

1ST DEFENDERS' REPORT

**Monitoring report
on the human rights of migrants
and refugees in the state of
Roraima (RR)**

Federal Public Defenders' General Office

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(Ordinance GABDPGF DPGU nº 62/2021 and Ordinance GABDPGF DPGU nº 306/2021)

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"The Brazilian migration policy is founded on international cooperation with states of origin, transit and destination of migratory movements, in order to provide migrants with the effective protection of human rights"

Article 3, item XV, of Brazilian Law No.
13,445/2017

1ST DEFENDERS' REPORT - MANAGEMENT

REPORT ON THE HUMAN RIGHTS OF MIGRANTS AND REFUGEES IN RORAIMA

Summary

This report addresses the conclusions drawn from the second monitoring mission on the situation of Venezuelan migrants and refugees in Boa Vista and Pacaraima, which are municipalities located in the State of Roraima, northern Brazil. It was submitted to the Specialised Thematic Committee – STC (*CTE*, in Portuguese) of the Brazilian Federal Public Defenders' Office to assess the migratory flow on the border between Brazil and Venezuela, in accordance with Ordinance GABDPGF DPGU No. 10/2021¹. The report provides an overview on the findings of the mission regarding: compliance with the prerogatives of Federal Public Defenders' Office's members; the right of undocumented migrants to health care provided by public facilities; the right to health care for non-Brazilian Indigenous Peoples; the summary deportations, proactive policing and arbitrary arrests that have taken place in the municipality of Pacaraima/RR; the Orquídeas II Urban Settlement located in Paracaima/RR; the human rights violations that have been committed in the José Amador de Oliveira International Coach Station in Boa Vista/RR and the effects of the removal of Indigenous Venezuelan people from the Ka'Ubanoko community.

1. Introduction

From 22 to 26 March 2021, the Brazilian Federal Public Defenders' Office conducted a fact-finding mission in the municipalities of Boa Vista and Pacaraima/RR to assess the situation of protection, migratory regularisation and shelter offered to Venezuelan migrants during the COVID-19 pandemic caused by the dissemination of the new coronavirus (Sars-CoV-2). The Mission was assigned by the Secretariat of Strategic Action (*SAE*, in Portuguese) to the Pacaraima STC in the figure of Federal Public Defender Natalia von Rondow. It is a result of an earlier visit that took place between 23 and 27 November 2020 by Federal Public Defenders (*doc. SEI n°4158425*) and another one that took place between 22 and 26 February 2021, by means of Federal Public Defender Ronaldo de Almeida Neto.

It should be noted that the DPU cannot include in this report any issues related to the personal information of migrants, the full content of statements given in interviews or the judicial strategies and assessments regarding legal aspects, out of respect for its members' duty of confidentiality and professional secrecy, as well as for the right to privacy of the persons involved. For further explanation, the report will register the data collected, as far as it is relevant, and the information will be registered as reserved or confidential, according to the institution's internal

¹ Portaria GABDPGF DPGU nº 10/2021

regulations.

It is important to stress that it is evident from our diagnosis that all the themes analysed by the mission were crossed by a common challenge, the COVID-19 pandemic. This fact has not only worsened the vulnerable situation of Venezuelan migrants in Brazil, but, above all, it has revealed violations that go beyond the virus. Violations such as the many structural and ongoing problems related to access to rights of undocumented migrants, the rights of non-Brazilian Indigenous peoples and the humanitarian response to the Venezuelan migratory flow. In addition to exposing pre-existing situations, the COVID-19 pandemic marked a serious setback in the advances achieved by Law No. 13,445/2017², by creating the figure of "immediate deportation" and establishing a "disqualification of asylum application", evidently showing a discriminatory treatment of non-Brazilians coming from the Bolivarian Republic of Venezuela.

The Brazilian State has opted for immediate deportation and disqualification of asylum application, instead of establishing testing standards in the border health control or quarantines. This was an obvious contradiction to Decree 9.285/2018³, which recognises the need for a humanitarian reception of people coming from the Bolivarian Republic of Venezuela in the Brazilian national territory.

The history of 28 (twenty-eight) successive entrance restriction ordinances, as well as the extrajudicial and judicial measures adopted by the Federal Public Defenders' Office over the last twelve months will not be detailed here, although they are available in other documents. However, it is worth noting that this context had significant implications regarding the facts ascertained in this mission and their consequences, as it will be explained below.

2. CONTEXT ANALYSIS: THE LEGAL SITUATION OF MIGRANTS AFTER THE ENFORCEMENT OF RESTRICTIVE ORDINANCES OF EXCEPTIONAL AND TEMPORARY ENTRY INTO BRAZIL



On 11 March 2020 the WHO - World Health Organization - declared a pandemic of COVID-19 arising from the dissemination of the new coronavirus (Sars-CoV-2). In light of this scenario, the Brazilian Government, since March 2020, has issued 28 (twenty-eight) successive inter-ministerial ordinances aimed at restricting the entry of non-nationals into Brazilian territory as an alleged measure to prevent the dissemination of the virus that causes COVID-19. Currently, Ordinance No. 652⁴ of 25 January 2021 is in force, which "provides for exceptional and temporary restrictions on the entry of foreigners of any nationality into the country, as recommended by the Brazilian

² Lei nº 13.445/2017 – known as the “Brazilian Migration Law”.

³ Decreto 9.285/2018.

⁴ Portaria nº652. <http://www.planalto.gov.br/CCIVIL_03/Portaria/PRT/Portaria-652-21-ccv.htm>

Ordinance No. 120⁵ of 18 March 2020, the first to be published in the *DOU* – Brazilian Federal Register - provided "the immediate deportation of the offender and the disqualification of the asylum application" as a sanction for non-compliance due to irregular entry. This provision was maintained in subsequent versions.

The Brazilian State has recognised "the situation of vulnerability resulting from the migratory flow to the state of Roraima and caused by the humanitarian crisis in the Bolivarian Republic of Venezuela" and has confirmed "the need for humanitarian reception within Brazilian national territory of people coming from the Bolivarian Republic of Venezuela", article 1 of Decree 9.285/2018. However, the ordinances have shown great severity regarding the entry of migrants into Brazil by land and they reveal a distinctly discriminatory character in the treatment of non-Brazilians coming from Venezuela. This has dramatically affected the legal situation of migrants in situations of economic need and other forms of vulnerability.

In general terms, the following are the restrictions on entry through land borders, currently set out in Ordinance No. 652:

- a) Those coming from Paraguay: unrestricted entry, submitted to the usual rules on visa requirements or waivers;
- b) Those coming from neighbouring countries, except Paraguay and Venezuela: entry allowed only to migrants who hold a definitive residence permit; professionals linked to international organizations; foreign employees; cargo carriers; and spouses, companions, children, parents or guardians of Brazilian people.
- c) Those coming from Venezuela: severely restricted entry, which includes of people who have either a Brazilian residence permit or family members in Brazil.

It should be stressed that Venezuelan migrants continued to enter Brazilian territory through existing footpaths for border crossing ("*trochas*"), outside of the migratory entry control of the Federal Police of Pacaraima, which resulted in a large number of undocumented migrants in the state of Roraima. Due to Ordinance No. 652 of 25 January 2021, these migrants could not obtain migratory regularisation through residence permits (Interministerial Ordinance⁶ No. 9/2018, succeeded by Interministerial Ordinance No. 19/2021), nor request to be recognized as refugees.

The Brazilian Federal Public Defenders' Office, through its Regional Human Rights Defenders' Offices and with the support of the Working Group on Migration, Refuge and Statelessness – *GTMAR*, in Portuguese – introduced public-interest civil actions⁷ due to the unconstitutionality, unconventionality and illegality of the successive ordinances. These actions were filed by the Regional Human Rights Defenders' Offices of Rio Grande do Sul (documents: *PAJ nº 2020-026-01580* and *PAJ nº 2020/048- 02522, processo nº 5031124-06.2020.404.7100*) and Acre (documents: *PAJ nº 2020/009-01717 e PAJ nº 2020/055-05527, processo nº 1004501 35.2020.401.3000*), but, so far, they have not been successful.

Between 23 and 27 November 2020, the Federal Public Defenders' Office carried out a mission in the cities of Pacaraima and Boa Vista to diagnose the situation in order to prepare a report

⁵ *Portaria nº120*

⁶ *Portaria Interministerial*

⁷ Translator's Note: A type of class action that is commonly brought by government agencies.

with guidelines for the new management of the Federal Public Defenders' Office, and these guidelines are in the proceeding *Processo SEI 08038.068679/2020-71*, doc. n°4158425. On that occasion, the GTMAR issued Technical Note No. 9⁸, in order to guarantee undocumented migrants: (a) the right to health and social assistance by public facilities; (b) the right to be assisted by public or private agents without being classified as illegal; (c) access to an Individual Taxpayer Registry (*CPF - Cadastro de Pessoa Física*, in Portuguese); (d) access to banking services, especially to open an account; and (e) the possibility of migratory regularisation through ordinary channels, despite having entered illegally.

After that, on 25/01/2021, the Federal Public Defenders' Office issued Technical Note No. 2⁹, to the Brazilian Federal Government. One of the proposed measures was to amend the then existing Interministerial Ordinance No. 651/2021 and subsequent ordinances in order to include in the list of Article 3 exceptional situations of entry into national territory due to hypervulnerability, including people in social vulnerability, namely: Indigenous people; children and adolescents, separated or accompanied by their parents, and their family groups; people with serious illness, under the terms of Law no. 8,213/91, art. 151 combined with Appendix XLV, no. 77/2015, of the Brazilian Social Security Institute; older people or people with disabilities; pregnant women; and for medical emergencies or force majeure, upon evaluation by the health authority in charge. Another proposed measure is to adopt a new Article 12 to allow the migratory regularisation of people who have been in national territory for months in a context of social and health crisis. However, the proposals were not brought forward.

In this context, the Federal Public Defenders' Office received news of Venezuelan migrants who were under risk of deportation in Pacaraima. This was due to the force of Ordinance No. 652 of 25 January 2021. The DPU sent an official letter (*Processo SEI n° 08161.000002/2021-09*, doc.n°4306547) to the Federal Police Commissioner of Pacaraima to request information about the deportation of migrants. On this occasion, the Institution also requested the suspension of the deportation procedure, until the individual situation of each deportee was investigated. In this case, special attention should be given to the risks that each return may entail and to the guarantee of access to assistance and external communication, either through family members, national agencies or international organizations of which the protective powers are recognized by the Federative Republic of Brazil.

The Brazilian Federal Police, on 12/03/2021, reported through Official Letter No. 23/2021/DPF/PAC/RR, that **"the immediate deportation/repatriation is based on Law No. 13.979/2020 and Ordinance No. 652 of 25/01/2021. Such provisions do not give discretion to the Federal Police to decide who should or should not be deported, after analysing and individually identifying the foreigner. Once non-compliance with the Ordinance is found, the foreigner is then sent back to the country of origin, unless there is a judicial decision to the contrary or in the exceptions provided for in the Ordinance."**

Thus, on 15/03/2021, the Federal Public Defenders' Office, in joint action among the DPU and the Federal Prosecution Service in Amazonas and in Roraima, filed a public-interest civil action (*processo n°10013658220214014200 - PAJ n°2021/007- 00704*) to prevent deportation, repatriation or other compulsory removal of migrants who are being sheltered (hypervulnerable) by the Humanitarian Task Force (*Operação Acolhida* – "Fostering Operation", loosely translated) in Roraima and Amazonas. The claim also sought that the Brazilian Government ensured the right to administratively request the

⁸ Nota Técnica n°9 - doc. SEI n° 4159844

⁹ Processo SEI n°08038.068679/2020-71, doc. n°4209618

regularisation of migration, pursuant to Law no. 13. 445/2017 or Law No. 9.474/97. In 2020, the DPU received news about summary deportations ordered by the Federal Police of Pacaraima regarding Venezuelan migrants who entered into Brazilian territory after the date on which the restrictions of exceptional and temporary entry into the country came into force (Ordinance No. 652 of 25/01/2021 and earlier ones).

Before the requests had been heard by the Judiciary, the situation in Pacaraima deteriorated. On 17 March 2020, with the on-site monitoring of the State Prosecution Service of Roraima and the Brazilian Federal Police, there was a police inspection carried out by the Department of Health Surveillance at *Casa São José*, a popular halfway house run by the *Pastoral do Migrante* faith-based community, which led to an unauthorised entry into Casa São José and into another faith-based entity. In view of these facts, there was an amendment to the request made in the Public-Interest Civil Action in the following terms:

a) the granting of a preliminary injunction, in an urgent procedure, albeit without the prior manifestation of the Brazilian Federal Government, in order to: a.1) prevent any deportation, repatriation or other compulsory measure of removal of migrants who seek shelter (hypervulnerable) by the Humanitarian Task Force (Operação Acolhida) in Roraima and Amazonas; the Brazilian Federal Government must ensure these migrants the right to apply administratively for migratory regularisation, under Laws No. 13,445/2017 or 9,474/97; a.2) state that the summary deportations of (...) who were recognized as hyper-vulnerable by the Operação Acolhida and were under the protection of the Brazilian State are null and void, authorizing their regular re-entry into Brazil, as well as those deportations that may be ordered to persons accepted by the Humanitarian Task Force; a.3) prevent the defendant from entering shelters for migrants in vulnerable situations or other places where they live, such as residences or occupations, by means of its law enforcement bodies, except in cases provided by the Brazilian Constitution, in compliance with the obligation to previously demonstrate a probable cause and with the strict limits set by the Brazilian Supreme Court in extraordinary appeal¹⁰ *RE Nº 603.616*; a.4) prevent the defendant from ordering proactive policing, checkpoints or document control that hinder migrants' access to public and private health and social care facilities available in the Municipality of Pacaraima, including shelters under the management of the Humanitarian and Logistic Task Force (Operação Acolhida) or managed by private social assistance entities of any kind; b) An amendment to the complaint with an additional request that: b.1) the defendant abstains from entering shelters for migrants in vulnerable situations or other places where they live, such as residences or occupations, by means of its law enforcement bodies, except in cases provided by the Brazilian Constitution, in compliance with the obligation to previously demonstrate a probable cause and with the strict limits set by the Brazilian Supreme Court in extraordinary appeal *RE Nº 603.616*; b.2) the defendant party abstains from ordering proactive policing, checkpoints or document control that hinder migrants' access to public and private health and social care facilities available in the Municipality of Pacaraima, including shelters under the management of the Humanitarian and Logistic Task Force (Operation Acolhida) or managed by private social assistance entities of any kind; b.3) the Brazilian GOVERNMENT be ordered to pay compensation for collective moral damages, in no less than R\$25,250,000.00 (twenty-five million, two hundred and fifty thousand reais), due to the massive and repeated violation of the rights of Venezuelan migrants who were subjected to illegal summary deportations, especially in Pacaraima/RR. This amount is to be given, preferably, to support actions against xenophobia and for non-profit entities that provide humanitarian aid and other services of public interest to vulnerable refugees and migrants in general; b.4) the Brazilian GOVERNMENT be ordered to pay compensation for individual moral damages to migrants who have been or will be deported on the basis of the infra-legal normative acts that violate the rights provided for in Laws No. 9.474/97 and 13.445/2017, and the amount shall be subsequently settled according to arts. 97 and 98 of the Brazilian Code of Civil Procedure; c) the imposition of a fine, in an amount to be set by Your Honour, of at least R\$ 100,000.00 (one hundred thousand Reais), for each individual or collective situation that evidences non-compliance with any of the measures specified above; d) an increase in the value of the claim to twenty-five million, two hundred and fifty thousand reais (R\$ 25,250,000.00).

¹⁰ T.N.: Similar to a writ of certiorari in the Brazilian Justice System.

An injunction was granted in proceeding *Processo nº10013658220214014200* – PAJ in order to:

a) determine that the Brazilian Government abstains from ordering any deportation, repatriation or other compulsory measure of removal of migrants who seek shelter (hypervulnerable) by the Humanitarian Task Force (Operação Acolhida) in Roraima and Amazonas, except when in full compliance with Law no. 13.445/2017 and if they are not recognized as refugees, the Government must ensure them the right to administratively request migratory regularisation, under Law No. 13.445/2017 or Law No. 9.474/97; b) declare the nullity of the summary deportations carried out in respect of (...), authorising the immediate re-entry of those migrants into Brazil; c) determine that the Brazilian Government abstain from entering shelters for migrants in vulnerable situations or other places where they live, such as residences or occupations, by means of its law enforcement bodies, except in cases provided by the Brazilian Constitution, in compliance with the obligation to previously demonstrate a probable cause and with the strict limits set by the Brazilian Supreme Court in RE No. 603.616, or under court order; d) determine that the Brazilian Government abstain from ordering proactive policing, checkpoints or document control that hinder migrants' access to public and private health and social care facilities available in the Municipality of Pacaraima, including shelters under the management of the Humanitarian and Logistic Task Force (Operação Acolhida) or managed by private social assistance entities of any kind;

However, the Federal Government filed an interlocutory appeal against the decision and on 30/03/2021 the effects of the appealed decision were suspended (*Tribunal Regional Federal da 1ª Região, 6ª Turma, Agravo de Instrumento nº1009875-74.2021.4.01.0000*). This led to the interruption of the flow of migratory regularisation that had begun for migrants who seek shelter (hypervulnerable).

Therefore, it was found that within the scope of collective protection the Federal Public Defenders' Office did not succeed. Therefore, for now, it is not possible to administratively request migratory regularisation under Law No. 13,445/2017 or Law No. 9,474/97. Migrants who entered into Brazilian territory after the ordinances restricting entry remain undocumented and cannot register legally through the ordinary procedure of Interministerial Ordinance No. 19/2021 or through the asylum application.

3. Methodology

The actions of the Federal Public Defenders' Office in monitoring human rights are increasingly seeking to meet the standards and principles established by the Office of the United Nations High Commissioner for Human Rights (OHCHR). In particular, the Institution seeks to guarantee the rights of and protect potentially affected persons, in accordance with national legal aid legislation and the prerogatives of the Federal Public Defenders' Office prescribed in Supplementary Law No. 80/94¹¹. The first approach to this end, which is duly adapted to the local context, adopts the list of principles summarised in the document *Comisiones de Investigación y Misiones de Determinación de los Hechos en Derechos Humanos y Derecho Internacional Humanitario - Guía y Práctica* (disponible en https://www.ohchr.org/Documents/Publications/Col_Guidance_and_Practice_sp.pdf):

No causar daño: Aunque la comisión/misión no puede garantizar la seguridad de las personas con las que entra en contacto, sí debe velar por que su acción o inacción no entrañe riesgos ni para ellas ni para su personal, su información o su labor. También debe asegurarse de que sus actividades no perjudiquen a las Naciones Unidas.

Independencia: A los miembros y al personal de las comisiones/misiones se les exige que procedan con in-

¹¹ *Lei Complementar Nº 80/94*

dependencia. Deben garantizar que no solicitarán ni aceptarán instrucciones de ningún gobierno, persona u otra fuente, y que al ejercer sus funciones no recibirán ninguna influencia indebida, procedente de gobiernos, personas, ONG u otras entidades.

Imparcialidad: Todas las tareas de la comisión/misión deben basarse en su mandato y en las normas internacionales aplicables; las presuntas violaciones cometidas por todas las partes deben investigarse con igual meticulosidad y vigor. La comisión/misión no debe dar la impresión de que favorece a una de las partes sobre las demás.

Transparencia: La comisión/misión deberá dar a conocer públicamente su mandato, metodología y trabajo, en la medida de lo posible y sin perjudicar su labor, la seguridad de su personal, la información o las personas que colaboran con ella. Las comisiones/ misiones no trabajan en secreto y sólo realizan sus actividades cuando disponen del consentimiento del gobierno.

Objetividad: Se exige a la comisión/misión que reúna todos los elementos de hecho pertinentes de todas las fuentes relevantes, que examine objetivamente todos los datos y la información compilada, y que fundamente sus conclusiones sobre los hechos recabados. En esta tarea sólo debe tener en cuenta la información recopilada de manera objetiva e imparcial.

Confidencialidad: Se exige a la comisión/misión que respete la confidencialidad de las personas que cooperan con ella y de la información que recoge. Además de la protección que proporciona, la confidencialidad realza la credibilidad de la comisión/misión, la integridad de las actividades de recopilación de información y la eficacia de su labor.

Credibilidad: La comisión/misión tiene que ganarse la confianza de las víctimas, testigos y otras personas, a fin de lograr que cooperen en el suministro de información. La comisión/misión no debe prometer lo que probablemente no podrá cumplir y debe cumplir todas las promesas que haya formulado. Visibilidad: La comisión/misión debe tener una presencia visible en el país interesado, si se le concede acceso al mismo. Esta visibilidad permite que las autoridades estén al tanto de su labor y que las víctimas y testigos aporten información. La visibilidad también podría evitar nuevas violaciones de los derechos humanos. Pero la comisión/misión también debe tener en cuenta que la visibilidad puede poner en peligro a quienes cooperan con ella y debe tomar las precauciones adecuadas.

Given this reference of guidance, the mission used the following methods of data compilation to draw conclusions:

- a) Interviews documented on a restricted basis with victims, families, lawyers and witnesses having first-hand knowledge of the incidents recounted (primary sources);
- b) Meetings with people with first-hand knowledge of the facts (primary sources);
- c) Certified digital information (videos, photos and internet content, substantiated by primary sources);
- d) Public statements from representatives of the Brazilian Government;
- e) Brazilian laws, policies and guidelines;
- f) Public legal proceedings made available by the information systems of the Judiciary;
- g) Public documents available in the Electronic Information System of the Federal Public Defenders' Office.

Due to time and resource limitations, the mission was unable to assess the entire context of involvement in situations of vulnerability or that took place in the State of Roraima during the enforcement of the ordinances of exceptional and temporary restriction on entry into the country. Furthermore, the mission considered as evidence other actions and visits made by the Federal Public Defenders' Office in Boa Vista and Pacaraima to monitor the facts, the continuity of which may be relevant to the determination of a future milestone in the violation of rights.

Finally, it should be noted that throughout the mission gender issues and their implications in the observed contexts of vulnerability were considered, especially during closed interviews with victims and primary sources.

4. Analysis of the facts and information collected

The following is an analysis of the facts found during the monitoring mission:

4.1. Fulfilment of the prerogatives enjoyed by members of the Federal Public Defenders' Office

Under the terms of Article 134 of the Brazilian Federal Constitution, the Federal Public Defenders' Office is a permanent institution, essential to the jurisdictional function of the State, and is responsible primarily, as an expression and an instrument of the democratic regime, for the judicial guidance, the promotion of human rights, and the full and free-of-charge defence, in all levels, both judicially and extrajudicially, of individual and collective rights of the people in need.

Article 44 of Supplementary Law No. 80 provides for the prerogatives of members of the Federal Public Defenders' Office. Subparagraph VII of that article states that they have the right to *"VII - communicate personally and confidentially with the assisted parties, even when these are in prison or in detention, despite being incommunicado, and may enter police, prison and collective detention facilities freely, regardless of prior appointment."*

It is important to emphasise that these prerogatives are not a privilege. Rather, they are a fundamental right guaranteed by the Brazilian Constitution to ensure the full and independent exercise of the institutional functions that the Public Defenders' Office performs not only for the individual protection of its members, but also to promote human rights on behalf of the people it assists. It is an indispensable instrument for performing the activities of the Public Defenders' Office.

Thus, the shelters built in Boa Vista and Pacaraima by the Logistical-Humanitarian Task Force *Operação Acolhida*, run and coordinated by the Federal Government, are not expressly provided for in item VII, Article 44, of Supplementary Law No. 80. However, it is certain that the intention of Brazilian legislation was to always ensure, without any discrimination, to all who find themselves under the custody of the State - regardless of the legal title of the entity or even if it is typified in the Unified System of Social Assistance (SUAS, in Portuguese) - or to those who need it, the right to fully access the Public Defenders' Office, so that state limitations cannot serve as a barrier to the application of this fundamental right.

Therefore, with regard to visits to shelters, whether in Boa Vista or Pacaraima, the Federal Public Defenders' Office must be explicitly guaranteed free access to the shelters, after due identification, regardless of prior scheduling. Furthermore, in order to provide legal advice and defend individual, diffuse and collective rights and interests, it is necessary that the visits are carried out in an independent manner. That is, the visits must be made solely by the staff of the Federal Public Defenders' Office, or persons authorised by the DPU to monitor the proceedings. These prerogatives are indispensable and inherent to the DPU's mission to promote human rights. Therefore, third-party monitoring, whether they are Brazilian Army soldiers, members of international organizations or civilians, of *on-site visits* made by the DPU to shelters or spaces

provided by *Operação Acolhida* must be authorized in advance by the DPU to safeguard institutional prerogatives, professional secrecy and other constitutionally guaranteed rights.

Similarly, in Pacaraima/RR, where the influx of Venezuelan migrants is concentrated, it is important that the DPU has a reserved space within the premises of *Operação Acolhida* that allows communication with its assisted persons in a confidential and secretive manner. At this point, the visits made by this mission found that the DPU office in Pacaraima is located in the PRI - Registration and Identification Post, inside the Federal Police office, so currently there is no reserved space for confidential communication which is restricted to the parties, with privacy and without risk of being heard even if involuntary. Throughout the mission, there were difficulties in collecting statements and conducting interviews with the people assisted, due to the lack of space reserved for direct and private communication. At times it was necessary to use the facilities of international organisations to ensure the right to a personal and private interview, as the DPU room is next to the space occupied by the Federal Police, separated only by a flimsy partition with no acoustic insulation.

These aspects are also intimately connected to the duty of the members of the Public Defenders' Office to safeguard the confidentiality of documents or information obtained in the exercise of their position or function which, by force of law, are confidential in nature. In addition to this duty, professional confidentiality is a right of those interviewed and assisted with legal aid.

4.2. The right of undocumented migrants to health care through public services

By analysing the data collected, it has been found, with regard to health care, that the National Health Card, an identification document for users of the Unified Health System (*SUS*, in Portuguese), is not being issued to Venezuelan migrants who do not have a photo ID.

This is of great concern as it affects not only Venezuelan migrants in general, but especially children and adolescents since in the Bolivarian Republic of Venezuela identity cards are not issued to children under nine (9) years of age. At this point, based on the reports, the mission finds reasonable grounds to believe that the National Health Card is not being issued to Venezuelan children and adolescents who do not have a photo ID; that is, all children under nine (9) years of age in a situation of migratory irregularity.

Furthermore, the mission has also confirmed that the National Health Card is not issued in some health posts for people in an irregular migratory situation. It became clear that there are health posts, especially in the municipalities in the countryside of the State of Roraima, that deny the issuance of the National Health Card (*CNS*, in Portuguese) to Venezuelan migrants in an irregular migratory situation in Brazil. Obviously, it is impossible to know the situation of each health unit, but primary sources indicate that at least part of the service, linked to the *SUS*, is being unduly restricted.

The guarantee of the right to health and social assistance by public facilities has already been the subject of a Technical Note issued by the DPU (*Nota Técnica nº 9 - DPGU/SGAI DPGU/GTMR DPGU, processo nº08038.068679/2020- 71, doc. nº 4159844*) in response to the technical report of the mission carried out in the State of Roraima from 23 to 27 November 2020.

During the mission, it was further reported that in the municipality of Amajari/RR, there were 2 (two) deaths, unrecorded, at the end of 2020, of non-indigenous Venezuelans due to malaria, because they were not treated in time. The sources also informed that in the Trairão region, rural

zone of Amajari/Roraima, there are illegal mines, which probably account for the absence of official medical assistance.

It should be noted that the accounts heard stressed that since last year the pattern of health-related claims has changed and is more serious, especially with regard to mental health. In this respect, the accounts revealed that Venezuelan migrants are subjecting themselves to more precarious conditions to get to Brazil, due to the country's entry restrictions currently determined by Ordinance No. 652 of 25 January 2021, and thus the reports of violence occurring during the journey have increased and become worse.

4.3. The right to health of non-Brazilian Indigenous peoples

From the reports collected, it has been found that the Indigenous Health Care Subsystem (*SASISUS*, in Portuguese) does not consider Venezuelan Indigenous peoples who have migrated to Brazil in its census. The current legislation provides that the Special Secretariat for Indigenous Health (*SESAI*) must assist the Indigenous people included in *SASISUS*. Based on the interviews conducted, when an Indigenous person is included in the scope of *SASISUS*, including the specificities of the Action Against the Violation of a Constitutional Fundamental Right (*ADPF*) No. 709, *SESAI* is responsible for primary care and coordination with other members of SUS (states and municipalities) for cases that require medium and high complexity care, in which case *SESAI* accompanies the patient from the beginning to the end of treatment.

Furthermore, according to the National Plan for the Operationalization of Vaccination against COVID-19, Indigenous people served by *SASISUS*, including the specificities of *ADPF* No. 709, are a priority group for the first phase of vaccination.

Thus, as Venezuelan Indigenous peoples who migrated to Brazil are not considered in the Indigenous Health Care Subsystem, the *SESAI* teams do not provide assistance. In this regard, the mission confirmed that there is different treatment for Brazilian Indigenous Peoples and non-Brazilian Indigenous Peoples, even if the latter are duly documented in the national territory. This treatment is particularly given by the DSEI - Special Indigenous Health Districts that operate in Indigenous territories.

It has been stated that Venezuelan Indigenous residents in Brazil are not legally considered to be Indigenous and are not covered by the Indigenous Health Care Subsystem (*SASISUS*), thus not enough money is allocated for care. On an exceptional basis it was reported that health agents do provide care, but this practice is exceptional.

4.4. Summary deportations, proactive policing and arbitrary arrests in Pacaraima/RR

In 2020, the DPU was informed that the Federal Police of Pacaraima had carried out summary deportations of Venezuelan migrants who entered the Brazilian territory after the date on which the exceptional and temporary restrictions came into force (Ordinance No. 652 of 25/01/2021 and earlier ones). Namely, there had been allegations that as of March 2020 the Federal Police in Pacaraima had been enforcing summary deportations. This was confirmed by Official Letter No. 23/2021/DPF/PAC/RR (*SEI/PF - 18016189 - Ofício*) issued by the Federal Police Station of Pacaraima/RR, on March 12, 2021, in response to the inquiry initiated by the DPU (*Processo SEI*

On the occasion, the Federal Police Station of Pacaraima/RR said:

Before immediate deportation/repatriation, a foreigner is submitted to an individualized analysis and, should the Immigration Police Agency (Federal Police) find that the foreigner is at risk (e.g. a deserter), immediate deportation/repatriation is not implemented. However, the migratory regularisation is also not carried out. This is because currently the Federal Police does not issue the initial asylum application of foreigners from the Bolivarian Republic of Venezuela who entered into the Federative Republic of Brazil after the date on which the exceptional and temporary restriction on entry for Venezuelans came into force (Ordinance No. 652 of 25/01/2021 and earlier); this inconsistency is being questioned by the undersigned and may be settled soon. In conclusion, the immediate deportation/repatriation is grounded on Law 13.979/2020 and Ordinance 652 of 25/01/2021. These legal provisions do not give discretion to the Federal Police to decide who should or should not be deported following analysis and individualized identification of the foreigner. Once non-compliance with the Ordinance is verified, the foreigner is returned to the country of origin, unless there is a judicial decision to the contrary or in the exceptions provided for in the Ordinance.

Thus, the Federal Public Defenders' Office, operating jointly with the Federal Prosecution Services of Amazonas and Roraima, promoted a public-interest civil action (*Processo n°10013658220214014200 - PAJ n°2021/007- 00704*). This action aims to prevent deportation, repatriation or any other compulsory measure of removal of migrants in shelter (hypervulnerable) by the Logistical-Humanitarian Task Force *Operação Acolhida* in Roraima and Amazonas. The Federal Government should also ensure the right to apply for migratory regularisation, pursuant to Law no. 13. 445/2017 or Law No. 9.474/97. In addition, it was requested that the summary deportations made against the migrants specified in the complaint be declared null and void and that, during the deportation procedure, the deportee be guaranteed communication with his or her family members, members of international organizations, or public agents.

On 15.03.2021, contingents of the Federal Police set up checkpoints on the roads leading to the premises of *Operação Acolhida* in Pacaraima, thus preventing undocumented migrants from going to *Operação Acolhida* to seek humanitarian shelter services.

On 17.03.2021, with the presence of the State Prosecution Service and the Federal Police, there was an inspection conducted by the Department of Health Surveillance at *Casa São José*, a well-known halfway house run by the *Pastoral do Migrante*, resulting in an unauthorised entry into the accommodation, publicly characterized as an "invasion".

These facts have been informed in an amendment to the complaint of the public-interest civil action (*Processo n°10013658220214014200 - PAJ n°2021/007-00704*) proposed by the DPU in joint action with the Brazilian Federal Prosecution Service (MPF, in Portuguese).

The request for injunction was granted in the proceedings of the aforementioned public-interest civil action, as follows:

In the light of the above, I hereby grant the application for injunction in order to: a) determine that the Brazilian Government abstains from ordering any deportation, repatriation or other compulsory measure of removal of migrants who are being sheltered (hypervulnerable) by the Humanitarian Task Force (*Operação Acolhida*) in Roraima and Amazonas, except when in full compliance with Law no. 13. 445/2017 and if they are not recognized as refugees, the Government must ensure them the right to administratively request migratory regularisation, under Law No. 13.445/2017 or Law No. 9.474/97; b) declare the nullity of the summary deportations carried out in respect of (...), authorising the immediate re-entry of those migrants into Brazil; c) determine that the Brazilian Government abstains from entering shelters for migrants in vulnerable situations or other places where they live, such as residences or occupations, by means of its law enforcement bodies, except in cases provided by the Brazilian Constitution, in compliance with the obligation to previously

demonstrate a probable cause and with the strict limits set by the Brazilian Supreme Court in RE No. 603.616, or under court order; d) determine that the Brazilian Government abstain from ordering proactive policing, checkpoints or document control that hinder migrants' access to public and private health and social care facilities available in the Municipality of Pacaraima, including shelters under the management of the Humanitarian and Logistic Task Force (*Operação Acolhida*) or managed by private social assistance entities of any kind; I hereby impose, for each new deportation, repatriation or impediment to the request for migratory regularisation, especially the request for refuge, against those migrants indicated in the initial petition (hypervulnerable), a fine of R\$ 10,000.00 (ten thousand reais) for each practice performed against this decision and the laws herein mentioned, except, evidently, Ordinance nº 652, of 25/01/2021. I hereby impose a fine of R\$ 50,000.00 (fifty thousand Reais) if unjustified obstacles are raised to the return of the persons indicated in item "b". I hereby impose a fine of R\$ 100,000.00 (one hundred thousand reais) for each invasion into shelters for migrants in vulnerable situations or into other places where they live except in constitutionally permitted events by the federal law enforcement agencies. As for item "d", considering that the substantive interpretation of a police barrier allows for countless subjective factors, I will not set a fine at this time. It is up to the claimants to fully demonstrate that the Brazilian Federal Police Department, the Federal Highway Police or another agency failed to comply with the determination, so that the situation can be assessed and the fine to be applied can be calculated.

Thus, the present mission also aimed at investigating the events that occurred on 17/03/2021.

Beyond any reasonable doubt, this Mission finds grounds to believe that, during the period of exceptional and temporary restriction on entry into Brazil, arbitrary detentions, proactive policing, checkpoints and summary deportations were made against migrants from Venezuela in the municipality of Pacaraima, pursuant to Ordinance No. 652 of 25/01/2021 and previous regulations.

On 11/03/2021, the Mission established that the Brazilian Federal Police deported two (2) undocumented siblings who were wandering the streets of Pacaraima/ RR, one was 24 years old and the other 17 years old. The siblings were with both parents in Pacaraima/RR, who were also undocumented. They have been separated, and the adolescent is being held in an institution in Santa Elena, Venezuela. The mother has informed that she has not yet heard from her twenty-four (24) year old son. On 17/03/2021, the father of this family was deported in an inspection carried out with the participation of the State Prosecution Service of Roraima and the Brazilian Federal Police in a religious establishment in Pacaraima, as previously mentioned. The woman whose children had already been deported on 11/03/2021 has no further news of her husband.

Similarly, on 17/03/2021, an inspection was carried out in *Casa São José*, a well-known halfway house run by the *Pastoral Migrante* Centre, and in another faith-based centre that sheltered vulnerable Venezuelan immigrants, that is, those who were facing homelessness. In the former (*Casa São José*), there were only women and children, about 55 (fifty-five) people. The latter, in turn, was home to the husbands of these women, and single men, roughly 28 (twenty-eight) people.

The Public Prosecutor justified the actions by explaining that the place was not complying with municipal health regulations and, therefore, the offence of art. 268 of the Brazilian Criminal Code was being committed, which would authorise police home invasion with no court order. In the police operation, the officers entered the premises with guns and were wearing hoods. The coordinators of the entities that provided assistance were taken to the Civil Police Station in Pacaraima/RR, on the grounds of committing an alleged crime against public health. However, the first information sent to civil society entities mentioned alleged detention for contempt.

It has been found that the inspection was, in reality, an attempt to criminalise the provision of assistance by civil society organisations to non-nationals in undocumented migratory situations and an attempt to carry out summary deportations of those migrants taken in. During the inspection, it

has been confirmed that the access roads to those entities had been closed by vehicles of the Brazilian Federal and Civil Police. There were also armed and hooded men who forced their way into the shelter, the faith-based entity and people's private homes in disproportional manner to the purpose they claimed. The purpose was to investigate the occurrence of the crime foreseen in article 268 of the Brazilian Penal Code, a minor criminal offense. At the time, the women and children sheltered in Casa São José started panicking and it was necessary to call an ambulance to provide medical assistance. It was then reported that a woman who was pregnant at the time of the inspection was bleeding.

The Mission confirmed that on the day of the inspection, on 17/03/2021, undocumented Venezuelans who were in the faith-based entity, and who had family members in Pacaraima, were deported by the Brazilian Federal Police. An estimated number of 10 (ten) people are believed to have been deported, but it has not been possible to identify all of them. Moreover, the mission received a complaint stating that on the day of the inspection there was a cell phone privacy violation, without court order, at the Civil Police Station in Pacaraima / RR.

The facts that occurred on 17/03/2021 were the object of a recommendation made by the National Council of Human Rights (*Recomendação Nº 05/2021*), with the following recitals and terms:

The Brazilian Federal Police Department, the Brazilian Public Security Forces, the Brazilian Army, the Civil Police of the State of Roraima and other law enforcement and border control agencies in Pacaraima/RR:

1. Shall not conduct house searches without a court order, with the aim of identifying undocumented migrants or of suppressing possible agglomerations and other health issues related to COVID-19, in public facilities, especially in those connected to the *Operação Acolhida* and other private ones that provide shelter and social assistance, and particularly when the searches subject the people being sheltered to situations of forced removal.
2. Shall discontinue ordering proactive policing, checkpoints or document control that may restrict the access of migrants to health facilities and social assistance available in the Municipality of Pacaraima, public or private, including shelters under the management of the Humanitarian and Logistical Task Force *Operação Acolhida* or managed by private social assistance entities of any kind;
3. Shall discontinue making arrests or using coercive actions for deportation purposes, regardless of whether the migrants receive social assistance or after being approached at public roads, given the lack of any legal provisions in Law No. 13,445/2017;
4. Except for the Brazilian Federal Police Department, they shall discontinue taking any measures aiming at the immediate deportation of migrants, especially those sheltered in the public and private assistance facilities mentioned above, unless there is a formal administrative proceeding, which ensures an adversarial proceeding, the right to a fair hearing and access to the records involving the legal representatives of those involved.
5. Shall have full respect for the autonomy and personal dignity of the workers of humanitarian shelter services, international and social assistance organizations and civil society organizations involved in the promotion and defense of human rights and migrants.

The Brazilian Federal Police Department in Pacaraima/RR:

1. Shall discontinue mass deportations without an individual breakdown of each migration case and shall guarantee a due legal process, notifying the Federal Public Defenders' Office in advance, pursuant to Art. 49, §2 of Law No. 13,445/2017;
2. Shall discontinue promoting investigations against persons who defend human rights or provide social assistance services to migrants in a situation of document or entry irregularity for allegedly committing the crime of promoting illegal migration (Art. 232-A of the Criminal Code) or similar crimes.

The Civil Police of the state of Roraima (RR):

1. Shall not promote health surveillance measures which imply the denial and suspension of social assistance services to people, Brazilians or migrants, in a vulnerable situation, whether or not these measures are associated to repressing illegal migration and checking documents. These measures must be preceded by a communication to the specialized agencies (Child Protection Services, Municipal Department of Social Assistance) and a prior notice to the facilities managers, when strictly necessary.

The municipality of Pacaraima

1. Shall not promote the resettlement of people during the pandemic and, should such action be indispensable, the guidelines set out in Recommendation No. 10, of 17 October 2018, of the National Council for Human Rights, shall be respected;

The Prosecution Service of Roraima and the Federal Prosecution Service:

1. Shall monitor local police activity, especially any police operations concerning the situation of migrants, in order to ensure full compliance with Article 3, III of the Migration Law (principle of non-criminalisation of migration), as well as to respect the rights and guarantees of human rights advocates and humanitarian service workers.

The news coverage of the events that took place on 17 March 2021 in Pacaraima/RR was significant and has been compiled as follows:

Globo.com (G1)

<https://g1.globo.com/rr/roraima/noticia/2021/03/18/pf-tenta-deportar-mais-de-50-mulheres-e-criancas-ve-nezuelanas-de-abrigo-em-rr-e-acao-cobra-indenizacao-por-danos-morais.ghtml>

Roraima 1

<https://www.roraima1.com.br/2021/03/19/acao-conjunta-tenta-deportar-imigrantes-venezuelanos-em-abrigo-de-pacaraima-e-freira-e-detida/>

<https://www.roraima1.com.br/2021/03/20/mais-de-130-organizacoes-assinam-nota-publica-contra-acao-policial-que-desalojou-migrantes-venezuelanos-em-pacaraima/>

Migramundo

<https://migramundo.com/abrigo-para-imigrantes-e-invadido-pela-policia-em-roraima-dpu-impede-deportacao-sumaria/>

UOL/Folha

<https://www1.folha.uol.com.br/mundo/2021/03/policia-invade-abrigo-de-refugiados-e-detem-freira-em-roraima.shtml>

Folha BV

<https://folhadv.com.br/noticia/CIDADES/Interior/Entidades-se-manifestam-sobre-suposta-invasao-policial-em-abrigo/74192>

Cáritas Brasileira

<http://caritas.org.br/noticias/caritas-reafirma-compromisso-em-defesa-dos-direitos-da-populacao-migrante-e-refugiada-no-brasil>

Diocese de Roraima

<https://diocesederoraima.org.br/index.php/2021/03/19/nota-publica-por-justica-e-dignidade-contra-a-violencia/>

The Federal Public Defenders' Office formulated information requests immediately after the events, which were summarised as follows, with the respective referrals:

Processo SEI 08038-007245/2021-85. Documento nº4320905/2021 DPU/GABSGAI DPGU. Official information request to the Director of the Ministry of Justice's Migration Department - DEMIG/SNJ/MJ

Processo SEI 08038-007245/2021-85. Documento n°4321526/2021 DPU/SAE DPGU. Official information request to the Director of the Brazilian Public Security Force

Processo SEI 08038-007245/2021-85. Documento n°4321493/2021 DPU/SAE DPGU. Official communication to the Federal Prosecution Service in Roraima

After the mission, the IACHR - Inter-American Commission on Human Rights issued the following press release on 01/04/2021 (available at <http://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2021/082.asp>):

La CIDH llama a los Estados de la región a adoptar políticas migratorias y de gestión de fronteras que incorpo- ren un enfoque de derechos humanos

(...)

Ante este panorama, la CIDH observa con preocupación casos donde se utiliza de forma creciente a las fuerzas armadas en diferentes países de la región, tales como Brasil, Chile, Ecuador, Guatemala, México, Nicaragua y Perú. Al respecto, de acuerdo con información recibida, el Conselho Nacional de Direitos Humanos (CNDH) en Brasil habría cuestionado la Ordenanza No. 62/2021 del Ministério da Justiça e Segurança Pública, actualizada por la Ordenanza No. 86/2021, que ordena a la Fuerza Nacional de Seguridad Pública, una policía de naturaleza militar, a asistir a los cuerpos estatales de seguridad pública “en las actividades de bloqueo excepcional y tempo- ral de la salida de extranjeros al país, de manera esporádica y planificada”. Al respecto, nota que dicha actividad contravendría lo establecido en el artículo 22.1 de la Convención Americana de Derechos Humanos, que recono- ce el derecho de toda persona a salir libremente de cualquier país, inclusive del propio.

Asimismo, el 18 de marzo de 2021 el CNDH emitió la Recomendación No. 5 sobre la adopción de medidas para la gestión de la migración en el municipio de Pacaraima, fronterizo con Venezuela. Ello, en respuesta a las denuncias por la posible intensificación de controles migratorios con el fin de ubicar a las personas migrantes en situación irregular y proceder a su deportación, así como por el ingreso no autorizado de la Policía Federal, Policía Civil del Estado de Roraima y Ministerio Público del Estado de Roraima a Casa São José —un equipo de asistencia y ayuda humanitaria gestionada por la Pastoral do Migrante— para desalojar a aproximadamente 55 personas migrantes.

En particular, respecto a lo anterior, el CNDH recomendó: i) no realizar registros domiciliarios sin orden judiciales, con el fin de identificar personas migrantes en situación irregular; ii) no promover medidas de inspección sanitaria, asociadas o no a la represión de migración irregular; y ii) evitar el desalojo de personas durante la vigencia de la pandemia. Al respecto, el Estado informó que las normas y medidas tomadas son excepcionales y temporales y tienen un carácter sanitario, no reflejando la política migratoria brasileña, como la Ordenanza Interministerial N ° 652, de 25 de enero de 2021, que se mantendría vigente, y aunque no fue aceptada por el CNDH, encontraría sustento en la Ley N ° 13.979, de 6 de febrero de 2020. Además, Brasil informa no haber realizado ni realizar deportaciones colectivas.

(...)

En particular, los Estados deben aplicar medidas que aseguren el ingreso a los territorios de los Estados, apliquen medidas alternativas a la detención migratoria, y garanticen acceso a los procedimientos migratorios, de asilo o de protección internacional, en aplicación de los protocolos sanitarios requeridos. Ello, con perspectiva de género y enfoques diferenciados de atención a diversos grupos, tales como niñas, niños y adolescentes, personas mayores, y personas LGBTI, proporcionando mecanismos de protección específicos para prevenir vulneraciones de derechos, la protección de la unidad familiar y el respeto al principio de non- refoulement.

Es de destacar que la imposición de medidas restrictivas que no consideran las necesidades de protección internacional ha obligado a las personas con necesidades de protección internacional a regresar a los territorios de los Estados en donde su vida, libertad personas o integridad personal estarían en peligro; además de que ha obstaculizado, en su caso, la reunificación familiar.

Por otra parte, respecto de la interrelación entre las políticas migratorias y la seguridad ciudadana, la Comisión ha señalado que esta debería ser de competencia exclusiva de cuerpos profesionales no militarizados y especializados, debidamente organizados y capacitados, y estar sometidas a los controles de los parlamentos y, en su caso, del sistema judicial ordinario. Adicionalmente, ha considerado que la designación de personal con perfil y

formación militar no tendría la capacidad para responder adecuadamente a las personas con necesidades de protección internacional. Por ello, ha reiterado la necesidad de realizar una distinción entre funciones de seguridad y de asistencia humanitaria directa a las personas migrantes, refugiadas y con necesidades de protección, con asignación de funciones de atención y asistencia estrictamente a personal civil especializado.

Based on the information collected and confirmed by all primary sources and audiovisual records, there is evidence that the operation was not motivated by the prevention of public health or investigation of the crime of Article 268, but rather with the underlying objective of giving police authorities, especially the Brazilian Federal Police Department, access to *Casa São José* to detect undocumented migrants and enforce immediate deportation under Ordinance No. 652. This is relevant to the extent that the claim to prevent the spread of COVID-19 in social assistance facilities is exploited in favour of repressing so-called "illegal migration". Conversely, the fact-checking sources categorically state the decisive participation of the State Prosecutor of Pacaraima, a member of the State Prosecution Service of Roraima, in the action by commanding and intimidating those who were present. Finally, there is no way to dissociate the responsibilities of the institutions involved - Brazilian State Prosecution Service, Civil Police and Federal Police - in the action - or even to assert that the location of potentially deportable persons was found by chance and after an alleged situation of flagrante delicto that led to their entry into the location. In fact, there is a clear correlation between the argument employed and the final objective.

As of February 17, 2021, precisely one month before the facts verified - Administrative Recommendation No. 003/2021 of the District Attorney of Pacaraima (*procedimento administrativo nº 0011-045/2020*) could suggest that the prevention of COVID-19 would include a nightly curfew from 9 pm to 6 am pursuant to municipal and state decrees. At the same time, however, the recommendation cites, as a reason, "the large number of migrants who daily roam and sleep in the streets of Pacaraima/RR". Therefore, there is awareness that migrants should not be left in a situation of homelessness, but the response of the Public Prosecution Service and other agencies was the forced eviction of one of the only social assistance facilities run by human rights defenders and supported by civil society and not linked to the *Operação Acolhida*. Forming a situation of impossibility represented, according to the sources heard, an environment of deportability, in which migrants became afraid to go out on the streets and, after the unauthorised entry into the *Casa São José*, they became afraid to remain in environments until then considered safe. These safe environments should be guaranteed inviolability except under judicial order or flagrante delicto, on the basis of Article 5, XI of the Brazilian Constitution.

Thus, it is necessary to thoroughly investigate how the agents involved behaved, especially in view of reports and documents alleging the occurrence of a conduct legally foreseen as abuse of authority (*Lei nº 13.689/2019*). Nevertheless, there is enough material to identify a process of progressive criminalisation of the assistance given to migrants on the part of the law enforcement agencies in Pacaraima/RR.

4.5. Situation of the Orquídeas II Urban Settlement in Paracaima/RR

During the mission, there were visits to the urban settlement called Orquídeas II, in Pacaraima/ RR, a settlement that has existed for approximately 1 (one) year and 2 (two) months. According to the data collected, there is a risk that the families settled on the site will be evicted. At this point, the State Prosecution Service of Roraima, through the Prosecutor of Pacaraima, issued an official letter to the Mayor of the Municipality, considering the alleged damage to the environment due to the occupation (*Ofício PJPAC n° 0246889/2020 - PA 000104-45.2020*).



This letter requested information on "the actions that the municipality has taken to regularise the situation, in view of a possible willingness of the Operação Acolhida to provide support in relocating families to the Shelters in Boa Vista/RR." Based on reports and documents, the *on-site* visit revealed that a minor part of the space is occupied by families who have a signed contract for sales, with due conveyance, and who allege that the situation of the property is regular. However, most of the families settled at the location claim that the land was occupied spontaneously. There are currently about 223 (two hundred and twenty-three) Venezuelan families in the Orquídeas II Settlement, most of whom are undocumented. It is estimated that there are about forty (40) undocumented children and adolescents in a situation of vulnerability and there is no consistent information regarding access to education. There is no information on separated or unaccompanied children and adolescents; in fact, there is no data on such population, as no surveys or assessment procedures were carried out regarding this matter. Some families had arrived after the entry restriction ordinances were in force while others had already been living in Pacaraima, but with the economic crisis resulting from the pandemic they moved there. They also informed that some children living in the occupation were born in Brazil, even during the pandemic, without consistent information regarding policies to guarantee birth registration and other basic rights for early childhood. Each person has a septic tank in their shack, but there is no water or sewage treatment. The sources revealed that the Pacaraima Migrant Pastoral Care provides ongoing assistance with food and basic hygiene items.

As it turned out, there are a significant number of children and adolescents, pregnant women and older people in the occupation, most of them undocumented. They claim that they are receiving health care, but that there is no sanitation in the area, and that they live in extremely precarious conditions, in tents.

As previously mentioned in Technical Note n°2 DPGU/SGAI DPGU/GTM DPGU (*Doc. SEI n°3534644*) elaborated by the DPU: "the enforcement of judicial orders for forced removals promotes overcrowding, which is contrary to the recommendations of the Ministry of Health regarding isolation"; and "the implementation of forced removals, which can only be carried out by judicial determination, also implies holding meetings or public events involving those people (individual claims)



the state agents responsible for the removal (social workers, police officers, process servers, public defenders, drivers, etc.), by determination of the State in its judicial capacity. As a result, situations of agglomeration and personal contact are created that foster contagion, which evidently contradicts the recommendations of the health agents for the present moment."

In this case, a weakening of public policies is evident, with violations to the principle of human dignity, the rights to health and social assistance, and especially to specific policies for the reception and protection of vulnerable groups, such as children and adolescents, older people and women who are pregnant or lactating. On this issue, the mission came to the conclusion that it is necessary to build solutions in dialogue with local leaders, preventing alternative sheltering proposals consisting of collective shelters or forced cohabitation without the participation of the population involved and preventing homelessness.

4.6. Human rights violations at the International Coach Station - José Amador de Oliveira in Boa Vista/RR

From the data collected in the mission, it was evident that the situation of migrants in the José Amador de Oliveira International Coach Station, in Boa Vista/RR, hereafter called "Coach Station", is alarming. In November and December of 2020, a considerable increase of Venezuelan migrants occurred at the Coach Station, and currently there are an estimated 1,316 (one thousand three hundred and sixteen) people, including women, children, adolescents, LGBTIQ+ people and other groups requiring special attention, according to data from the International Organization for Migration - IOM. The Brazilian Army daily lends out collective and individual pop-up tents for emergency shelter. In addition, three meals a day are served (breakfast, lunch and dinner).



The vast majority of the people accommodated are Venezuelan migrants in irregular migratory situations, as they entered the Brazilian territory after the entry restriction ordinances were in force, according to the findings of the mission. There are also migrants in a regular migratory situation who were unable to support their lives and their families because the emergency aid had been discontinued and they had to go to the Coach Station to look for protection. The emergency aid is a financial benefit granted by the Brazilian Federal Government for emergency protection due to the crisis caused by the pandemic.

They said that in February 2021 a vaccine campaign was conducted because most people were not vaccinated due to the border closure and the interruption of immunization in Pacaraima through the flow of *Operação Acolhida*.

Among the facts noted are:

1. Reports of physical and psychological violence against LGBTIQ+ groups who are not pressing charges because they feel unsafe and intimidated due to their irregular migration status. In addition, they would no longer be covering themselves for protection;
2. Cases of migrants settled in the Coach Station who were victims of human trafficking and modern slavery and do not press charges for fear of being deported, since they are undocumented. It was not possible to gather detailed information about these facts or to identify the victims, as the information was provided by a third party. At this point, it is important to note the mission's concern about the weakening of public policies in the area as this is a dangerous scenario because it encourages parallel management flows, eventually inciting human trafficking networks or criminal organizations.
3. Situation of great insecurity, due to the actions of groups chosen as collaborators of the Brazilian Army in the Coach Station, and who allegedly are imposing parallel rules by means of violence and intimidation, as a result of this function. These collaborators were reported to be charging the migrants' staying at the Coach Station to make it possible for them to use better accommodations, and from these payments, they were running the area. At the time, it was also informed that if the parallel rules imposed were not followed, the migrants were removed from the Coach Station by these collaborators. The migrants reported that these collaborators have free movement in the space of the

Coach Station, which prevents any discussions about safety on the premises. Furthermore, it was reported that the collaborators do not use the cafeteria, because they receive box lunches, and have a separate area from the remaining migrants.

4. Cases of gender-based violence against women, which are referred to the Specialized Police Station for Women's Assistance in Boa Vista/RR.
5. A considerable number of Venezuelan children and adolescents are encamped at the Coach Station in a situation of rising vulnerability; the efforts of the Brazilian Army to maintain a basic level of organization and sanitation for the people facing homelessness should be appreciated, but it is clear that the space is not adequate to shelter more than a thousand people, especially children and adolescents. There are reports of children having respiratory problems, due to the ground on which the tents are set up. Moreover, the families have reported that the tents get damp and cold on rainy days, which worsens the health situation of children and adolescents. There is also concern about the unsafe conditions and violence generated by the activities of parallel groups against children and adolescents with the use and sale of drugs by local residents, as mentioned in item 3 above.

Finally, it is important to emphasize that during the mission's visit to the Coach Station, the feeling of insecurity among the migrants living there was perceptible, and therefore no further information could be gathered. Despite the guarantees of confidentiality and secrecy in the legal assistance provided by the Federal Public Defenders' Office, most of those interviewed felt intimidated and their further safety could not be guaranteed in any way. During the visit, the mission team themselves were intimidated by individuals and small groups who were overtly observing the interviews to the extent that the team had to leave the premises at a given time.

Despite the general conclusion presented above, the report is not meant to come up with definitive solutions, make any public complaints, nor to attribute responsibility to any of the actors involved. As the title states, this is a diagnosis based on the scenario detected in the second half of March 2021, with subsequent inputs.

In this diagnosis it is not possible to draw an extensive history of the Coach Station camp and the stages of its consolidation as an alternative to the formal sheltering by *Operação Acolhida* or the emergency action of the Brazilian Army. However, it should be noted that the Federal Public Defender's Office, when visiting in April 2019, just under 2 years before the present report, had already produced a report by its Migration, Statelessness and Refuge Working Group that identified the absence of effective social assistance protection for migrant children and adolescents in the region, which demonstrates the duration of the problem. According to the report (*processo nº 08038.002421/2019-78, doc. SEI nº 2929578*):

Children and adolescents experiencing homelessness

During a visit to the Coach Station area - before the structural changes that took place in May, with improvements - the presence of children and adolescents facing homelessness was perceptible, most of them accompanied by their parents. As said before, in April the area was wide open, with security, storage room and child-friendly space provided by the Brazilian Army, in addition to the daily lend-out of 160 (one hundred and sixty) individual pop-up tents, which can be used somewhat comfortably by a couple and a child. Within the same premises, there is daily supply of meals according to the Operation's standard.

It is undeniable that an open area in such conditions cannot be adequate to house hundreds of people - approximately 600 (six hundred) immigrants, according to the Army's estimate. However, the efforts to maintain basic security, sanitation and dignity for the people facing homelessness should be valued. The

efforts of the Brazilian Army, Unicef and their partner entities to maintain a kind of "nursery-school" in a friendly space, allowing children to stay in a safe place sheltered from the sun while their parents look for a job or do informal work around the city, should also be highlighted. Perhaps of more concern is the possibility that there are children and adolescents who are undocumented or even unaccompanied, in informal groupings ("street families") due to difficulties in accessing the channels of the border management in Boa Vista. These cases can go unnoticed and generate serious situations of vulnerability and increased risk of human trafficking, due to the lack of an organized list or the lack of training for the actors involved in the reception (military).

Another point that can further limit the extent of control is the difficulty reported, informally, by Child Protection Officers in monitoring the space and actively identifying children at risk. There were reports suggesting that the Brazilian Army did not have a positive view of the Child Protective Council's work, as they believed that its bias would be to repressively take children away from their parents, without understanding the emergency situation they are going through, which warrants some degree of child labor. In other words, there is a great chance that child protection will be caught between a protectionist-repressive vision and a more patronizing one. Thus, the best solution would be to encourage the Council to play a greater role, with frequent visits, associated with the training of the military involved in security about the importance of allowing the local protection structures to act.

In any case, it is fundamental to point out that the scenario currently detected reveals a state of generalized violation of human rights of which the Brazilian migration policy is largely responsible. As it turned out, about 90% (ninety percent) of the migrants living in the coach station are from Venezuela and have entered Brazilian territory after the effectiveness of the ordinances restricting entry, and therefore are undocumented and unable to regularise their status or apply for asylum. The undocumented situation is present in all reports of human rights violations, as it implies a feeling of precariousness and temporariness and establishes a system of fear. Despite the advances of Law 13,445/2017 (Brazilian Migration Law), the constant risk of deportation and the sense of not belonging produced by the ordinances hinder access to rights, reinforce stigmas, cause general suffering and spell out the category of undesirable immigrant - the above-mentioned *environment of deportability* that significantly damages the living conditions and health, both physical and mental, of thousands of people¹².

This is a context of invisibility which is associated with the absence of efficient channels for reporting and asking about rights. Not only does it violate minimal international standards of protection, but it also reveals a contradictory behavior of the Brazilian State that has declared "the need for humanitarian reception in the national territory of these people coming from the Bolivarian Republic of Venezuela" and "recognizing the situation of vulnerability arising from migratory flow to the State of Roraima, caused by the humanitarian crisis in the Bolivarian Republic of Venezuela," in 2018, by creating the Logistical-Humanitarian Task Force *Operação Acolhida*. However, the efforts of the Brazilian Army to maintain basic health and dignity to people experiencing homelessness should be valued, as well as the efforts of international organizations that maintained the services *in loco* and provided assistance despite the pandemic.

4.7. Situation of Venezuelan Indigenous people removed from the Ka'Ubanoko community

The mission also aimed at collecting data and analyzing the situation of the Venezuelan

¹² RUSEISHVILI, Svetlana; CHAVES, João. *Deportabilidade: um novo paradigma na política migratória brasileira?* *Plural*, v. 27, n.1, pp. 15-38, 2020 (Available at <https://doi.org/10.11606/issn.2176-8099.pcs.2020.171526>)

Warao, Eñepa and Kariña indigenous people removed from the Ka'Ubanoko community in January 2021. Due to time constraints, it was not possible to diagnose the situation of the non-Indigenous migrants who also occupied the location, but this can be the subject of a new investigation at another time.

As it turned out, those Indigenous people, before creating the Ka'Ubanoko community, were in a situation of homelessness. The community was created in February 2019 and was made up of non-Indigenous and Indigenous Venezuelans from the Warao, Eñepa and Kariña ethnic groups. In the Ka'Ubanoko community, the Indigenous people have organized themselves in a decentralized way, through self-management, based on their habits and customs. Based on the data collected, it is believed that the structure of the organization was established in the form of a General *Cacique*, with the contribution of 05 (five) *Aidamos*¹³ and several Coordination Offices, identified as Health, Hygiene, Safety, Education, Culture, Protection, Sports and Food. There was also a Council of Elders, for political and cultural preservation purposes, which had the role of conflict resolution, marriage issues, etc.

In September 2019, community members received their first notice that they would have to leave the location. Since then, several meetings have been held with the Brazilian Army, international organizations, civil society, the Brazilian Federal Prosecution Service and Federal Public Defenders' Office. In 2020, an assembly convened by the Indigenous leaders of Ka'Ubanoko held an open, preliminary and informative consultation, based on the ILO's Indigenous and Tribal Peoples Convention No. 169. The results of this consultation were sent to the public agencies and other parties involved.

The Mission was given access to the document that was a product to this consultation. In the present report, the most relevant extracts are loosely translated in order to prioritize the migrant narratives and highlight the autonomy and the rights of these peoples to self-determine their priorities in government policies and programs that are likely to affect them directly.

Thus, the document expressly states that the Indigenous people hoped that with this consultation: "every institution and organization would uphold the law that protects the native peoples (Warao, Pemon, Kariña and Eñepa), as established in the Federal Constitution of Brazil, in Articles 231 and 232, respecting their culture and way of life. They say that they want be heard; that they have been asking to be heard for years; that they are used to living close to their families, and they don't want shelter, because it is too small; that living in the shelter is very difficult; that they like to sow, fish, hunt and work the land; that they want a piece of land."

The document stresses that the solution for Indigenous people "*is not shelter, or moving from one place to another, begging in the streets. They want land to settle on. So their children can study*" (unofficial translation).

On that note, a transcript of the document follows:

(Text by the Eñepa Community)

Nacimos en el monte, crecimos en el monte, el monte es buena vida, nosotros trabajamos la tierra, los arboles, la brisa, los rios, y la tranquilidad nos gusta. ABRIGO NO QUEREMOS.

En este mismo orden, muchos indigenas Eñepa expresan que es mejor vivir en Ka'Ubanoko, ser livre es sinonimo de autonomia, las familias Warao también expresan que estar en un abrigo no es una solucion viable, por ello proponen al Estado y la Operacion Acolhida que permita la estabilidad aqui en este espacio Ka'Ubanoko.

¹³ T.N.: Term used by the Warao Indigenous people to designate the head of the group, similar to *cacique* or *tuchaua*.

SOMOS PUEBLOS INDIGENAS ORIGINARIOS, AUTONOMOS, COM PERTENENCIA E IDENTIDAD PROPIA, POR ELLOS NO PODEMOS ESTAR EN UN CAMPO DE CONCENTRACION DE FORMA PERMANENTE.

La falta de oportunidades muchas veces ha causado mucho dano psicologico en los habitantes de los abrigos, estar en un espacio cerrado, con poca privacidad, con una vigilancia y normas estrictas no es tan sano emocionalmente, por ellos no se puede estar muchos anos alli. (Emphasis added)

Furthermore, the consultation addresses relevant issues related to the public policies implemented by the Brazilian State regarding Indigenous Venezuelans. In summary, two aspects are worth mentioning:

1. Inland expansion: the Brazilian State should consider the inclusion of Indigenous Peoples in the inland expansion program, because "being Indigenous does not determine where one should live", and they emphasize the need to build a solution through dialogue with those who want it;
2. Joint administration of Indigenous shelters: in the exceptional case of sheltering, and only as a temporary measure, the Indigenous people should be able to assume the coordination of the shelters, by means of a co-management that respects the organization of the traditional legitimate authorities in decision-making, including in the resolution of conflicts. Furthermore, all measures and decisions should be informed and be taken with the participation of the leadership.

In light of the data collected, it appears that the public policy of sheltering adopted by the Brazilian State in relation to Venezuelan natives is not adequate and needs to be revised. In the case of the Ka'Ubanoko community it was evident that the Indigenous people chose shelter and left Ka'Ubanoko only because of the feeling of insecurity resulting from the conflicts with non-Indigenous people who were also occupying the place.

It should be noted that many Indigenous people refused to return to the shelters after leaving Ka'Ubanoko and chose to continue moving. During the mission, they claimed that the money invested by the Brazilian State to maintain the shelters could be used to stimulate the autonomy of the Indigenous peoples by providing them with their own space, consistent with their culture and customs. In addition, they reported that after they left Ka'Ubanoko they did not have the opportunity to continue the dialogue with other agencies any further. Finally, a piece of land was purchased in the municipality of Cantá/RR to house 15 (fifteen) families. However, they have reported that the space is not enough for all the families who wish to leave the shelters. The Mission was unable to get any more information about the purchase of the land. Finally, the document contains other claims and proposals related to food, education, culture, and education/professionalization.



From the data collected by the Mission, it is evident that the adoption of the *Operação Acolhida* shelters as a public policy for Indigenous Venezuelans, at least in the context under analysis, needs to be questioned and re-evaluated. The Mission has concerns about its long-term continuation.

These spaces unveil the ambiguity of being both "shelter" and also invisible zones of control over bodies through regulation and confinement¹⁴.

As the document accurately mentions, shelters hold life in abeyance: *"Para nosotros abrigo no es solucion, no hemos vivido solo para consumir alimentos, dormir y que nos cuide, sin ningun horizonte, sin futuro, sin plan de vida comunitaria ni familiar. Aunque ciertamente algunos indigenas por falta de oportunidades han aceptado vivir en el abrigo, sin embargo queremos otras alternativas con ayuda de la Operacion Acolhida."*

Therefore, the Ka'Ubanoko community has proven to be, above all, a form of resistance, a path of protagonism found by Indigenous and non-Indigenous migrants when elaborating a new possible way of life, outside the model indicated by the *Operação Acolhida*, as a "new territoriality and form of resistance"¹⁵.

Below are some news reports produced by the print media on the facts:

Amazônia Real

<https://amazoniareal.com.br/em-assembleia-indigenas-venezuelanos-defendem-permanencia-em-kaubanoko/>
<https://amazoniareal.com.br/forcas-armadas-desalojam-indigenas-venezuelanos-de-comunidade-kaubanoko/>

Globo.com - G1

<https://g1.globo.com/rr/roraima/noticia/2020/10/03/acordo-preve-que-imigrantes-permanecam-em-ocupacao-ate-dezembro-em-boa-vista.ghtml>

Thus, the Mission believes that a critical examination of the departure process of Indigenous migrants from the Ka'Ubanoko Occupation is fundamental to an understanding of the challenges faced by the humanitarian management of shelters intended for this population, Pintolândia, Janokoida and Jardim Floresta, at this moment. Moreover, guaranteeing the protagonism of the community assisted by *Operação Acolhida* cannot be neglected, otherwise the social and cultural rights of the affected peoples will be progressively violated.

5. Conclusion

Based on *on-site* observations, interviews with various sources, meetings between the actors involved, subsequent contributions and corroboration of the information based on the parameters already indicated - and as a conclusion to the discussions presented - the present report indicates the assessment of directions to be taken towards internal and external actors.

The directions are suggested below and divided by responsible actor, in alphabetical order:

5.1. United Nations High Commissioner for Refugees - UNHCR

- a) Strengthening the capacity to detect separated or unaccompanied children and adolescents at personal or social risk in the facilities of the Logistical-Humanitarian Task Force - *Operação Acolhida* or others facilities in which it operates - this will include the preparation of lists broken down by identification criteria, by the referral to the competent

¹⁴ ROSA, Marlise. *A mobilidade Warao no Brasil e os modos de gestão de uma população em trânsito: reflexões a partir das experiências de Manaus-AM e de Belém-PA. Tese (Doutorado em Antropologia Social)* – Museu Nacional, Universidade Federal do Rio de Janeiro: Rio de Janeiro, 2020, p. 206

¹⁵ CASTRO, Mariana de Araújo. *Venezuelanas/os em Boa Vista: práticas comunitárias, resistências e novas territorialidades na Ocupação Ka Ubanoko*. Périplos - Revista de Investigación sobre Migraciones. v. 5, n.1, pp. 157-180, 2021.

bodies and the adoption of protective measures or regularisation of custody, in accordance with the Brazilian regulatory framework;

- b) providing all data related to the vulnerability profile of children and adolescents to the Judiciary, to the Prosecution Service and to the Public Defenders' Office, for the adoption of protection measures, with immediate communication in case of unaccompanied children and adolescents;
- c) guiding and training its field teams and implementing partners, especially AVSI and Fraternidade, on the prerogatives of the members of the Federal Public Defenders' Office with regard to professional confidentiality and communication rights, personally and privately, with persons sheltered in facilities or under its protection; these members must have free access to the establishments where the assisted people are, regardless of prior appointment, as well as to other actors in the justice system and, especially, in the Brazilian System of Guarantee of Rights of Children and Adolescents (Judiciary, Public Prosecution Service and State Public Defenders' Office).

5.2. State Public Defenders' Office of Roraima - DPE/RR

- a) establishing channels of communication with migrants, or reinforcing the existing ones, in order to maximize access to free legal assistance in Boa Vista and Pacaraima and to allow the submission of complaints or information about difficulties in accessing public services, especially health, education and social assistance;
- b) guaranteeing access to its services to migrants regardless of their migratory status or of having previously obtained their Individual Taxpayer Identification Number (CPF, in Portuguese), notably for the purpose of filing custody proceedings or other measures affecting children and adolescents.

5.3. Federal Public Defenders' Office

- a) strengthening channels of service and communication with migrants, especially through the Internet, by producing information materials in simple language aimed at the community; participating in events and providing education on rights;
- b) disseminating this report fully and/or briefly to interested persons and entities at national and international level;
- c) reporting the facts described in section 4.4 (summary deportations, proactive policing and arbitrary detentions in Pacaraima/RR) to the competent bodies for investigation of potential abuse of authority - Law no. 13. 689/2019 - by the law enforcement authorities involved (State Prosecution Service Roraima, Civil Police of Roraima and the Federal Police Department) due to the progressive criminalization process of assistance to migrants in Pacaraima/RR which led to the inspection visit on 17/03/2021. Brazilian Federal Police Department;
- a) Taking into account Technical Note No. 8 DPGU/ SGAI DPGU/GTMR DPGU (*doc. SEI n° 4017625*) in its criminal investigation strategies - which outlines the legal-normative aspects of providing assistance to immigrants who have entered Brazil irregularly,

especially in land border zones - for the crime under Art. 232-A of the Brazilian Criminal Code (promoting illegal migration) or by using similar criminal types to indirectly criminalize the assistance provided;

- b) abstaining from performing any acts of proactive policing, intimidation or restriction of movement, based on migratory irregularity or on the Interministerial Ordinance No. 652/2020, or any other acts that may prevent migrants from accessing the services offered in the scope of the Logistical-Humanitarian Task Force *Operação Acolhida*, in public or private education, health and social assistance facilities, or from reporting violations of rights, especially related to gender-based violence;
- c) abstaining from entering the premises of the Logistical-Humanitarian Task Force – *Operação Acolhida*, public or private education, health and social assistance facilities or reception environments, even when these are informal (occupations, voluntary settlements, bus stations, camping areas), as well as fencing or controlling access, with the aim of promoting immediate deportations or similar restrictive measures.

5.4. State of Roraima

- a) providing information about the failure to issue the National Health Card - CNS for Venezuelan migrants who do not have a travel document (passport or identity card), a Brazilian identification document (CRNM, DPRNM, refugee request protocol and others) or a CPF;
- b) Promoting and implementing public policies on social assistance, health and education for the migrant population facing homelessness in Boa Vista's International Coach Station, focusing on gender and working together with the city of Boa Vista;
- c) working in conjunction with public agencies on measures for the sheltering of migrants staying at the International Coach Station of Boa Vista to reduce their vulnerability, with or without the participation of the Logistical-Humanitarian Task Force *Operação Acolhida*;
- d) training of public officials on the basic rights of undocumented migrants.

5.5. Brazilian Army

- a) providing orientation and training on the prerogatives of the members of the Public Defenders' Office with regard to professional confidentiality and the right to communicate personally and privately with the assisted party; these members have free access to the establishments where these parties are found, regardless of prior scheduling, as do other actors in the justice system and, especially, in the System of Guarantee of Rights of Children and Adolescents (the State Judiciary, Public Prosecution Service and the Public Defenders' Office);
- b) repurposing the space reserved for the Federal Public Defenders' Office on the premises of the Logistical-Humanitarian Task Force *Operação Acolhida* in Pacaraima to enable communication with migrants assisted by it, confidentially and privately;
- c) strengthening skills to detect children and adolescents who are separated,

unaccompanied and in situations of personal or social risk in shelters of the Logistical-Humanitarian Task Force *Operação Acolhida* and at the International Coach Station of Boa Vista, with a gender-sensitive approach;

- d) taking into consideration, in its policies and especially in what is known as *Operação Controle* (Control Operation, in English), the terms of Technical Note No. 8 DPGU/SGAI DPGU/GTMR DPGU (*doc. SEI n° 4017625*), which sets out the legal and regulatory aspects of providing assistance to immigrants who enter Brazil irregularly, particularly in land border areas;
- e) providing information on the violations found at the International Coach Station of Boa Vista, especially regarding the presence of a team of employees allegedly responsible for intimidation and violence, in order to ensure security at the site; and
- f) taking into consideration the possibility of immediate intake of people currently facing homelessness in the Coach Station, into the existing structures of the Logistical-Humanitarian Task Force - *Operação Acolhida*, providing technical assessment on the profile of potential beneficiaries and, should this not be possible, a justification for this impossibility.

5.6. United Nations Children's Fund - UNICEF

- a) Strengthening skills to detect children and adolescents who are separated, unaccompanied and at personal or social risk in the premises of the Logistical-Humanitarian Task Force - *Operação Acolhida* or others in which UNICEF operates, drawing up separate lists according to criteria that will allow identification, referral to the competent bodies and the adoption of protection measures or regularisation of custody, in accordance with the Brazilian legal framework;
- b) providing all data regarding the vulnerability profile of children and adolescents to the Judiciary, the Prosecution Service and the Public Defenders' Office, in order to enable them to adopt protective measures, communicating immediately in the case of unaccompanied children and adolescents;
- c) strengthening case referral flows that may eventually take place with the agents of the System of Guarantee of Rights of Children and Adolescents, especially when dealing with potential protection measures for unaccompanied children or children in a situation of personal or social risk. Municipality of Boa Vista;
- a) providing information about the failure to issue the National Health Card - CNS for Venezuelan migrants who do not have a travel document (passport or identity card), a Brazilian identification document (CRNM, DPRNM, refugee request protocol and others) or a CPF and, in case of a positive response, immediate correction of procedures and dissemination to all service units;
- b) Promoting and implementing public policies on social assistance, health and education for the migrant population facing homelessness, focusing on gender and working together with the State of Roraima;
- c) working in conjunction with public agencies on measures for the sheltering of migrants

staying at the International Coach Station of Boa Vista to reduce their vulnerability, with or without the participation of the Logistical-Humanitarian Task Force *Operação Acolhida*;

- d) training of public officials on the basic rights of undocumented migrants.

5.7. Municipality of Pacaraima

- a) providing information about the failure to issue the National Health Card - CNS for Venezuelan migrants who do not have a travel document (passport or identity card), a Brazilian identification document (CRNM, DPRNM, refugee request protocol and others) or a CPF and, in case of a positive response, immediate correction of procedures and dissemination to all service units;
- b) Promoting and implementing public policies on social assistance, health and education for the migrant population facing homelessness, focusing on gender and working together with the State of Roraima;
- c) adopting emergency public policies in the Orquídeas II Urban Settlement after consultation and organised dialogue with the population affected, ensuring that alternative sheltering proposals do not involve collective shelters or forced cohabitation without consent.

5.8. Ministry of Citizenship

- a) introducing of a classification proceeding - within the Basic Operational Standard of the Unified Social Assistance System - NOB-SUAS - of social protection or social assistance facilities identified as shelters or humanitarian facilities under the management of the Logistical-Humanitarian Task Force *Operação Acolhida*, international agencies or implementing entities;
- b) providing guidelines to ensure that undocumented migrants have the right to be included in the Single Registry for Social Programmes (*CADÚNICO*, in portuguese) throughout the country, within the scope of SUAS management. Ministry of Health;
- a) providing information on the inclusion of Indigenous Venezuelans living in Brazil in the Indigenous Health Care Subsystem in the same condition as Indigenous Brazilians in an urban context and, in the event of a negative response, adopting the appropriate procedures for their immediate inclusion;
- b) providing information on the inclusion of Indigenous migrants residing in Brazil in the priority groups for immunisation against COVID-19 within the Brazilian Immunisation Plan and, in the event of a negative response, adopting appropriate procedures for their immediate inclusion.

5.9. State Prosecution Service of Roraima

- a) Taking into account Technical Note No. 8 DPGU/ SGAÍ DPGU/GTMR DPGU (*doc. SEI nº 4017625*) in its criminal investigation strategies - which outlines the legal-normative

aspects of providing assistance to immigrants who have entered Brazil irregularly, especially in land border zones - for the crime under Art. 232-A of the Brazilian Criminal Code (promoting illegal migration) or by using similar criminal types to indirectly criminalize the assistance provided;

- b) abstaining from furthering legal actions, recommendations and other acts within its jurisdiction that would interfere in the Orquídeas II Urban Settlement with the goal of vacating, evicting, tracking leaders and other measures that threaten the right to housing and free association; and not producing settlements in conjunction with other agents involved, especially with the Municipality of Pacaraima;

5.10. IOM - International Organization for Migration

- a) keeping direct assistance support to migrants facing homelessness at the International Coach Station of Boa Vista, reinforcing prevention and awareness actions about human trafficking, within its attributions;
- b) guiding and training its field teams and implementing partners on the prerogatives of the members of the Federal Public Defenders' Office with regard to professional confidentiality and communication rights, personally and privately, with persons sheltered in facilities or under its protection; these members must have free access to the establishments where the assisted people are, regardless of prior appointment, as well as to other actors in the justice system and, especially, in the Brazilian System of Guarantee of Rights of Children and Adolescents (Judiciary, Public Prosecution Office and State Public Defenders' Office).

5.11. Judicial Branch of the State of Roraima

- a) taking into consideration, in its protection activities in the scope of the System of Guarantee of the Rights of Children and Adolescents, the reinforcement of measures in favor of children and adolescents facing homelessness in the Orquídeas II Urban Settlement, in Pacaraima, and in the International Coach Station, in Boa Vista; strengthening existing case referral flows with the Logistical-Humanitarian Task Force *Operação Acolhida* and international agencies, especially UNHCR and UNICEF, in order to promote protection measures in favour of unaccompanied children and adolescents, especially those living facing homelessness;
- b) taking into consideration the migratory regularisation of separated or unaccompanied children and adolescents in irregular situations as a protection measure under article 98, I of the Child and Adolescent Statute, regardless of other complementary measures that imply changes in the child's current situation, such as institutional foster care, inclusion in foster care programmes and others.

5.12. Polícia Civil do Estado de Roraima

- a) Taking into account Technical Note No. 8 DPGU/ SGAÍ DPGU/GTMR DPGU (*doc. SEI nº 4017625*) in its criminal investigation strategies - which outlines the legal-normative

aspects of providing assistance to immigrants who have entered Brazil irregularly, especially in land border zones - for the crime under Art. 232-A of the Brazilian Criminal Code (promoting illegal migration) or by using similar criminal types to indirectly criminalize the assistance provided;

- b) abstaining from performing any acts of proactive policing, intimidation or restriction of movement, based on migratory irregularity or on the Interministerial Ordinance No. 652/2020, or any other acts that may prevent migrants from accessing the services offered in the scope of the Logistical-Humanitarian Task Force *Operação Acolhida*, in public or private education, health and social assistance facilities, or from reporting violations of rights, especially related to gender-based violence;
- c) abstaining from entering the premises of the Logistical-Humanitarian Task Force - *Operação Acolhida*, public or private education, health and social assistance facilities or reception environments, even when these are informal (occupations, voluntary settlements, bus stations, camping areas), as well as fencing or controlling access, with the aim of promoting immediate deportations or similar restrictive measures.

Natália von Rondow
Federal Public Defender



PACARAIMA COMMITTEE

The Pacaraima/RR Thematic Committee was established by the DPU to strengthen the permanent monitoring of the actions taken within the context of the migratory flow in Roraima, in order to safeguard continuity in the provision of full and free legal assistance to migrants. The committee's main objectives are to plan, coordinate and implement strategic and structural actions aimed at the defence of fundamental rights and access to justice; to maintain dialogue with other institutions, civil society and spheres of government; to provide technical support, articulate and act jointly with the Regional Office of the Human Rights Defender and the enforcement bodies in Roraima.