

PACARAIMA MISSION

Action Report: 2nd semester/2018



Secretariat-General of
Institutional Articulation

FEDERAL PUBLIC DEFENDERS' OFFICE

Federal Public Defender-General

Gabriel Faria Oliveira

Federal Public Subdefender-General

Jair Soares Júnior

Federal Comptroller-General

Geovana Scatolino Silva

High Council of the Federal Public Defenders' Office - Elected members:

Fabiano Caetano Prestes - Special Category

Marcos Antônio Paderes Barbosa - Special Category

Leonardo Cardoso de Magalhães - 1st Category

Karina Rocha Mitleg Bayerl - 1st Category

Shelley Duarte Maia - 2nd Category

Letícia Sjoman Torrano - 2nd Category

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1ST SEMI-ANNUAL REPORT ON THE ACTION OF THE FEDERAL PUBLIC DEFENDERS IN THE “PACARAIMA MISSION”

1 – ACTION OF THE FEDERAL PUBLIC DEFENDERS' OFFICE IN PACARAIMA

In a brief retrospective, the action of the Federal Public Defenders' Office involving migration law in the State of Roraima was triggered by the well-publicised case of the attempted deportation of approximately 450 Venezuelan immigrants, after the operation of the Federal Police on December 9, 2016, when Roberta Pires Alvim, then assigned to the Boa Vista Unit, filed habeas corpus and obtained a favourable preliminary injunction¹.

Since then, the exponential growth of the migratory flow has exceeded the limits of the Boa Vista Unit, especially due to the dispersion of immigrants throughout the State, as shown in the REPORT ON VIOLATIONS OF RIGHTS AGAINST VENEZUELAN IMMIGRANTS IN BRAZIL, of the NATIONAL COUNCIL OF HUMAN RIGHTS² conducted by the National Council of Human Rights – CNDH, in May 2018. This mission was composed of Federal Public Defenders Roberta Pires Alvim³ and João Freitas de Castro Chaves, members of the Working Group on Migration, Statelessness, and Asylum.



Considering the CNDH's recommendations, the Federal Union came up with emergency measures for the reception of people in displacement in the national territory, converting provisional measure No. 820 into Law No. 13,684 (June 21, 2018), regulatory aid for the Federal Committee to maintain border operations in Pacaraima/RR.

1 As explained by the Public Defender mentioned in the “CASE STUDY: ATTEMPTED MASS DEPORTATION OF VENEZUELANAS IN THE STATE OF RORAIMA”, available in the repository: <http://www.dpu.def.br/repositorio-do-conhecimento/direito-de-minorias-e-grupos-vulneraveis>

2 Available at: <http://www.mdh.gov.br/informacao-ao-cidadao/participacao-social/conselho-nacional-de-direitos-humanos-cndh/RelatriosobreViolaesdeDireitosHumanoscontraImigrantesVenezuelanos.pdf>

3 For more information on the performance of the Federal Public Defender's Office in the region, please refer to: <https://www.conjur.com.br/2018-nov-06/tribune-defensoria-trabalho-dpu-defensa-direitos-migrantes-venezuelanos>

On 18 June 2018, the activities of Acolhida Operation in Pacaraima began. It is a humanitarian and logistical task force aimed at organizing the migratory flow with increased capacity of the Federal Police supported by international agencies (UNFPA, UNHCR, IOM and UNICEF), with the presence of bodies that provide relevant public service to immigrants (Ministry of Social Development, Federal Revenue Service, Anvisa and Ministry of Human Rights). Thus, there was an important gap in the performance of the Federal Public Defenders' Office, which is why, in July 2018, the Federal Public Defenders Lígia Prado da Rocha and Roberta Pires Alvim went on a mission to Pacaraima to analyse the DPU's performance strategies.

The report concludes that the presence of the DPU in Pacaraima/RR is important. Without it, it would be impossible to provide immediate assistance to the many migratory legal situations that occur daily at the border. In addition, the precariousness of local public services, given the population increase in the Municipality, caused social hardening and disrupted the friendly relationship that always existed between Brazilians and Venezuelans.

Corroborating the intensification of the interinstitutional agenda presented, the National Human Rights Defender, Eduardo Nunes Queiroz, and the Secretary-General of Institutional Articulation, Renan Vinicius Sotto Mayor de Oliveira, between August 19 and 23, 2018, bringing about the presence of the Defenders' Office at a meeting of the interministerial committee held in Pacaraima after the abhorrent events of August 18, 2018⁴.

Thus, sensitive to the issues presented, the Federal Public Defender-General then in office, Jair Soares Junior, provided the constant displacement as of August 14, 2018, of two federal public defenders designated by public notices to provide migratory legal assistance, at the service stations of Acolhida Operation (reception, identification and screening station).

The act was corroborated by the Federal Public Defender-General, Gabriel Faria de Oliveira, upon his entry into office, considering the relevance of institutional action in the humanitarian reception of immigrants, designating coordinators of the Action, members and focal points of the Working Group on Migration, Statelessness and Asylum, Working Group on the Assistance and Protection of Human Trafficking Victims, Working Group for the Assistance of Victims of Labour Analogous to Slavery, or Working Group for the Assistance of Indigenous Populations, indicated by the Secretary-General of Institutional Articulation, in addition to the DRDH of Amazonas and Roraima.

In addition to providing legal advice to immigrants and resolving doubts about migration legislation, when federal public defenders in loco guarantees access to the migration regularization procedure for children and adolescents in situations of vulnerability – especially those that are undocumented, separated and unaccompanied –, both in controlling the authorization of their entry into the country and in indicating the migration modality appropriate to their interests.

This important function is based on CONANDA CONARE CNIG DPU Joint Regulation No.1 (August 9, 2017) and in several articles of the migration law, by ensuring the application of the principles of full protection, non-return and the best interest of children and adolescents, in addition to being in accordance with Article 22 of the Convention on the Rights of the Child, promulgated by Decree No. 99.170 (November 21, 1990).

4 On August 18, 2018, acts of xenophobia resulted in acts of violence against the migrant population on the street in the Municipality of Pacaraima, resulting in the destruction of personal property of this population. The incident was widely publicized in the national media, (see “<https://g1.globo.com/rr/roraima/noticia/2018/08/18/venezuelanos-atravesam-a-fronteira-apos-ataques-in-rr-video-video.ghtml>”).

In addition, the Federal Public Defenders assigned to the mission in Pacaraima also help in the out-of-court settlement of local demands related to health care, education, security, nationality and social assistance.

Due to the work carried out in this mission, on December 4, 2018, the DPU participated in the 8th Meeting of the Federal Committee for Emergency Assistance, chaired by the Civil House and held in Brasília/DF, represented by the Secretary-General of Institutional Articulation.

2 – MAIN TARGET AUDIENCE OF THE ACTION: CHILDREN AND ADOLESCENTS UNDERGOING SERIOUS MIGRATORY DIFFICULTY

Children and adolescents in serious migratory difficulties are considered to be those who find themselves:

- i) Undocumented – those who, despite being accompanied by their parents, do not have an identification document capable of proving the parental bond or have only a copy of the original document.
- ii) Separated – those who are *accompanied by an adult who is not the legal responsible (does not hold family power)* when entering the Brazilian territory.
- iii) Unaccompanied – those who do not have *any adult person accompanying them on their entry into national territory*.

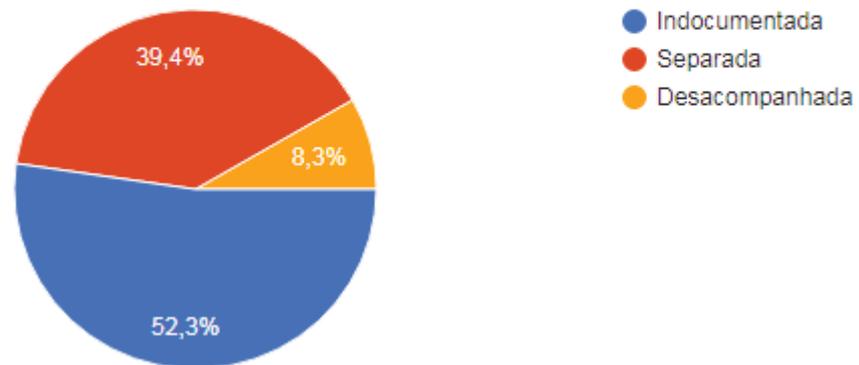
In these situations, the Federal Public Defender's Office applies the form attached to Joint Resolution No.1 CONANDA CONARE CNIG DPU (signed on August 9, 2017) by conducting an individual interview and protection analysis, with the support of the team of the Ministry of Social Development and the Guardianship Council of Pacaraima, to refer cases according to vulnerability and degree of complexity.

Between August and December 2018, the Pacaraima Mission provided legal assistance to approximately 1,027 children and adolescents in particular migratory difficulty, mostly because they were undocumented (52.3%). It is noteworthy, however, that 47.7% of the cases were related to situations of separated or unaccompanied children and adolescents.

It is of fundamental importance to highlight that the assistance of the DPU pays special attention to the confrontation of cases of human trafficking, with the immediate activation of the Federal Police and adoption of protective measures when the violation is detected.

Situação para aplicação da Resolução Conjunta

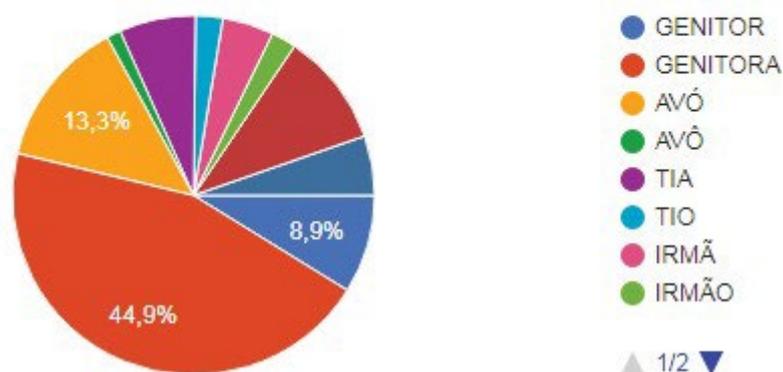
1.027 respostas



As for separated children and adolescents, a significant amount of the cases are children accompanied by their grandmothers (13.3%), aunts (6.8%) and sisters (4.6%). There is a lower incidence of cases of children and adolescents accompanied by their grandfathers (1.3%), uncles (2.4%) or brothers (2.2%). In 10.2% of cases, the children and adolescents are accompanied by other guardians such as brothers-in-law, great-grandparents or other relatives and family acquaintances. Only in 5.4% of the cases no legal guardian was appointed. The disparity between the percentage of unaccompanied (8.3%) and the percentage of children and adolescents without any legal guardian (5.4%) can be explained by the difficulty of framing the situations of adolescents aged 17 years accompanied by their partners over 18 years.

Tipo de Guardiã

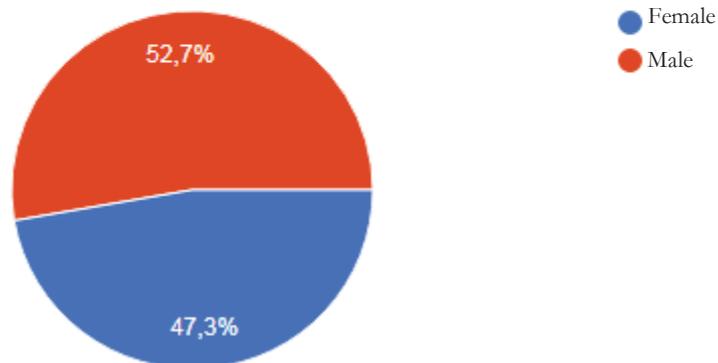
1.027 respostas



There was also an equality in this special migratory flow regarding the gender of this specific migrant population. It should be noted, however, that the analysis did not delve into gender identity since that children and adolescents in migratory situations are not in a favourable environment for in-depth analysis on the subject. Moreover, in the case of developing human beings, sometimes they have not yet asked themselves about their gender identity. Thus, the social interview only analyses the social expression of behaviour.

Gênero

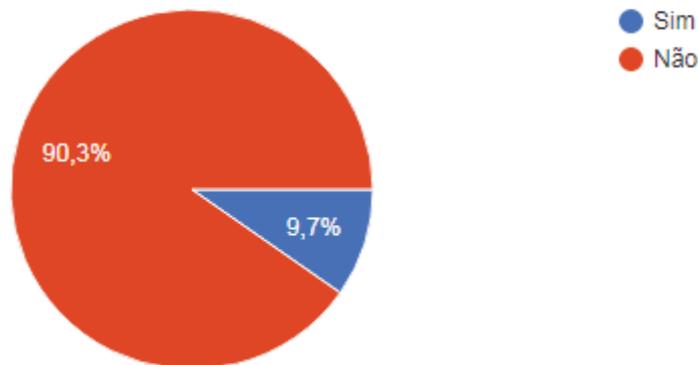
965 respostas



Regarding the **care to the migrant indigenous population**, we found that 9.7% of the care was aimed at this population.

Indígena

997 respostas



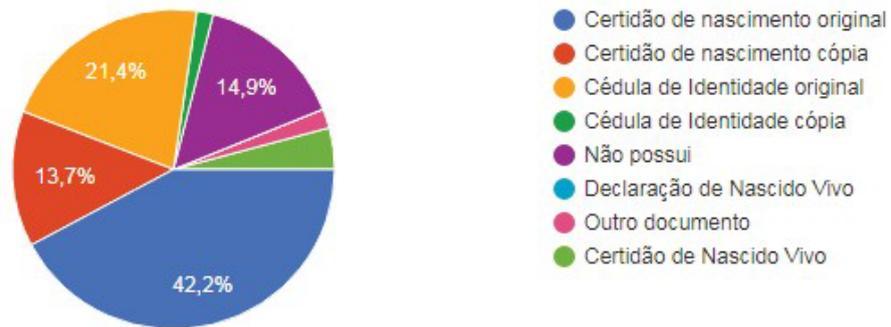
We are also concerned with registering the documentary situation of children and adolescents served by the Federal Public Defenders' Office, due to the fact that there are many reports about the difficulty of issuing documents in Venezuela, especially because identity cards are not issued to children under 9 years of age (42.2% of those served only had a birth certificate).

Immigrants also report great difficulty in obtaining a passport, due to the high cost of issuing and the excessive waiting for the issuance of the document.

In addition, complaints of too much delay are frequent for the issuance of duplicate identity cards (1.7% of those served had only a copy of the identity card) and birth certificates (13.7% presented a copy of the birth certificate). It is noteworthy that 14.9% of the cases attended did not have any document. Recently, they also reported that there was no paper for issuing birth certificates, so that many children and adolescents only carried the declaration of live birth issued by hospitals (4.2%). Immigrants also complain about the difficulty they find in their country to obtain a registration of loss of documents.

Situação documental

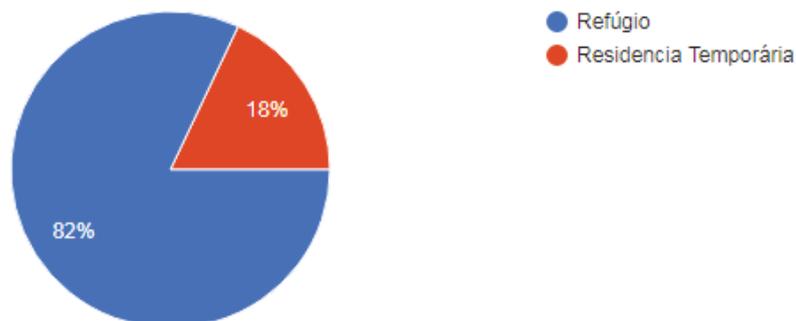
1.027 respostas



Considering the documentary difficulties for children and adolescents, we observe that the refugee request (82%) is the only migratory alternative for most cases attended by the DPU from August to December 2018. It should be noted, however, that the adolescent's level of understanding about the migratory option is also considered at the time of assistance so that a choice can be made for the protection alternative best suited to their special interests.

Indicação de regularização migratória

1.027 respostas



3 – FEDERAL PUBLIC DEFENDERS WHO HAVE ALREADY PARTICIPATED IN THE ACTION

From 13/08 to 26/08/2018	Lígia Prado da Rocha	Regional Human Rights Defender (DRDH) of Amazonas and Roráima
From 19/08 to 23/08/2018	Eduardo Nunes de Queiroz	National Human Rights Defender
From 19/08 to 23/08/2018	Renan Vinicius Sotto Mayor de Oliveira	Secretary-General of Institutional Articulation
From 27/08 to 02/09/2018	João Freitas de Castro Chaves	Representative of the Working Group on Migration, Statelessness and Asylum
From 03/09 to 10/09/2018	Kelery Dinarte da Páscoa Freitas	DPU/Recife/PE
From 12/09 to 22/09/2018	Deraldino Alves de Araujo Filho	DPU/Vitória da Conquista/BA
From 22/09 to 01/10/2018	Robson de Souza	DPU/DF
From 29/09 to 08/10/2018	Jose Célio Pessoa Fonteles	DPU/Belém/PA
From 02/10 to 11/10/2018	Michelle Leite de Souza Santos	DPU/DF
From 08/10 to 21/10/2018	Roberta Pires Alvim	Working Group on Migration, Statelessness and Asylum
From 11/10 to 20/10/2018	Ana Lúcia Castro de Oliveira	Working Group for the Assistance of Indigenous Populations
From 20/10 to 29/10/2018	Pedro Wagner Assed Pereira	DPU/Rio de Janeiro/RJ
From 22/10 to 25/10/2018	Mayara Barbosa Soares	DRDH Pará and Amapá
From 25/10 to 04/11/2018	Gilmar Menezes da Silva Junior	Working Group for the Assistance of Victims of Labour Analogous to Slavery
From 29/10 to 07/11/2018	Wagner Ramos Kriger	DPU/Natal/RN
From 04/11 to 18/11/2018	João Freitas de Castro Chaves	Representative of the Working Group on Migration, Statelessness and Asylum
From 07/11 to 16/11/2018	Sabrina Nunes Vieira	DPU/Belo Horizonte/MG
From 16/11 to 25/11/2018	Diego Bruno Martins Alves	DPU/Maceió/AL
From 17/11 to 04/12/2018	Lígia Prado da Rocha	Secretariat of Human Rights
From 02/12 to 09/12/2018	Natalia Von Rondow	Working Group for the Assistance and Protection of Human Trafficking Victims
From 04.12 to 13.12.2018	Julian Trévia Miranda	DPU/Boa Vista/RR
From 09/12 to 21/12/2018	Raphael de Souza Lage Santoro Soares	Working Group for the Assistance of Victims of Labour Analogous to Slavery
From 13.12 to 22.12.2018	Fabiana Nunes Henrique Silva	DPU/Niterói/São Gonçalo/Itaboraí/RJ
From 20/12 to 26/12/2018	Renan Vinicius Sotto Mayor de Oliveira	Secretary-General of Institutional Articulation
From 26/12 to 04/01/2019	Deraldino Alves de Araujo Filho	DPU/Vitória da Conquista/BA

4 – OTHER ACTIONS OF THE FEDERAL PUBLIC DEFENDERS' OFFICE IN PACARAIMA.

The constant presence of the Public Defenders' Office in Pacaraima allows an exchange of information with federal public agencies with jurisdiction over the matter and promotes the participation in meetings with international agencies and partners of the DPU, strengthening the inter-institutional relationship, especially regarding the establishment of operational procedures of the Acolhida Operation. Moreover, it allows constant action in the emergency shelter for immigrants located in Pacaraima, called BV-8 (this is temporary shelter planned to serve those who have not completed the flow of migratory regularization, as well as temporary shelter until relocation to a shelter in Boa Vista for vulnerable people) and in the Janokoida indigenous reception.

To assist the Federal Public Defenders in their work, the DRDH/AM prepared a "Manual for Action in the Reception Operation" and drafted the "POP/DPU (Standard Operating Procedure of the Federal Public Defenders' Office)", which sets out the main legal arguments to be used in analysing cases, as well as the procedures for analysing protection provided for in the Joint Normative Resolution and other technical aspects.

In December 2018, informative graphic materials on migratory regularization in Brazilian legislation and preventing and combating trafficking in persons were produced by the Working Group for the Assistance and Protection of Human Trafficking Victims and the Working Group on Migration, Statelessness and Asylum, the banners are located in the queue at the Federal Police migration control (Reception and Identification Post), at the BV-8 reception and at the Janokoida reception.

Among so many other actions promoted by the DPU, can be mentioned:

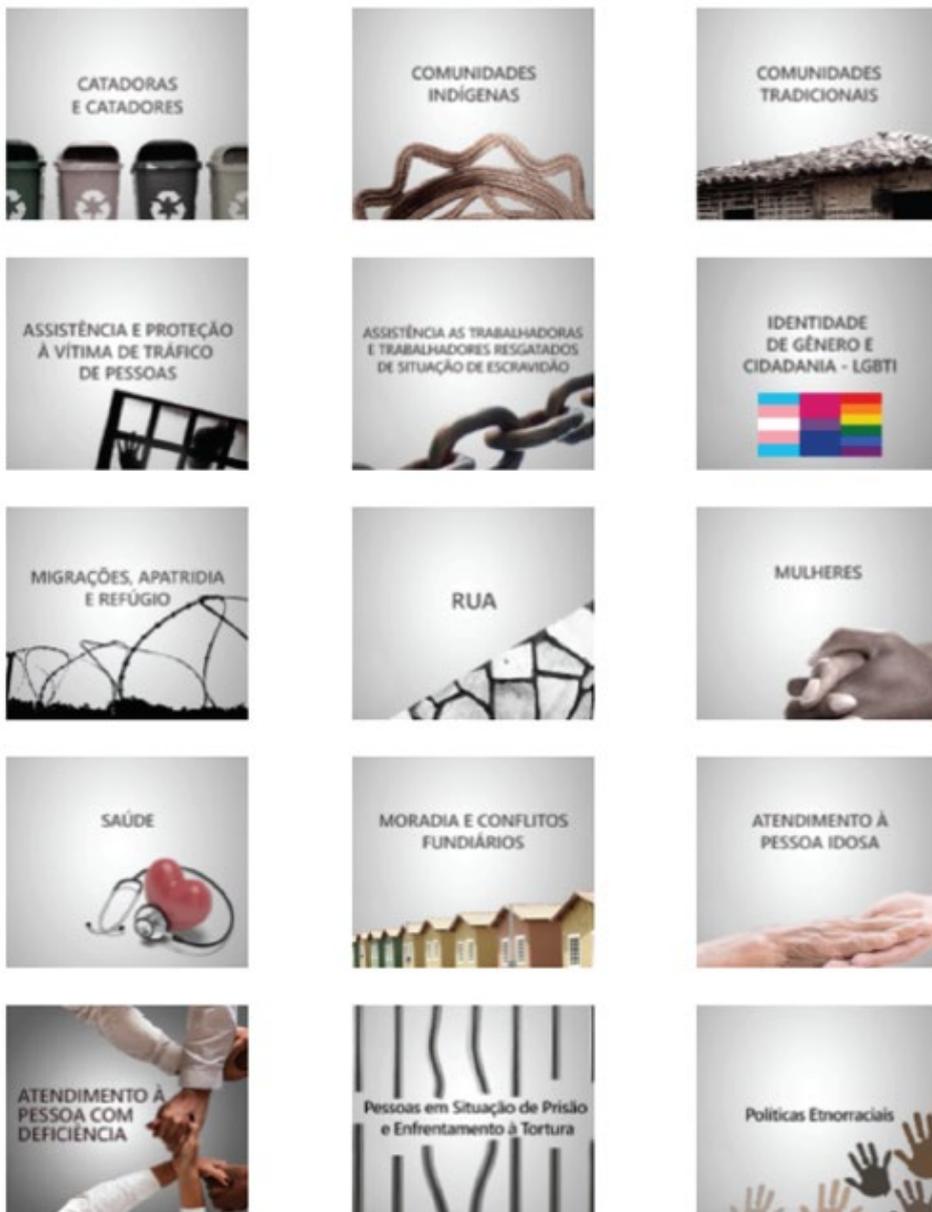
- (i) Request for civil registration of Brazilian children, children of immigrants, who only had the declaration of live birth.
- (ii) Request to the transportation companies at the Pacaraima Bus Terminal to allow the national travel of children or adolescents duly documented by the Federal Police with a provisional identification protocol, either for temporary residence (Interministerial Ordinance No. 9/2018) or refugee request, having as escort the member of the family group indicated in the issued document, in cases of those separated or unaccompanied.
- (iii) Request to bank branches regarding the documents required to open bank accounts for refugee and temporary residence applicants, mainly due to the non-acceptance of the residence protocol as a valid document, considering the internal normative changes of the Federal Police linked to the information contained in the document.
- (iv) Requests to the State Public Defenders Office to analyse cases of emancipation, custody and late registration of a Brazilian child and recognition of paternity involving immigrants, as well as requests for legal assistance in state criminal proceedings.
- (v) Recommendation to airline companies not to prevent the boarding on domestic flights of foreign passengers whose refugee or residence application protocol is expired, considering that it is possible to apply for renewal at the place of destination.
- (vi) Information to the State Judge of the District of Pacaraima and the Circuits of the Children's Court of Boa Vista and the State Public Prosecution Service regarding the absence of foster

families or municipal institutional foster care institutions in the municipality and the need to improve the displacement structures to Boa Vista of children and adolescents in vulnerable situations.

- (vii) Referrals of complaints of labour exploitation to the Ministry of Labour and the Public Labour Prosecutor Office.
- (viii) Request to the Federal Police regarding the issuance of the SISMIGRA certificate at the Acolhida Operation screening post in all the procedures for requesting and registering residence permits, especially those based on the Inter-ministerial Ordinance No. 09/2018.
- (ix) Request to the Ministry of Social Development regarding the appropriate typification of the service and the BV-8 equipment according to the parameters of Resolution CNAS No. 109/2009, which can be framed in the category of Special Social Protection of High Complexity, either as a **Temporary Shelter** (article 1st, item III, section "a", item 3), due to the transitory nature of the stay of migrants who go to other locations, as well as in the event of **Protection Service in Situations of Public Disasters and Emergencies** (article 1st, item III, section "d"), by virtue of the legal recognition of the Venezuelan migratory flow as caused by a humanitarian crisis and under the management of the Federal Committee for Emergency Assistance (CFAE), under the terms of the Law No. 13,684/2018. It was also requested that the participants of the Acolhida Operation be clarified collectively, as well as the strengthening of existing social assistance structures.
- (x) Capacity building of the Pacaraima Child Protection Services about the actions of the Public Defenders' Office and the competences of the Child Protective Services in the wake of the CONANDA CONARE CNIG DPU Joint Resolution No. 1 (of August 9,2017), in various articles of the migration law, in ensuring the application of the principles of full protection, non-return and the best interests of children and adolescents.
- (xi) Holding informative lectures on Prevention and Confrontation of Human Trafficking at the BV-8 reception.
- (xii) Organisation of a conversation circle on domestic violence in Brazilian legislation at Janokoida Shelter.
- (xiii) Request for information on health protocols and adoption of procedures regarding endemic and epidemic situations and outbreaks occurring in the State of Roraima, with special attention to the increased migration flow in the municipalities of Pacaraima and Boa Vista.

The selection of Public Defenders who participate in this action is done through a public call for applications and through the nomination of coordinators by the Secretary of Institutional Articulation. The next participants, until the beginning of March 2019, have already been selected by Public Notice No. 226/2018 and Ordinance No. 1,118.

The Federal Public Defenders' Office promotes free access justice, makes the defence of the rights of citizens and provides legal guidance to all of those in need.



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