COMISSÃO ESPECIAL DOS DIREITOS DOS ESTRANGEIROS PRESOS E EGRESSOS

“Special Committee for Foreign Rights for arrested and deported peoples”.

ORIENTAÇÕES BÁSICAS AOS PRESOS E EGRESSOS ESTRANGEIROS

A simple Guide to Help Foreign and Deported people

ORDEM DOS ADVOGADOS DO BRASIL
SEÇÃO DE SÃO PAULO

OAB – São Paulo
Brasil

MARקוס DA COSTA
PRESIDENTE
“President”
COMISSÃO ESPECIAL DOS DIREITOS DOS ESTRANGEIROS PRESOS E EGRESSOS DA OAB - SÃO PAULO

“Special Committee for Foreign Rights for arrested and deported peoples”.

Presidente
“President”

PAULO PORTO FERNANDES

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Introduction

Dear All,

This book was developed with the main objective to provide basic informations about the citizenships for foreign prisoners, indicating the legislation that deals with the subject, as well as reporting on the social reintegration policies available in the State of São Paulo, public hostels for welcome to this ex-prisoners and addresses of consulates located in the State of São Paulo to support this citizens.

It will be provide in the following languages: Portuguese, English and Spanish.

With the principal goal of helping citizens and foreign prisoners, so they can be guided in finding support for obtaining documents, policy support, social reintegration, shelter and facilities communication with their families.

São Paulo, 01 de Março de 2015
“The OAB-SP as well, through the Special Committee on the Rights of Foreign Prisoners and Ex-Offenders, wants to make the easy access to information for foreign arrested citizens, so they can afford the public and private policies of social support, to facilitate social reintegration and rapprochement of these with their families and society.”

MARCOS DA COSTA
PRESIDENTE OAB Seção São Paulo
“President”

PAULO PORTO FERNANDES
Presidente da Comissão de Direitos Especiais
“Special Committee President”
In Brasil, according to the legislation in force, all the foreign that, in many ways act against national security, Law and order, to the rights and freedom of third persons, morality, public economy, or the procedure become this person harmful to national interests (article 65 of Law nº 6.815/80 – Foreign Legal Status), after have been expelled, the foreign shall not come back to Brazil again, under sentence of committing a crime, according to the Article 338 to Brazilian Penal System (Reintegration of Foreign Expelled), which subjects the offender for 1 (one) to 4 (four) years of penalty reclusion and no risk of new expulsion decision.

We need to clarify that Expulsion decision it's mandatory and doesn't matter if the foreign citizen be married, have Brazilian Children's or lives with a Brazilian Citizen. Because, beyond this, some factors will be analyzed in an eventual resistance to expulsion procedures.

This administrative procedure for expulsion purposes is instructed by the Federal Police, with the routing of the final report sent to the Ministry of Justice, and is regulated by Law No. 6815, 1980 and can occur regardless of the end of the completion of his sentence.

According to the Foreign Legal Status No. 6.815 / 80, as amended by Law No. 6,964 / 81, in Articles 65 and 71:

**Art 65:** “Is liable of expulsion, All foreign citizen that, in many ways act against national security, Law and order, to the rights and freedom of third persons, morality, public economy - to or whose procedure makes it harmful to the convenience and national interests.”

................................................. "Omissis" .................. .........................

"**Art. 71** - In cases of infringement against national security, political or social order and the public economy, as well as in cases of trade, possession or facilitating misuse of narcotic substance or which causes physical or psychological dependence, and when disregard the prohibition especially provided by law abroad, the survey will be brief and not exceed the period of fifteen days within which it is assured to expelling the right of defense."
Arrested Social Inclusion

When they arrive into jail, the prisoner receives from the SAP - Secretariat of Penitentiary Administration, a printed material (in Portuguese, English and Spanish) which contains some important information about his rights and duties, which should be read carefully, and there are some important to the foreign, as listed below:

“REGIMENTO INTERNO PADRÃO DAS UNIDADES PRISIONAIS DO ESTADO DE SÃO PAULO”

" Internal Rules of São Paulo DETENTION UNIT’S “

Titulo I

“Title I”

The rules of application:

- Article 1 - There’s no disciplinary sanction without express and previous legal or regulatory provision.

- Article 2 - The condemned to prison sentences in closed and semi-open regimes and subjected to security measures, as appropriate.

Titulo II

“Title II”

Goals and purposes of this Detentions Unit’s

- Article 12 - When the inclusion of foreign prisoner, this should be done for the prision’s unit director, on the following business day, officiate the respective consulate, communicating about the place and date of collection; physical and health conditions in which it is; existence of counsel for his defense and other information that may be required. (…)

- Article 26 - To the prisoners of foreign nationality, considering the difficulties inherent to their condition, must be observed, and in addition to those set out in these Rules, the following basic guarantees:
• Learning the Portuguese language and customs of this country, through contact with the Brazilian and classes taught in prison unit;

II - Identification, among the servers in order to solve urgent communication problems, those that may assist in the interpretation and translation of the language;

III - facilitating access to public lawyers and their consulates, so they can have access to the benefits provided in the course of criminal enforcement;

IV - receipt, through the persons listed in your list of visits, foodstuff tradition of each nationality, religious or not, the regulatory amount and according to the permission of the direction of the prison unit, adopted the caution in favor of order and security.

**Paragraph 1** - the prison unit should adopt procedures that facilitate the contact of the arrested foreign nationals, with the respective consulates and other circumstances favorable to their condition, including allowing the coexistence of foreigners each other.

**Paragraph 2** - There must be work activities accessible so these prisoners and they suggested those that are compatible with your skills and abilities, within the possibilities of the prison unit.

(...) "
When his freedom, the convicted foreign citizen can go to the Superintendency of the Federal Police (located in the Lapa district - Hugo D'Antóla Street, 95) and provided with your judgment and your personal documents in order to apply for a provisional document (RNE), pursuant to Resolution No. 110/2014 of the CNI - National Immigration Council (Regulated by Ordinance No. 6/2015 of the SNJ / MJ), which will enable the claim paid work, until his effective expulsion, however, you can not convert this document definitively, because expulsion is mandatory and will occur sooner or later.

The right to obtain foreign provisional document has been achieved recently, as the Resolution No. 110/2014 of the CNI and Ordinance No. 6/2015 of the SNJ / MJ, which allows foreign graduates, or on parole, after obtaining the document, seek work until the conclusion of his expulsion.

It’s important to note that the procedures will occur through the National Secretariat of Justice, through the Ministry of Justice, and the application may be made at the Federal Police.

Upon registration, foreign will have its "RNE" registered in the system, at which time they receive a protocol and a screen print of SINCRE - National System of Registration and Alien Registration - with your details and the registration number and subsequently made its portfolio (CIE).
TREATED FOR PENS IN COMPLIANCE WITH COUNTRIES OF ORIGIN

There’s also important to observe, that there are treaties between the Federative Republic of Brazil and several countries (bilateral and multilateral treaties) for the convicted and imprisoned citizens to serve his sentence in his home country, and today there are eleven treatises bilateral and two multilateral in effect, as follows:

**Argentina:** Effected in 11.09.1998 and established with number nº 3.875, de 23.07.2001.

**Bolívia:** Effected in 26.07.2007 and established with number nº 6.128, de 20.06.2007.

**Canadá:** Effected in 15.07.1992 e established with number nº 2.547, de 14.04.1998.

**Chile:** Effected in 29.04.1998 e established with number nº 3.002, de 26.03.1999.

**Convenção Interamericana sobre o Cumprimento de Sentenças Penais no Exterior**

“*Inter-American Convention on Serving Criminal Sentences Abroad*”:

Effected em 26.07.2007 and established with number nº 6.128, de 20.06.2007.

Countrys: South Arabia, Belize, Brazil, Canadá, Chile, Costa Rica, El salvador, Equador, USA, Guatemala, México, Nicaráguá, Panamá, Paraguai, Czech Republic Uruguai e Venezuela.

**Convention on the Transfer of Sentenced Persons between Member States of the Community of Portuguese Language Countries (CPLP):**

Countries: Angola, Bzasil, Cabo Verde, Guiné Bissau, Moçambique, Portugal, São Tomé e Príncipe, Timor Leste.

**Spain:** Effected in 04.05.1998 and established with number nº 2.576, de 30.04.1998.

**Panamá:** Effected em 10.08.2007 and established with number nº 8.050, de 11.07.2013

**Paraguai:** Effected em 29.10.2002 and established with number nº 4.443, de 28.10.2002.

**Peru:** Effected em 25.08.2003 and established with number nº 5.931, de 13.10.2006.

**Portugal:** Effected em 25.08.2007 e estabilished with number nº 5.767, de 02.05.2006.

**South Europe:** Effected em 23.01.2009 and established with number 7.906 de 04.02.2013.

**United Kingdom and North Ireland:** Effected in 29.01.2002 and established with number nº 4.107, de 28.01.2002.

According to information obtained from the Ministry of Justice, the necessary documents to formalize a transfer request according to the treaty, but as a rule, will consist of:

**Formal –request:** the prisoner asked to be transferred to their country of origin;
**Copy of the judgment, and, if any of the outcome of the appeal against that judgment (res judicata);**

**Legal Information, applicable to the crime, and about the pen and prescription punitive intention;**

**Information about the sentence of the prisoner, such as: a certificate which bears the penalty of time he has already served and what remains to fulfill and prison conduct certificate.**
However, it is important to note that there’s a need for the sentence has become final (there being no appeal pending), meanwhile, the receiving country may request any other document it deems necessary for the examination of the application, and to start the procedure, the foreign national prisoner must submit a formal transfer request to the Ministry of Justice, which will contact the organs necessary to receive the rest of the documentation.

Finally, when he gets his conditional freedom, temporary or permanent, it is important to look for egress help from your respective consulate and know which sites can turn for support, which some are listed below:

**Apoio social:**

“Social Support”

*Coordenadoria de Reintegração Social e Cidadania*

Rua Libero Badaró, 600 - Centro - São Paulo - SP - Cep: 01008-000 –

Tel. (11) 3101-7708/(11) 3107-1113

**Albergues:**

“Homeless Shelter”

*CENTROS DE ACOLHIDA*

“Homeless Services”

Homeless Services Centers to Adults and Young people till the age of 16 Open every Day from 4:00 to 6:00 PM.
To use this service, you will need a form CRAS - CREAS, POP Center and / or CAPE

You can find this services in the address below:

CENTRO OESTE

Centro de Acolhida Lygia Jardim
Rua São Domingos, 39/51
Tel.: 3106-0737

Centro de Acolhida Espaço Luz
Pça. Princesa Isabel, 75/77
Tel.: 3221-2835

Centro de Acolhida Nova Vida
Rua Francisca Miquelina, 343
Tel.: 3106-2041

Centro de Acolhida Barra Funda I
Rua Norma Pieruccini Giannotti, 77a
Tel.: 3392-4527

Centro de Acolhida Emergencial Alcântara Machado
Av. Alcântara Machado, 91
Tel.: 96846-6870
NORTE

Centro de Acolhida Zaki Narchi I
Av. Zaki Narchi, 600
Tel.: 2089-1829

SUL

Centro de Acolhida Pousada da Esperança
Rua Isabel Schimidt, 489
Tel: 5548-2672

Centro de Acolhida Grajaú
Rua São José do Rio Preto, 190
Tel: 96943-2634

CENTROS DE ACOLHIDA Adultos II por 24 horas

“Homeless Services for Adults II – 24 hours/day”

Homeless Services Centers to Adults and Young people that need special care and those who are with personal and social vulnerability.

It’s open 24 hours/ Day – 7 days of week.

CENTRO-OESTE

Centro de Acolhida Cambuci
Rua Vicente de Carvalho, 88
Tel.: 3289-2755
**Centro de Acolhida Portal do Futuro**
Rua Deocleciana, 25
Tel.: 3326-4370

**Centro de Acolhida Boracea**
Rua Norma Pieruccini Giannotti, 77
Tel.: 3392-1055

**Centro de Acolhida Zancone**
Avenida Imperatriz Leopoldina, 1335 - Lapa.
Tel.: 3832-2301

**Centro de Acolhida Esperança**
Rua Cardeal Arco Verde, 1968
Tel.: 3812-9298

**Centro de Acolhida Barra Funda II**
Rua Boracea, 270
Tel.: 3392-2697

**Centro de Acolhida Santa Cecilia**
Rua Apa, 165
Tel.: 3661-5979

**Centro de Acolhida João Paulo II**
Rua Afonso Pena, 482
Tel.: 3208-7759

**Centro de Acolhida Prates I**
Rua Prates, 1101
Tel.: 3313-1879
Centro de Acolhida Prates II
Rua Prates, 11

DEFENSORIAS PÚBLICAS:

“Public Defender”

DEFENSORIA PÚBLICA DA UNIÃO – DPU
Rua Fernando de Albuquerque, 155 - Consolação - CEP: 01309030
São Paulo – SP – tel. (11) 36273400

DEFENSORIA PÚBLICA DO ESTADO DE SÃO PAULO
Rua Boa Vista, nº 150 – Edifício Cidade IV – Centro
São Paulo – SP – tel. 0800 773 4340(ligação gratuita)

REDE DE SAÚDE PÚBLICA

“Public Hospitals”

Santa Casa de Misericórdia de S.Paulo – (11) 2176-7000
Rua Dr. Cesário Mota Júnior, 112 - Santa Cecília – São Paulo - SP

Hospital das Clínicas – (11) 2661-0000
Av. Dr. Enéias de Carvalho Aguiar, 255, Cerqueira César

Hospital do Mandaqui – (11) 2281-5000
Rua Voluntários da Pátria, 4301 – Santana - São Paulo - SP
Hospital Santa Marcelina – (11) 2070-6000
Rua Santa Marcelina, 117 – Itaquera – São Paulo - SP

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