



# Angola: Marriage Requirements

2016

LL File No. 2016-013251  
LRA-D-PUB-002541

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# Angola: Marriage Requirements

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**SUMMARY** An Angolan constitutional principle determines that the family, either by marriage or de facto union between a man and a woman, must be protected by the state. The Family Code regulates marriage and de facto unions in the country by establishing fundamental principles that govern marriage, capacity to marry, impediments to marriage, the marriage process, the definition of de facto unions, and the process required to recognize such unions.

## I. Constitutional Principle

The Angolan Constitution establishes that the family is the fundamental core of the organization of society and must be the object of special protection by the state, whether the family is based on a marriage or a de facto union (*união de facto*) between a man and a woman.<sup>1</sup> The Constitution also provides that everyone must have the right to freely form a family under the terms of the Constitution and the law;<sup>2</sup> men and women are equal within the family, in society, and before the state, enjoying the same rights and responsibilities;<sup>3</sup> the law regulates the requirements for and effects of marriages and de facto unions, as well as their dissolution;<sup>4</sup> and children are equal before the law, and any discrimination or the use of any discriminatory nomenclature with regard to filiation is prohibited.<sup>5</sup>

## II. Family Code

### A. Marriage

Marriage in Angola is regulated by the Family Code.<sup>6</sup> Article 1(1) restates the Constitutional principle that the family, as the fundamental core of the organization of society, must be the object of protection by the state, whether based on a marriage or on a de facto union.<sup>7</sup> Article 1(2)

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<sup>1</sup> CONSTITUIÇÃO DA REPÚBLICA DE ANGOLA (2010), art. 35(1), available on the website of the Angolan Constitutional Court, at <http://www.tribunalconstitucional.ao/uploads/%7B9555c635-8d7c-4ea1-b7f9-0cd33d08ea40%7D.pdf>, archived at <https://perma.cc/9FAM-JHMU>.

<sup>2</sup> *Id.* art. 35(2).

<sup>3</sup> *Id.* art. 35(3).

<sup>4</sup> *Id.* art. 35(4).

<sup>5</sup> *Id.* art. 35(5).

<sup>6</sup> CÓDIGO DA FAMÍLIA, Lei No. 1/88, de 20 de Fevereiro, available on the website of the Consulate General of Angola in Porto, at <http://www.consuladogeralangola-porto.pt/download/pt/1-codigo-familia.pdf>, archived at <https://perma.cc/TU3U-KKMJ>.

<sup>7</sup> *Id.* art. 1(1).

further determines that marriages and de facto unions produce legal effects only when celebrated or recognized according to the terms of the Family Code.<sup>8</sup>

Article 20 of the Family Code defines marriage as a voluntary union between a man and a woman, formalized under the law, for the purpose of establishing full communion of life. All persons are capable of marrying as long as there are no matrimonial impediments under the Family Code.<sup>9</sup> Age requirements are listed in article 24, and articles 25 and 26 identify the impediments to marriage.

Articles 27–42 deal with the marriage process. According to article 27, a marriage is valid only when celebrated before the civil registry or recognized according to the rules of the Family Code. Preliminary procedures are covered in articles 28–31, the place of marriage in articles 32–33, mutual consent in article 35, adoption of nicknames or a family name in article 36, urgent marriages in article 37, and marriage registration in articles 38–42.

Article 38 determines that the act of marriage is subject to mandatory registration,<sup>10</sup> and that the registration has retroactive effects to the date of the celebration of the marriage.<sup>11</sup> The registration of the marriage must be made by inscription or transcription, in accordance with the rules of civil registry.<sup>12</sup>

According to article 42, a judicial order must be obtained in the absence of marriage registration, provided that there is evidence of the existence of the marriage.<sup>13</sup> A marriage record that has gone missing (*desaparecimento*) must be replaced in accordance with the rules of the civil registry.<sup>14</sup>

## **B. De Facto Union**

A de facto union is defined as the voluntary establishment of a common life between a man and a woman.<sup>15</sup> Such a union can only be recognized after three consecutive years of cohabitation and when all the legal requirements for a marriage are fulfilled, particularly with regard to marital status and marital capacity.<sup>16</sup>

A de facto union that cannot be recognized because legal requirements provided for in the Family Code remain unfulfilled will be recognized in spite of this shortcoming if there is unjust

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<sup>8</sup> *Id.* art. 1(2).

<sup>9</sup> *Id.* art. 23.

<sup>10</sup> *Id.* art. 38(1).

<sup>11</sup> *Id.* art. 38(2).

<sup>12</sup> *Id.* arts. 39–41.

<sup>13</sup> *Id.* art. 42(1).

<sup>14</sup> *Id.* art. 42(2).

<sup>15</sup> *Id.* art. 112.

<sup>16</sup> *Id.* art. 113(1).

enrichment according to the general terms of civil law, especially with regard to the effects of the division of common property and assignment of the right to such property to the common residence.<sup>17</sup>

The request for recognition of a de facto union can be made by the interested parties by mutual agreement,<sup>18</sup> or by one of the parties in case of death or separation.<sup>19</sup> The civil registry of the parties' area of residence is the competent organ to receive the request for recognition by mutual agreement of the parties.<sup>20</sup> The request for recognition must be filed with all the supporting documents that prove the fulfillment of the legal requirements.<sup>21</sup> Evidence of the duration of the de facto union and marital status of the applicants must be provided by witnesses or documents issued by an organ of the local government.<sup>22</sup> The applicants must declare the economic regime to be applied for dividing marital property.<sup>23</sup>

All dispositions relating to the marriage process are applicable to the recognition of a de facto union, provided that they do not contravene the provisions of Title IV (União de Facto) of the Family Code.<sup>24</sup> Once all the legal requirements have been verified, it is within the competence of the officer of the civil registry to recognize, by an order (*por despacho*), the de facto union.<sup>25</sup> The recognition of a de facto union produces the effects of a marriage, retroactive to the date of the beginning of the union, in accordance with the law.<sup>26</sup> The recognition of a de facto union is subject to registration made in the proper book.<sup>27</sup>

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<sup>17</sup> *Id.* art. 113(2).

<sup>18</sup> *Id.* art. 114(a).

<sup>19</sup> *Id.* art. 114(b).

<sup>20</sup> *Id.* art. 115.

<sup>21</sup> *Id.* art. 116(1).

<sup>22</sup> *Id.* art. 116(2).

<sup>23</sup> *Id.* art. 116(3). Article 49 of the Code provides the economic regimes applicable to marriage.

<sup>24</sup> *Id.* art. 117.

<sup>25</sup> *Id.* art. 118.

<sup>26</sup> *Id.* art. 119.

<sup>27</sup> *Id.* art. 120.