



**ATTACHMENT**  
Presidency of the Republic  
Civil House  
Sub chef for Legal Affairs

MESSAGE No. 163, OF 24 OF MAY 2017.

President of the Senate,

I inform Your Excellency that, in accordance with § 1 O Art. 66 of the Constitution, decided to partially veto, by opposition to the public and interest unconstitutional, the bill n O 288, 2013 (n O 2,516 / 15 in the House of Representatives), that "establishing the Migration Law".

Heard the Chair of the Civil House of the Republic expressed by the veto to the following devices transcripts:

Item I of § 1 O Art. 4-O

"I - migrant person who moves from country or geographic region to the territory of another country or geographical region, including immigrants, the immigrant, the border residents and stateless person;"

Veto Reason

"The device makes too broad definition of migrants, including including foreign resident in border country, which extends to all foreign, whatever their immigration status, equality with nationals in violation of the Constitution, article 5 O Establishing that this equality is limited and has as a criterion for its effectiveness the individual's residence in the country. " § 10 Art. 14

"§ 10. Regulation provide for the other cases of granting temporary visas and on the specifics of their categories, defining conditions, deadlines and requirements."

Veto Reason

"It is appropriate and advisable to allow the relevant temporary visa Institute may have new hypotheses than those defined in this law, created by regulation, risk of undue discretion and with the potential to generate legal uncertainty."

Item II of § 1 O Art. 30

"II - the person is rehabilitated in accordance with art. 93 of Decree-Law No O 2848 of December 7, 1940 (Penal Code), on bail or serving sentence in Brazil; "

Veto Reason

"The device has logical-legal anomaly, in that the person serving sentence in Brazil suffered condemnation to final judgment."

Sole Paragraph of art. 37 and item IV of article. 40

"Single paragraph. The granting of visa or residence permit for family reunion purposes may be extended, by reasoned act, the other assumptions of kinship, emotional dependence and sociability."

"IV - whether child or adolescent who is accompanied by legal guardian residing in the country, since it expresses its intention to apply for a residence permit based on family reunification;"

Veto Reason

"The devices could allow the entry of children without a visa, accompanied by representatives of sociability factors resident or legal guardian and, thus, facilitating or situations conducive to the international abduction of minors."

Art. 44

"Art. 44. The visa holder or beneficiary nationals of one treaty or diplomatic communications that entail visa waiver may enter the country, except for the cases provided for in this Section prohibitive. "

Veto Reason

"The device weakens the constitutional exercise of the Brazilian Police Power of the migratory nature institutions, the undue discretion to empty the exercise of national sovereignty."

Art. 74

"Art. 74. The Brazilian by choice or nation which has fulfilled his military obligations to the country of former nationality shall be entitled to the Merger Exemption Certificate. "

Veto Reason

"The device, which is closely related to the legal regime of the military, violates the Constitution, article 61, § 1<sup>o</sup>, Item II, letter 'f', which reserves the exclusive initiative of the President the law that provides for the subject. "

§ 4 O Art. 113

"§ 4O the asylum seekers vulnerable groups are considered, applicants for humanitarian visa, victims of trafficking in persons, victims of slave labor migrants in execution of a sentence or criminally liable in freedom and unaccompanied minors. "

Veto Reason

"The device features impropriety, to enroll as a member of unduly vulnerable group likely therefore benefits under the immigration policy, individuals who respond criminally in freedom."

The Ministry of Justice and Public Security, the Attorney General of the Union and the Institutional Security Cabinet opined by veto the devices below:

§ 2 O Art. 1 O

"§ 2O the original rights of indigenous peoples and traditional populations, in particular the right to free movement traditionally occupied lands are fully guaranteed. "

Veto Reasons

"The device insult items 1O , I; 20, § 2O ; and 231 of the Constitution which impose the defense of national territory and sovereignty element, via the action of Brazilian institutions at border points, in controlling the entry and exit of Indians and non-Indians and the competence of the Union to demarcate

the traditional lands, protect and respect the property of Brazilian Indians. "

### Art. 116

"Art. 116. Revokes the expulsions enacted before October 5, 1988. "

Single paragraph. The relevant body of executive power shall provide the criteria for revocation, staggering of validity of expulsórias measures enacted after October 5, 1988. "

### Veto Reason

"The material acts of expulsion and, consequently, its revocation, embody effective exercise of national sovereignty, jurisdiction private material from the President, the content of the items VII and VIII of Article 84 of the Constitution. Moreover, on the merits, the device could pose a liability indemnity to the Union, with negative effects on public accounts and legal uncertainty to the decisions of Brazilian institutions to expulsions. "

The Attorney General's Office along with the Civil House of the Presidency, opined also veto by the following provision:

### Paragraph *and* of section II art. 55

"E) any, to the commission of the crime of the time, lived in Brazil for more than four (4) years."

### Veto Reason

"In addition to empty the discretion of the State to manage its immigration policy, the device would remove promote the expulsion and removal of the national territory of persons convicted of serious crimes, so only because they have lived more than 4 years in the country at the time of the commission the offense. "

The Institutional Security Cabinet and the Civil House of the Presidency, requested veto the following devices transcripts:

Sections I and IV art. 66

"I - have originated from Portuguese-speaking country;"

"IV - a native of the State Party or State associated with the Southern Common Market (MERCOSUR);"

Veto Reason

"By not requiring the reciprocity criterion in the simplified naturalization procedure, institute whose consequence is the political right to vote and be voted, the device would have the power to extend the exercise of Brazilian citizenship, may weaken the national electoral process and introduce elements with unpredictable effects on democracy in the country. "

The Attorney General's Office, the Institutional Security Cabinet and the Civil House of the Presidency added veto the devices below:

§§ 2 O and 3 O Art. 4 O and point d of section II art. 30

"§ 2O The immigrant is allowed to hold a position, employment and public service, as defined in the notice, except those reserved for Brazilian born, under the Federal Constitution.

§ 3O It does not require the migrant impossible or unreasonable documentary evidence that hinder or prevent the exercise of their rights, including access to office, employment or civil service. "

"D) has been approved in a public contest for the position of exercise or public employment in Brazil;"

### Veto Reason

"The devices would allow leaving office, employment or public office for nonresident alien, going against the Constitution and the national interest. Moreover, in legislation concerning migration issue of matters reserved to the regulation of public office provision, whose private initiative is the President, the wording of Article 61, § 1O II, "c", the constitution. In addition, reserve the tender notice the setting, grant or restriction of rights, which sets up inappropriate to its function only direct the faithful execution of the law for access to public careers. "

The Ministry of Finance expressed its veto by the following provision:

### § 4 O Art. 4 O

"§ 4O apply to the rights provided in the visitor caput and in sections I, II, IV, V, VI, VIII, IX, X, XI, XII, XIII, XIV and XV of this article. "

### Veto Reason

"The device extends to every visitor, among other rights, access to public health services and social assistance and social security, as described in section VIII of the article, which would represent additional fiscal pressures on the Union and other national entities , affecting the adequacy of public expenditure to constitutionally planned spending limit, recommending thus its veto. "

The Ministry of Justice and Public Security opined veto by the following devices transcripts:

#### Sole Paragraph of art. 6 O

"Single paragraph. The visa may be affixed to any travel document issued to the standards set by the International Civil Aviation Organization (ICAO) and the International Committee of the Red Cross, not implying its affixing the recognition of state, government or regime. "

### Veto Reason

"The device mentions travel document issued by the International Committee of the Red Cross, on which lacks is information about your standard, it is recommended, so his veto. Nevertheless, there will be losses for documents issued on standards set by the International Civil Aviation Organization, which are already own convention object observed by the country. "

#### § 5 O Art. 49



"§ 5 O Proven the fraud or fault of the carrier, it will be your responsibility the cost of repatriation and costs of stay of the person on whom falls action of return. "

Veto Reason

"The device is contrary to the public interest to the extent that the Convention on International Civil Aviation ensures that companies receive values through compulsory insurance to cover the cost of repatriation, and their costs, objectively, without proof of malice or fault. Understanding diverse represent undue burden to the State, in addition to representing an immigrant's stay procrastination or prevented visitors from entering the country. "

Last line of attachment, "Work Permit " \_\_\_\_\_

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Work authorization		Rate - work permit procedure
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Veto Reason

"No, the project sanctioned, authorization requirement forecast for the migrant can work. There is only a temporary visa for work purposes, which already has specific reference in Annex table. Therefore, does not deserve to prosper forecast unrelated

to the norm, which is contrary to the requirement of clarity, precision and logical order of the regulatory provisions, as well as set up unconstitutional lack of elements that define sufficiently the state service compensation object the exaction.

"

The Ministry of Justice and Public Security along with the Union's Attorney General opined veto by the following device transcript:

§ 3 of art. 105

"§ 3 O It is for the Superior Court approval of the sentence in cases provided for in this Section. "

Veto Reason

"There is no need to talk about foreign judgment to be approved, given that it was transfer, made voluntarily by the offender and for their own benefit, and whose treaties and conventions regarding to simplify, not bureaucratized, the international transfer of prisoners. "

In addition, the Institutional Security Office of the Presidency of the Republic and the Civil House of the Presidency of the Republic manifested themselves by the veto to the following device:

Art. 118

"Art. 118. be granted residence permits to immigrants who, having entered the country until July 6, 2016, no request within one (1) year after the entry into force of this Act, regardless of their immigration status prior.

§ 1 O Immigrants who require a residence permit under the caption will be exempt from paying any fines, fees and consular fees.

§ 2 O The Executive Branch will issue migratory regularization plan, with targets and indicators for the effective fulfillment of the benefits granted in the caption of this article.

§ 3 O The immigrant with migratory regularization process in progress can choose to be benefited by this Act.

§ 4 O The residence permit under this article does not imply criminal amnesty and does not prevent the processing of expulsion measures and legal cooperation in respect of acts committed by the applicant at any time.

§ 5 O There may receive a residence permit under this article people whose stay in the country has seen the foundation official or diplomatic.

§ 6 O The residence permit will be canceled if, at any time, verify the falsity of the information provided by the immigrant.

§ 7 O The loss process or residence permit cancellation notice guarantees of legal defense and contradictory, and may be initiated ex officio by the competent authority of the federal executive or by reasoned representation, provided the deadline for 60 feature (sixty) days from the notification of the decision.

§ 8 O The procedure relating to the residence permit application referred to in the caput will be conducted in one step, in which will be presented the application and supporting documentation and carried out the collection of biometric identification and realization of the record. "

### Veto Reason

"The article gives indiscriminate amnesty to all immigrants, regardless of their immigration status or their personal

condition, emptying the discretion of the State for the reception of foreigners. Moreover, there is no way to specify the effective date of entry of immigrants in the country, allowing an immigrant from during vacatio legis may require regularization based on the device. "

These, Mr President, the reasons that led me to veto the devices above the project in question, which now submit to the high consideration of the Members of Congress.

**This text does not replace the one published in the Official Gazette of 05.25.2017**