



Angola: Adoption Law

April 2016

LL File No. 2016-013461
LRA-D-PUB-002542

This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official
opinion of the United States Government. The information provided
reflects research undertaken as of the date of writing.
It has not been updated.

Angola: Adoption Law

Eduardo Soares
Senior Foreign Law Specialist

SUMMARY Angolan law relevant to adoption includes general language in the Constitution and detailed provisions in the Family Code. The Constitution provides for the protection, education, and integration of children into society. The Family Code defines marriage and de facto unions, and regulates all aspects of adoption, including the adoption process. Adoption in Angola is accomplished through a judicial process and finalized with the issuance of a court order.

I. Constitutional Principles

The Angolan Constitution contains general language regarding the role of the family and the protection, education and integration of children in society. The 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.¹ The Constitution also provides that everyone must have the right to freely form a family under the terms of the Constitution and the law.² Under the Constitution, men and women are equal within the family, in society, and before the state, and enjoy the same rights and responsibilities.³

Children are equal before the law, and any discrimination or the use of any discriminatory nomenclature with regard to filiation is prohibited.⁴ The protection of children's rights, in particular, their right to a full and harmonious upbringing, and the protection of their health, living conditions, and education are priorities of the family, state, and society.⁵

The state, in collaboration with the family and the society, promotes the harmonious and integral development of young people and adolescents, as well as the creation of conditions for the fulfillment of their political, economic, social, and cultural rights.⁶

¹ 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/ME3L-NS88>.

² *Id.* art. 35(2).

³ *Id.* art. 35(3).

⁴ *Id.* art. 35(5).

⁵ *Id.* art. 35(6).

⁶ *Id.* art. 35(7).

II. Marriage and De Facto Unions

The Angolan Family Code defines marriage as the voluntary union between a man and a woman, formalized according to the law, for the purpose of establishing a full communion of life.⁷

The Code provides that a de facto union consists of the voluntary establishment of a common life between a man and a woman,⁸ which can be recognized only after three consecutive years of cohabitation and when the legal requirements for a marriage may be verified, especially in regard to civil status and the capacity to marry.⁹

III. Adoption

In Angola, adoption is regulated by the Family Code, which states that kinship (*parentesco*), marriage, de facto union, and affinity (*afinidade*) are the sources of family relations,¹⁰ and that kinship may be established by blood or adoption.¹¹ The Family Code further explains that the purpose of adoption is to provide the adopted minor with social, moral, and emotional protection, creating between the adoptee and the adoptive parent a relationship akin to that of children with their natural parents.¹²

Adoptive filiation provides the adoptee and the adoptive parent with the same rights and duties mutually established between children and parents.¹³ The kinship derived from adoptive filiation is extended to the descendants of the adoptee and to the adoptive parents' relatives.¹⁴

A. Requirements for Adoptive Parents

The adoptive parent must meet all of the following requirements:

- a) Be at least twenty-five years of age and in full exercise of his/her civil rights;
- b) Have good moral character and good social behavior, especially regarding family relations;
- c) Have the economic capacity to provide for the support and education of the adoptee;

⁷ CÓDIGO DA FAMÍLIA, Lei No. 1/88, de 20 de Fevereiro, art. 20, 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/YB96-9E9J>.

⁸ *Id.* art. 112.

⁹ *Id.* art. 113(1).

¹⁰ *Id.* art. 7.

¹¹ *Id.* art. 8.

¹² *Id.* art. 197.

¹³ *Id.* art. 198(1).

¹⁴ *Id.* art. 198(2).

- d) Be mentally and physically healthy; and
- e) Be at least sixteen years older than the adoptee.¹⁵

A parent who is adopting the child of his/her spouse or de facto union partner must meet only requirements (a), (b), and (d).¹⁶

B. Requirements for the Adoptee

The adoptee must be less than eighteen years of age and in one of the following situations:

- a) Be the child of unknown or dead parents; or
- b) Be in a situation of abandonment, whether in the custody of an institution of public assistance or not.¹⁷

The Family Code defines “abandonment” as a situation where the minor’s parents and other relatives have manifestly demonstrated their disinterest in exercising their duties for a period exceeding one year.¹⁸

C. Consent

The Family Code determines that a minor may be adopted if his/her natural parents give their consent.¹⁹ The consent of the minor is also required if he/she is older than ten years of age.²⁰ The adoption prevents the subsequent declaration of filiation by the natural parent.²¹

Consent must be given by the natural parents before a tribunal or in an original document that identifies the adoptive parent.²² In the absence of the natural parents, consent must be given before a tribunal by the adoptee’s grandparents, older brothers, or uncles, with preference being given to the relative who has custody of the adoptee.²³ The relatives’ consent may be suppressed by the judge when it is in the minor’s interest to do so, or waived if it is too difficult to obtain; in either case, the court must provide justification in its decision to suppress or waive consent.²⁴

¹⁵ *Id.* art. 199(1).

¹⁶ *Id.* art. 199(2).

¹⁷ *Id.* art. 200(1).

¹⁸ *Id.* art. 200(2).

¹⁹ *Id.* art. 201.

²⁰ *Id.* art. 203.

²¹ *Id.* art. 202.

²² *Id.* art. 213.

²³ *Id.* art. 214(1).

²⁴ *Id.* art. 214(2).

In cases involving the adoption of an Angolan minor by a foreigner, an authorization issued by the Assembly of the People (*Assembléia do Povo*, National Assembly) is required.²⁵

D. Forms of Adoption

A child may be adopted by a married couple as long as they are not separated, or by a man and a woman in a relationship that meets the requirements of a de facto union.²⁶ A spouse, or a man or woman living in a de facto union, may adopt the child of the other spouse/partner.²⁷ A person may also adopt as an individual as long as he/she is not married.²⁸

In cases of adoption by a couple, the adoption extinguishes the relationship between the adoptee and his/her natural parents, except with regard to impediments to the child's future marriage.²⁹

When a child is adopted, the relationship extinguished is that of either the natural father or the natural mother, depending on the gender of the adoptive parent.³⁰ The relationship between the adoptee and his/her natural father or natural mother continues to exist with the parent that is not being replaced.³¹

No child can be adopted twice, except in cases of abandonment of the child by the adoptive parents or their deaths, or in cases involving revision or revocation of the court order that allowed the adoption.³² The adoption cannot be revoked by means of an agreement between the adoptive parent and the adoptee.³³

E. Use of Surname

In the case of a couple (married or living in a de facto union) adopting a minor, the minor stops using the surnames of his/her natural parents and begins using the surnames of the adoptive parents.³⁴ If only one individual is adopting the minor, the surname of the replaced parent is changed.³⁵

²⁵ *Id.* art. 204.

²⁶ *Id.* art. 205(a).

²⁷ *Id.* art. 205(b).

²⁸ *Id.* art. 205(c).

²⁹ *Id.* art. 206.

³⁰ *Id.* art. 207(1).

³¹ *Id.* art. 207(2).

³² *Id.* art. 210.

³³ *Id.* art. 211.

³⁴ *Id.* art. 208(1).

³⁵ *Id.* art. 208(2).

Depending on the circumstances of the case and at the request of an interested party, the tribunal may order a new birth registry for the adopted child containing the names of both or one of the adoptive parents as the father and/or mother of the adoptee.³⁶ In this case, for legal purposes, the previous record is considered secret.³⁷

F. Judicial Process

Adoption is made through a judicial process and finalized with the issuance of a court order.³⁸ The adoption process includes a judicial inquiry to verify the circumstances that support the request.³⁹ The minor must be represented by a guardian ad litem (*curador de menores*) or an institution.⁴⁰ The court order must describe the facts and circumstances that were relied upon to support the decision granting the adoption and indicate the new name of the adoptee, if applicable.⁴¹ In cases of abandoned minors, the decision must also reflect that the minor was abandoned.⁴²

The court order that granted the adoption may be reviewed in cases of error in regard to the adoptee, when there is no consent, or when the consent was given under coercion.⁴³ The request for review must be made within one year from the adoption date,⁴⁴ and the court's decision must take into account the protection of the minor's interest.⁴⁵

In addition, adoption may be revoked by the tribunal in the following situations:

- a) When the adopting parents have voluntarily abandoned the minor, leaving him or her unprotected, or submitted him or her to treatment incompatible with that of a son or daughter;
- b) At the request of the adoptive parent or the adoptee, when there is an attempt against the life or serious attempt against the honor of the adoptive parent or the adoptee; or
- c) When there is absolute incompatibility between the adoptive parent and the adoptee, after the adoptee attains the age of majority (*maioridade*).⁴⁶

³⁶ *Id.* art. 209(1).

³⁷ *Id.* art. 209(2).

³⁸ *Id.* art. 212(1).

³⁹ *Id.* art. 212(2).

⁴⁰ *Id.* art. 212(3).

⁴¹ *Id.* art. 212(4).

⁴² *Id.* art. 212(5).

⁴³ *Id.* art. 216.

⁴⁴ *Id.* art. 217(1).

⁴⁵ *Id.* art. 217(3).

⁴⁶ *Id.* art. 218.

IV. Minors

Under Law No. 68 of October 5, 1976, all persons of either sex that have not reached eighteen years of age are considered minors.⁴⁷ After reaching the age of eighteen, the person acquires full capacity for the exercise of his/her rights (majority) and becomes capable of disposing of his/her property (*bens*).⁴⁸

⁴⁷ Lei No. 68/76, de 5 de Outubro, art. 2(1), CÓDIGO CIVIL E LEGISLAÇÃO COMPLEMENTAR (Luanda, Sem Tir-te nem Guar-te/Lisboa, Vislis, 1st. ed. 2005).

⁴⁸ *Id.* art. 2(2).