitiana y racismo: ¿limitaciones del multiculturalismo?*, *Rev. pueblos front. digit.* Vol.19, San Cristóbal de Las Casas, p. 19.

In this context, immigrants are still seen as a “problematic other”,³⁹⁰ leading to the establishment of racialized border controls.³⁹¹

Implications that political debate and public opinion have on what occurs in judicial bodies

While Brazilian courts have demonstrated independence in safeguarding the right to seek asylum, they are not entirely immune to political influence. In the case of limiting asylum applications for travellers in transit at Guarulhos Airport, the Supreme Federal Court appears to have been swayed by the executive branch’s public debate regarding the alleged abuse of the asylum system by certain nationalities. This suggests that even at the highest judicial level, decisions can be guided by political and public discourse.

D. Corruption

As mentioned in Part I, corruption appears to be a significant factor in administrative failures, particularly with evidence pointing to a link between migrant smuggling and the fraudulent processing of visa and refugee applications. One clear example of this is the experience of Haitian migrants in 2012 who were trying to reach Brazil by traveling through Ecuador. Many of them tried to apply for a Brazilian visa at the consulate in Quito, but the process was anything but simple. Appointments were often scheduled far beyond the three-month Ecuadorian tourist visa, a delay that may have been caused by high demand, consulate bureaucracy, or discrimination. This bureaucratic roadblock created a paradox: Haitians seeking legal entry into Brazil were forced to overstay their visas in Ecuador. As living costs rose during these long waits, many felt they had no choice but to either pay for an earlier visa appointment or continue their journey illegally through Peru. The nationality of the individuals who sold these fraudulent visa slots is unknown.³⁹²

To date, no relevant sources have been identified that focus on corruption in the granting of asylum in Brazil. Moreover, there are no relevant sources that explore how corruption among the various actors involved in asylum adjudication influences decision-making in Brazil’s judicial and quasi-judicial bodies.

E. Other socio-political factors

To date, no other factors have been identified that may influence access to and the granting of asylum in Brazil.

³⁹⁰ Uebel R. and Ranincheski S. *Pontes ou muros?*, cit., p. 95.

³⁹¹ Cintra N. & Nabuco Martuscelli P. (2025). Wall of visas: how race impacts the externalization of (forced) migration control in south-south migration corridors, *Ethnic and Racial Studies*, p. 3.

³⁹² See Rojas R. (2020). *Latin America’s Lucrative*, cit.; Ceja I. and Ramírez J. (2022). *Continuum migratorio*, cit., p. 294.