

ANGOLA

Ana Pedro De Castro and Maria Inês Costa

Summary

The Republic of Angola is a country located on the western coast of the African continent, bordered by the Democratic Republic of the Congo, Zambia, Namibia and the Atlantic Ocean. The Enclave of Cabinda borders the Republic of the Congo to the north and the Democratic Republic of the Congo to the south. With a population of approximately 25.7 million, Angola covers an area of roughly 1,246,700 kilometer square. The official language is Portuguese and the national currency is the Kwanza.

Luanda is the capital of Angola and is located on the Atlantic coast. It serves as the main port and administrative center of the country, which is divided into 18 provinces.

Angola is a member of various international organizations, including the African Union (AU), the United Nations (UN), the Organization of Petroleum Export Countries (OPEC), the World Trade Organization (WTO) and the Southern African Development Community (SADC).

Angola is currently a multiparty republic headed by José Eduardo dos Santos, acting both as Chief of State and Head of Government. The President performs his duties with the assistance of a government and a vice-president. The President is competent to promulgate all legislation enacted by the National Assembly. Specific matters may also be regulated through acts enacted by the President or the Government.

Legal System

The Republic of Angola is a civil law country with a legal system based on legislation and statutes enacted by the National Assembly and other legislative authorities. Case law and legal doctrine are deemed to be secondary sources of law and are therefore not binding per se.

Court hierarchy and rules of litigation are mainly established in the Angolan Civil Procedure Code, which provides for municipal courts and provincial courts. The Supreme Court is the highest instance of the Angolan judicial order.

A growing number of disputes are settled through alternative means of resolution, most notably, arbitration. However, it should be noted that Angola is not a party to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Arbitral awards are therefore subject to a specific confirmation or revision procedure to be considered valid and enforceable in the country.

Visas

Under the applicable general immigration legal framework enacted by Law No. 2/07, 31 August 2007, different types of visas may be envisaged by applicants, depending on the scope or purpose of the visit. In general, the law foresees a number of consular visas, including the following:

- Short-term visa;
- Ordinary visa;
- Privileged visa;
- Work visa;
- Temporary stay visa; and
- Residence visa.

Angolan Law establishes that foreign nationals are allowed to enter the country as long as they:

- hold a passport or equivalent international ID card valid in Angola;
- hold the appropriate visa; and
- are not subject to entry restrictions or prohibitions.

It is also necessary to provide evidence of sufficient means of subsistence, which generally correspond to USD 200.00 (or equivalent in other currencies) per day of stay in the country. This is perceived as a guarantee that foreign nationals have the means to support themselves during their stay in Angola. However, the above is not mandatory when a foreign national proves that he or she has food and accommodation provided by means of a written statement signed by:

- a national citizen;
- a foreign national resident; and
- the entity or company inviting the foreign national to enter Angola, taking responsibility for the foreign national's stay.

Additionally, all documents submitted to Angolan authorities have to be in Portuguese or translated into Portuguese.

Ordinary or Business Visa

A foreign national wishing to enter Angola for family or business prospectation activities may apply for an Ordinary Visa with the Angolan diplomatic mission with jurisdiction over his or her place of residence or origin.

This visa allows its holder to stay in Angola for 30 days. It is extendable twice for an additional 30-day period, up to a maximum of 90 days. Extensions are handled by Angolan Immigration Authorities known as *Serviço de Migração e Estrangeiros* (SME) in Angola. In practice, some Angolan Consulates are currently granting Ordinary Visas for the maximum stay period (i.e. 90 days), so that its holder does not need to apply for its renewal in Angolan territory.

This visa does not allow its holder to undertake any remunerated activity in the national territory or to become a resident in Angola. Document requirements vary in accordance with the specific Consulate or Embassy which will process the application.

Short Term Visa

Foreign nationals wishing to enter Angola on an urgent basis may apply for a Short-Term Visa, which allows for a stay of seven days, extendable once for an equal period. This visa is granted by the relevant Angolan Consulate or Embassy within 72 hours as of the submission of the request. Extensions are handled by the SME in Angola.

This visa does not permit its holder to undertake any remunerated activity or to become a resident in Angola.

Privileged Visa

Privileged Visas are granted to foreign national investors, representatives or proxies of investing companies in order to facilitate their entry into Angolan territory to implement and execute investment projects. These are generally granted by Consular Missions with jurisdiction over the country of origin or residence, although they may also be requested to the SME in Angola.

Privileged visas must be based on a duly approved investment project and the number of privileged visas which can be granted to a company varies according to the investment amount invested in that company's project, the zone, and the sector chosen for the implementation of the private investment project.

Privileged visas allow for multiple entries into the country during a two-year period and may be extended for one equal period, for a total maximum stay of four years. Extensions are handled by the SME in Angola. Foreign citizens obtaining this type of visa may subsequently apply for a residence permit.

Work Visa

The appropriate visa to perform temporary and remunerated activities, either in the interest of the State or for another employer, is the Work Visa.

The Work Visa entitles its holder to multiple entries and to stay in the Angolan territory until the end of the Employment Agreement term. In general, this corresponds to a minimum of one year, extendable twice for equal periods of time, to the limit of a 36-month cycle. Extensions are granted by the SME in Angola.

The foreign national who wishes to apply for a work visa needs to submit an employment contract or a promissory employment contract and comply with several additional requirements established by law.

Work Visa holders can only perform the professional activity for which the visa was granted. They are also limited to the carrying out of activities for the employing entity which has requested it. The Work Visa does not entitle its holder to become a resident in the national territory of the Republic of Angola.

Temporary Stay Visa

Temporary Stay Visas are usually granted to dependents of holders of:

- Privileged Visas;
- Work Visas; or
- Resident Cards.

They are also granted to foreign nationals by Angolan Consular Missions on the following grounds:

- performance of humanitarian activities;
- performance of religious missions;
- scientific work and research;
- family members of study and medical treatment visa holders; and
- spouses of Angolan citizens.

This visa does not entitle its holder to undertake remunerated activities or to apply for a residence permit in Angola. However, Temporary Stay Visas granted to spouses of Angolan citizens and dependents of holders of a valid resident card may be permitted to carry out remunerated activities. These visas are granted for up to 365 days, extendable for equal periods until the situation which has justified the granting of the visa terminates. These visas are granted for multiple entries.

Residence Visa

Residence Visas are specific titles issued by the SME in Angola to foreign nationals notably meeting the following requirements:

- to be present in the Republic of Angola;
- to hold a valid visa for the establishment of residence;
- to have refrained from committing action which would have been considered as an obstacle to his or her entering the country, should these actions have been known by Angolan authorities;
- to be free of any major criminal convictions; and
- to provide evidence of sufficient means of subsistence and housing conditions

In addition to the above, the granting of the residence title to the foreign national should be of national interest for the country. A specific visa – visa for the establishment of residency in Angola – should be obtained by the applicant prior to applying for a residence title.

Employment and Labor Laws

Although the Angolan Legislation regarding employment and labor matters is dispersed, the most important law, the one that lays down the main principles, rules and definitions is Law No. 7/15 of 15 June 2015 the recently passed General Labor Law.

In accordance with this Law, an employment agreement may be entered into for an indefinite period of time (which is not required to be written) or for a fixed-term (which must be in written form, despite some exceptions). Fixed-term employment agreements may be entered into and renewed for a total maximum limit of five years, except where the hiring company is a medium, small or micro company – in this case, employment agreements may be successively renewed up to a

maximum of 10 years. Furthermore, a general working hours limit of 44 hours per week and eight hours per day is foreseen, apart from specific cases, such as shift-work, modular or variable work schedules, or when the work is intermittent, whereby it is possible to extend the working week to more hours.

With regard to the worker's income, it includes the base salary, benefits and supplements, paid directly or indirectly. In addition, all workers are entitled to holiday and Christmas bonus of 50 percent of the base salary or *pro rata* if the worker has not yet been employed for at least a year. Angolan Law also anticipates that workers commonly have 22 business days of paid holiday leave per calendar year.

There is no doubt that Angolan Laws comply with the principle of equal rights, duties and guarantees for Angolan and foreign nationals, however, it is advisable to bear in mind that there are some exceptions and that foreign workers are separated into residents and Non-resident categories. Employment agreements entered into with resident workers are regulated under the General Labor Law. Non-resident employment agreements are governed by specific regulations (namely, Decree No. 6/01 of 19 January 1991) and are supplemented by the General Labor Law. Consistent with Article 2 of this Decree, a Non-resident is a foreign citizen not residing in Angola who has professional, technical or scientific qualifications that Angolan nationals do not have, and who is hired to exercise his professional activity on national territory for a limited period. It is worth mentioning that there are limits to hiring foreign nationals. First of all, companies hiring foreign workers shall have a minimum quota of 70 percent of local national employees and a maximum of 30 percent of foreign national employees (Decree No. 5/95 of 7 April 1995) under The Principle of Angolanization. This means that foreign nationals shall only be hired upon demonstration that no Angolans qualified for the job were found.

Foreign nationals are allowed to be hired only if they meet all the requirements foreseen in the law, namely they must have professional, technical or scientific qualifications; be mentally and physically fit and not have a criminal record. The employment agreement must be for a fixed-term and may be entered into between a minimum of three months and a maximum of 36 months. Foreign employees shall return to his or her country of origin after the end of the contract.

Income Tax and Social Security Contributions

Personal Income Tax is due by natural persons, whether residents in Angola or not, whose income results from services rendered to individuals or companies with domicile, headquarters and place of effective management or permanent establishment in Angola.

Even though a new Personal Income Tax Code has been recently approved by Law No. 18/14 of 22 October 2014 – in force since 1 January 2015 – this income is still taxed on the basis of progressive rates in accordance with values indicated on a list attached to the Code, and the maximum rate applicable to the Group A (which includes the remuneration paid by an employer entity under an employment contract entered into in accordance with the Labor Law, as well as the remuneration earned by public servants) stands at 17 percent.

In line with this new regulation, monthly wages lower than AKZ 34,450,00 are exempt from personal income tax, increasing the number of taxpayers who benefit from the exemption of taxation. No personal income tax is due over the compensation payments made to employees for employment agreement termination up to the maximum ceilings. Likewise, no tax is due for the daily payments, representation, travel and accommodation supplements credited to public employees, provided that they do not exceed the legal limits foreseen.

In addition, meals and transport expenses paid to the company's employees are not subject to this tax up to the total limit of AKZ 30,000,00, as well as holiday and Christmas supplements that are not subject to personal income tax up to the limit of 100 percent of the employee's salary.

Non-compliance with personal income tax rules, namely the absence, inexactness and omissions in tax returns, is subject to penalties foreseen in the General Tax Code.

The social security rate in Angola stands at 11 percent. It is shared between the employer (eight percent) and employee (three percent). Expatriate employees are not required to contribute to the Angolan social security system provided that they are able to prove that they remain covered by the social security system of their country of origin. However, national and resident foreign employees are subject to the Angolan Social Security System.