



MINISTÉRIO DA JUSTIÇA
E SEGURANÇA PÚBLICA
Assessoria Especial Internacional

TRADUÇÃO DE LEGISLAÇÃO BRASILEIRA RELACIONADA À ÁREA DE JUSTIÇA E SEGURANÇA PÚBLICA PARA O INGLÊS E O ESPANHOL

Lei nº 13.344, de 06 de maio de 2016.

Dispõe sobre prevenção e repressão ao tráfico interno e internacional de pessoas e sobre medidas de atenção às vítimas; altera a Lei nº 6.815, de 19 de agosto de 1980, o Decreto-Lei nº 3.689, de 3 de outubro de 1941 (Código de Processo Penal), e o Decreto-Lei nº 2.848, de 7 de dezembro de 1940 (Código Penal); e revoga dispositivos do Decreto-Lei nº 2.848, de 7 de dezembro de 1940 (Código Penal).

VERSÃO EM INGLÊS



Projeto da Assessoria Especial Internacional

Como forma de divulgar o arcabouço legislativo brasileiro a autoridades estrangeiras e a Organismos Internacionais e, ainda, de aprimorar a cooperação internacional, em diversas áreas, a Assessoria Especial Internacional do Ministério da Justiça e Segurança Pública desenvolveu projeto para a compilação e tradução¹, para os idiomas inglês e espanhol, de parte das legislações brasileiras relacionadas às áreas de Justiça e Segurança Pública. A seleção das leis traduzidas ficou a cargo das áreas técnicas do Ministério, levando em consideração, igualmente, trabalhos já realizados por outros órgãos brasileiros, os quais serão disponibilizados como link externo no site da Assessoria Especial Internacional.



¹Traduções não juramentadas ou oficiais.

LAW nº 13,344 OF OCTOBER 6th, 2016.

Effectiveness

Provides for the prevention and suppression of internal and international human trafficking and measures to assist victims; amends Law nº 6,815 of August 19th, 1980, Decree-Law nº 3,689 of October 3rd, 1941 (Brazilian Code of Criminal Procedure), and Decree-Law nº 2,848 of December 7th, 1940 (Brazilian Criminal Code); and repeals provisions of Decree-Law nº 2,848 of December 7th, 1940 (Brazilian Code of Criminal Procedure).

I, the **PRESIDENT OF BRAZIL** make known that the National Congress decrees and I sanction the following Law:

Art. 1. This law provides for human trafficking committed in the national territory against a Brazilian or foreign victim and abroad against a Brazilian victim.

Sole paragraph. The fight against human trafficking includes the prevention and suppression of this crime, as well as the care to its victims.

CHAPTER I

PRINCIPLES AND GUIDELINES

Art. 2. The fight against human trafficking shall consider the following principles:

I - respect for the dignity of the human person;

II - promotion and guarantee of citizenship and Human Rights;

III - universality, indivisibility, and interdependence;

IV - non-discrimination on the basis of gender, sexual orientation, ethnic or social origin, provenance, nationality, professional activity, race, religion, age group, immigration status, or other status;

V - transversality of the dimensions of gender, sexual orientation, ethnic or social origin, provenance, race, and age group in public policies;

VI - comprehensive care to direct and indirect victims, regardless of nationality, and collaboration in investigations or legal proceedings; and

VII - comprehensive protection of the child and adolescent.

Art. 3. The fight against human trafficking shall consider the following guidelines:

I - strengthening of the Federative pact, through the joint and coordinated action of the government spheres within the scope of their respective jurisdictions;

II - coordination with national and foreign governmental and non-governmental organizations;

III - encouraging the participation of society in instances of social control and of class or professional entities in the discussion of policies on human trafficking;

IV - structuring of the network to address human trafficking, involving all government spheres and civil society organizations;

V - strengthening action in areas or regions with a higher incidence of crime, such as border areas, ports, airports, highways, and bus and railway stations;

VI - encouragement of international cooperation;

VII - encouragement of studies and research, and their sharing;

VIII - preservation of the secrecy of administrative and judicial procedures, in accordance with the law; and

IX - integrated management for the coordination of national policy and plans to fight human trafficking.

CHAPTER II

PREVENTION OF HUMAN TRAFFICKING

Art. 4. The prevention of human trafficking shall take place through:

I - the implementation of intersectoral and integrated measures in the areas of health, education, labor, public security, justice, tourism, social assistance, rural development, sports, communication, culture, and Human Rights;

II - socio-educational and awareness campaigns, considering the different realities and languages;

III - encouraging the mobilization and participation of civil society; and

IV - encouraging projects to prevent human trafficking.

CHAPTER III

SUPPRESSION OF HUMAN TRAFFICKING

Art. 5. The suppression of human trafficking shall take place through:

I - cooperation between national and foreign bodies of the justice and security system;

II - integration of policies and actions to suppress related crimes and the accountability of their perpetrators; and

III - formation of joint investigation teams.

CHAPTER IV

PROTECTION AND ASSISTANCE TO VICTIMS

Art. 6. The protection and assistance to the direct or indirect victim of human trafficking include:

I - legal, social, labor and employment, and health assistance;

II - reception and temporary shelter;

III - attention to their specific needs, especially regarding issues of gender, sexual orientation, ethnic or social origin, provenance, nationality, race, religion, age group, migration status, professional activity, cultural diversity, language, social and family ties, or another status;

IV - preservation of intimacy and identity;

V - prevention of re-victimization in care and in investigative and judicial procedures;

VI - humanized care; and

VII - information on administrative and judicial procedures.

Paragraph 1. Care to the victims shall be given with the interruption of the situation of exploitation or violence, their social reintegration, the guarantee of facilitating access to education, culture, vocational training, and work, and, in the case of children and adolescents, the search for their family and community reintegration.

Paragraph 2. Immediate assistance to Brazilian victims shall be provided abroad by the Brazilian consular network and shall be provided regardless of their migration status, occupation, or another status.

Paragraph 3. The health care provided for in item I of this article must include the aspects of physical and psychological recovery of the victim.

Art. 7. [Law nº 6,815 of August 19th, 1980](#), comes into force added with the following articles:

"[Art. 18-A](#). A permanent residence shall be granted to victims of human trafficking in the national territory, regardless of their migration status and collaboration in administrative, police, or judicial procedure.

Paragraph 1. A permanent visa or residence may be granted as family reunion:

I - to spouses, companions, ascendants, and descendants; and

II - to other members of the family group who prove economic dependence or habitual coexistence with the victim.

Paragraph 2. The beneficiaries of the permanent visa or residence are exempt from paying the fine provided for in item II of article 125.

Paragraph 3. The beneficiaries of the permanent visa or residence referred to in this article are exempt from paying the fees and emoluments provided for in articles 20, 33, and 131.”

"Art. 18-B. An act of the Minister of State for Justice and Citizenship shall establish the procedures for granting the permanent residence referred to in article 18-A.”

"[Art. 42-A](#). The foreigner shall be in a regular situation in the country while processing an application for migration regularization.”

CHAPTER V

PROCEDURAL PROVISIONS

Art. 8. The judge, ex officio, at the request of the Public Prosecutor's Office or by representation of the chief police officer, after hearing the Public Prosecutor's Office, and having sufficient evidence of criminal offense, may decree insurance measures related to goods, rights, or values belonging to the investigated or accused, or existing on behalf of interposed persons, which are instrument, product, or profit of the crime of human trafficking, proceeding in the form of [articles 125 to 144-A of Decree-Law nº 3,689 of October 3rd, 1941 \(Brazilian Code of Criminal Procedure\)](#).

Paragraph 1. The early disposal shall be conducted to preserve the value of the assets whenever they are subject to any degree of deterioration or depreciation, or when there is difficulty in maintaining them.

Paragraph 2. The judge shall determine the release, in whole or in part, of the goods, rights, and values when the lawfulness of their origin is proved, while maintaining the constriction of the goods, rights, and values necessary and sufficient for the reparation of damages and the payment of installments, fines, and costs arising from the criminal offense.

Paragraph 3. No request for release shall be known without the personal appearance of the accused or of a person referred to in the head provision of this article, and the judge may determine the practice of acts necessary for the preservation of property, rights, or values, without prejudice to the provisions of paragraph 1.

Paragraph 4. When rendering the sentence upon the merits, the judge shall decide on the loss of the product, good, or value seized, kidnapped, or declared unavailable.

Art. 9. The provisions of [Law nº 12,850 of August 2nd, 2013](#) apply subsidiarily.

Art. 10. The government is authorized to create an information system for the collection and management of data that guide the fight against human trafficking.

Art. 11. [Decree-Law nº 3,689 of October 3rd, 1941](#) (Brazilian Code of Criminal Procedure), comes into force added with the following articles 13-A and 13-B:

"[Art. 13-A](#). In the crimes provided for in [articles 148, 149](#), and [149-A](#), in [paragraph 3 of article 158](#), and in [article 159 of Decree-Law nº 2,848 of December 7th, 1940 \(Brazilian Criminal Code\)](#), and in [article 239 of Law nº 8,069 of July 13th, 1990 \(Statute of the Child and Adolescent\)](#), the member of the Public Prosecutor's Office or the chief police officer may request, from any public authorities or private companies, data and registry information on the victim or suspect.

Sole paragraph. The request, which shall be answered within 24 (twenty-four) hours, shall contain:

I - the name of the requesting authority;

II - the number of the police inquiry; and

III - the identification of the judicial police unit responsible for the investigation."

"Art. 13-B. If necessary for the prevention and suppression of crimes related to human trafficking, the member of the Public Prosecutor's Office or the chief police officer may request, by judicial authorization, telecommunications and/or telematics service providers to immediately make available the appropriate technical means – such as signals, information, and other – that allow the location of the victim or suspects of the crime in progress.

Paragraph 1. For the purposes of this article, signal means positioning of the coverage station, sectorization, and radio-frequency intensity.

Paragraph 2. In the case provided for in the head provision , the signal:

I - shall not allow access to the content of communications of any nature, which shall depend on judicial authorization, as provided by law;

II - must be provided by the cellular mobile phone provider for a period not exceeding 30 (thirty) days, renewable for a single time, for the same period; and

III - for periods longer than that referred to in item II, it shall be necessary to submit a court order.

Paragraph 3. In the case provided for in this article, the police investigation must be initiated within a maximum period of 72 (seventy-two) hours, counted from the record of the respective police occurrence.

Paragraph 4. If there is no judicial manifestation within 12 (twelve) hours, the competent authority shall request the telecommunications and/or telematics service providers to immediately make available the appropriate technical means – such as signals, information, and others – that allow the location of the victim or suspects of the crime in progress, with immediate communication to the judge."

Art. 12. Item V of article 83 of [Decree-Law nº 2,848 of December 7th, 1940](#) (Brazilian Criminal Code), comes into force as follows:

"Art. 83.

.....

V - served more than two thirds of the sentence, in cases of conviction for heinous crime, practice of torture, illicit trafficking in narcotic drugs and related drugs, human trafficking, and terrorism, if the convicted person is not a specific repeat offender in crimes of this nature.

....." (NR)

Art. 13. Decree-Law nº 2,848 of December 7th, 1940 (Brazilian Criminal Code), comes into force added with the following article 149-A:

"Human Trafficking

Art. 149-A. Negotiate, lure, recruit, transport, transfer, purchase, house, or host person, through serious threat, violence, coercion, fraud, or abuse, for the purpose of:

I - remove their organs, tissues, or body parts;

II - subject them to work in conditions similar to that of a slave;

III - subject them to any kind of servitude;

IV - illegal adoption; or

V - sexual exploitation.

Penalty - imprisonment, from 4 (four) to 8 (eight) years, and fine.

Paragraph 1. The penalty is increased from one third to half if:

I - the crime is committed by a civil servant in the performance of his/her duties or on the pretext of performing them;

II - the crime is committed against a child, adolescent, elderly, or disabled person;

III - the agent takes advantage of kinship, domestic, cohabitation, or hospitality relations, economic dependence, authority, or hierarchical superiority inherent in the exercise of employment, position or function; or

IV - the victim of human trafficking is removed from the national territory.

Paragraph 2. The penalty is reduced from one to two thirds if the agent is primary and not part of a criminal organization."

CHAPTER VI

CAMPAIGNS RELATED TO COMBATING HUMAN TRAFFICKING

Art. 14. The National Day of Combating Human Trafficking is instituted, to be celebrated annually on July 30th.

Art. 15. National campaigns to combat human trafficking shall be adopted, to be disseminated in media, aiming at raising awareness of all forms of human trafficking in society.

CHAPTER VII

FINAL PROVISIONS

Art. 16. [Articles 231](#) and [231-A of Decree-Law nº 2,848 of December 7th, 1940 \(Brazilian Criminal Code\)](#) are revoked.

Art. 17. This Law comes into force after 45 (forty-five) days of its official publication.

Brasilia, October 6th, 2016; 195th of Independence and 128th of the Republic.

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This text does not replace the one published in the Federal Gazette of 10.7.2016