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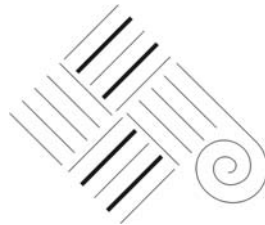
# STRENGTHENING LAND TENURE AND PROPERTY RIGHTS IN ANGOLA

LAND LAW AND POLICY:  
OVERVIEW OF LEGAL FRAMEWORK



MAY 31, 2007

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## **DISCLAIMER**

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# GLOSSARY

<i>Autarquais locais</i>	Locally elected councils (not yet established in Angola)
<i>Bairro</i>	Neighborhood
<i>Bloco</i>	Several <i>bairros</i> make up a <i>bloco</i>
<i>Codigo Civil</i>	Civil Code
<i>Codigo da Familia</i>	Family Code
<i>Comuna</i>	Lowest level of government administrative unit
<i>Comissoes de Moradres</i>	Residential commissions that serve as local governing bodies
<i>Coordenadores</i>	Coordinators
<i>Fazenda</i>	Plantation or other large farm
<i>Lei da Terras de Angola</i>	Land Law of Angola
<i>Lobolo</i>	“Bride price”
<i>Projecto de Regulamento Genal de Concesao de Terrenos</i>	Proposed regulations
<i>Regedore</i>	Chief who oversees several villages and sobas; “big soba”
<i>Soba</i>	Customary leader or chief





# ACRONYMS AND ABBREVIATIONS

CRIP	Certificate of registry of private instrument
DW	Development Workshop
GoA	Government of Angola
IGCA	Institute of Geography and Cadastre for Angola
INGC	National Institute of Geography and Cadastre
INOTU	National Institute for Spatial Planning and Urban Development
LOTU	Law of Territorial Planning and Urbanization
MINADER	Ministry of Agriculture and Rural Development
MINUA	Ministry of Urbanism and the Environment
MOP	Ministry of Public Works
NGO	Nongovernmental organization
NPA	Norwegian People's Aid
RDI	Rural Development Institute
UNDP	United Nations Development Programme
USAID	United States Agency for International Development



# INTRODUCTION

Since its independence in 1975, and most notably in the last decade, Angola has struggled to create a legal framework adequate to address the complex issues relating to the country's land. In 2004, the country enacted a new land law<sup>1</sup> that sought to strengthen perceived areas of weakness in prior legislation. The new law delineated and expanded a range of land rights available by concession and recognized some measure of traditional land rights. In 2006, the Government of Angola (GoA)<sup>2</sup> proposed regulations addressing the land concessions portions of the land law, providing some detail on land rights formalization procedures, and expanding its expropriation authority.<sup>3</sup> The regulations await enactment.

Despite these legislative efforts, fundamental gaps and weaknesses in the legal framework governing land persist, diluting the country's ability to use its land resources to support economic growth, alleviate poverty, and enhance the livelihoods of the country's population, including the marginalized.<sup>4</sup> The following are chronic problems:

- Angola lacks a comprehensive written statement of its land policy. As such, the country has no clear foundation of principles to consult in drafting new legislation, coordinating existing legislation, and prioritizing actions at national, provincial, and local levels.
- The country's main land legislation expresses objectives of social and economic development, environmental protection, and sustainable utilization of land, yet the content of the law does not support these objectives to the extent possible, and in some cases itself creates barriers to the achievement of these objectives—including economic development;
- Implementation of the legal framework relies, in large measure, on institutions that have not been developed or lack capacity; and
- The framework fails to identify and address the unique circumstances and needs of the economically and socially marginalized, thereby creating or fostering an environment that can further disadvantage and harm those groups.

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<sup>1</sup> *Lei da Terras de Angola (Lei 09/04, de 9 de Novembro)* ("Land Law"). An English translation is attached as Appendix B.

<sup>2</sup> This paper uses the term "GoA" to refer to all levels and classifications of GoA authorities and offices, including those at the central, provincial, and municipal levels.

<sup>3</sup> *Projecto de Regulamento Geral de Concessao de Terrenos* (Proposed Regulations). An English translation of the proposed regulations is attached as Appendix C.

<sup>4</sup> In addition, many would argue (and have) that those provisions enacted are inherently flawed, especially from the perspective of the rights of the poor and marginalized. Discussions of the terms of the laws and regulations can be found in Development Workshop, 2005. *Terra: Urban land reform in post-war Angola: research, advocacy and policy development*, Development Workshop Occasional Paper No. 5 (Amsterdam: SSP); Terrafirma, 2005. *Land Rights and Tenure Security in Kilamba Kiaxi*, a report for CARE International, Angola (draft); and CARE Angola 2004. *Transitional Program Initiative: Final Report to the United States Institute for Peace* (October 2003-September 2004).

## FOCUS AND CONTENTS OF REPORT

This report provides an outline of applicable legal principles for the USAID project, Strengthening Land Tenure and Property Rights in Angola, which ARD is directing with assistance from Development Workshop (“DW”) and the Rural Development Institute (“RDI”). The objective of the project is to strengthen land tenure security in Angola using a methodology that comprises five elements:

1. Land legislation and policy enhancement;
2. Land rights formalization;
3. Public information awareness;
4. Private sector linkages for economic growth; and
5. Women’s access to and control of land.

Through the development and implementation of two pilots, the project will test the land rights formalization processes as conceived by Angola’s land law and proposed regulations, assist in raising public awareness of land issues, and identify and create private sector linkages for economic growth. The pilots will provide experience that will inform advocacy efforts relating to Angola’s legislation, including the development of a land rights formalization process and the design and implementation of land dispute resolution mechanisms and institutions.

This report lays out the legal framework applicable to the project, beginning with brief overviews of the country and its customary and formal law (Sections II-V), followed by a detailed outline of the key land legislation, the 2004 Land Law and 2006 Proposed Regulations, in Section VI. The report provides an overview of women’s land rights issues (Section VII) and land administration (Section VIII). The paper closes in Section IX with a preliminary identification of areas within the legal framework where opportunities may exist for useful addition (whether by addendum, bylaw, or by further direction through regulations or guidelines at the provincial level) that will assist in the ultimate objective of increasing land tenure security for Angola’s population.

This paper is one of three initial documents created by the same author to assist with the project and especially in the design of the pilots. The other two documents are the *Background Report: Land Dispute Systems in Angola* (May 2007) and the initial draft of the *Land Rights Formalization Process* (March 2007).

# 1.0 A BRIEF COUNTRY OVERVIEW<sup>5</sup>

Angola has a land area of 486,213 square miles and a population of approximately 14 million people.<sup>6</sup> The country is ranked 164<sup>th</sup> of the 175 countries listed on the United Nations Development Programme (UNDP) Human Development Index.<sup>7</sup> In 2001, roughly 70 percent of the population lived on less than \$1.80 per day, with 30 percent of those living in extreme poverty, on less than \$0.70 per day.<sup>8</sup>

While Angola's official language is Portuguese, the population speaks more than 60 different Bantu-group languages, including Umbundu, Kimbundu, Kikongo, Tchokwe, and Ovambo. Many rural residents, particularly in remote areas, use local languages exclusively. Literacy figures vary widely, but estimates indicate an average of 40 to 50 percent literacy rate in adults, with the lowest percentages in rural areas and among women.<sup>9</sup>

Angola's population concentrates in urban areas, the coast, and to a lesser extent, the central highlands. The majority of the rural population, which most commonly occupies land informally, depends on small scale subsistence agriculture. Fertile land in areas with access to services and markets is in high demand and is the focus of increasing competition between peasant and commercial interests. The less populated areas of the country, specifically the eastern and southern regions, are home to pastoralists and hunter-gatherers in addition to sedentary farmers.<sup>10</sup>

## Political and governance structure

The country has evolved into a multi-party democracy organized into three branches: the executive (Office of the President, Office of the Prime Minister, Council of Ministers), the legislative (National Assembly or parliament), and judicial. In practice, the president's power is primary.

The National Assembly has a single body of 223 members, elected through a system of proportional representation. The National Assembly has the power to make changes to constitutional law, and to approve new laws, the National Plan, and the state budget. The National Assembly's legislative authority includes, in pertinent part, the power to enact laws relating to the land tenure system, rural and urban leasing, the participation of citizens and traditional authorities in local government, and the nationalization and expropriation of property.<sup>11</sup>

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<sup>5</sup> This section contains information drawn from Justin Pearce, 2005. *An Outbreak of Peace: Angola's Situation of Confusion* (Claremont: New Arica Books, Ltd); Terrafirma, 2005. *Land Rights and Tenure Security in Kilamba Kixi*, a report for CARE International, Angola (draft); and CARE Angola 2004. *Transitional Program Initiative: Final Report to the United States Institute for Peace* (October 2003-September 2004).

<sup>6</sup> The World Bank, 2004. *Little Data Book* (Washington DC: The World Bank).

<sup>7</sup> UNDP 2006 Report, Human Development Index, <http://hdr.undp.org/hdr2006/statistics>.

<sup>8</sup> Statistics maintained by Southern African Regional Poverty Network, [www.sarpn.org.za/documents/d0001037/index](http://www.sarpn.org.za/documents/d0001037/index).

<sup>9</sup> See e.g., United Nations Population Division Basic Indicators, [unicef.org/infobycountry\\_Angolastatistics.html](http://unicef.org/infobycountry_Angolastatistics.html) and World Resources Institute, Indicators, <http://earthtrends.wri.org>; USAID/Angola Annual Report FY 2005, at 3.

<sup>10</sup> Little information exists regarding these sections of the country. This paper concentrates on provinces where research studies have been conducted and the results published.

<sup>11</sup> *Constitution of the Republic of Angola*, Art 90.

The government's administrative arm, which includes the prime minister, Council of Ministers, and secretaries of state, conducts the business of the country and answers to the president and National Assembly. The government has authority to draft regulations and implement law.<sup>12</sup>

The country is divided into eight provinces, 164 municipalities, and 557 administrative units, known as communes or *comunas*.<sup>13</sup> *Comunas* are further divided into *sectores*, *bairros*, and *blocos*.<sup>14</sup> Each province has its own government, with governors appointed by central government and vice governors selected from a different political party than the governor. The provincial government appoints the municipal administrator, who in turn appoints *comuna* administrators. No formal state institutions exist below the *comuna* level.

As part of the GoA's plan for decentralization, the government anticipates establishing locally elected councils (*autarquias locais*). However, parliamentary and presidential elections must precede their establishment, and realization of the local councils is likely years away. In the interim, UNDP, USAID, and other groups have taken up the institutional development necessary to decentralization.<sup>15</sup>

### Role of traditional authorities

Angola's traditional leaders, known as *sobas*,<sup>16</sup> are the local governing authority in rural and many peri-urban areas. *Sobas* traditionally handled a multitude of local governance matters (including land administration and management) in conjunction with village elders. The distinction between the traditional governance structure and the formal structure has blurred in the last decades: in some areas, the *sobas* have steadily lost power while in others they have become employees of the government. However, particularly in remote areas, *sobas* often continue to serve as the sole governing authority for the population.

Particularly in areas where the capacity and resources of local government are limited, the relationship between the formal government officials (*comuna* and municipal administrators) and the traditional authorities is critical to a population's relationship to formal government.<sup>17</sup> Other positions bridging the gaps between traditional and formal governance systems include *coordenadores* (coordinators) who work in peri-urban areas as social mobilizers. In urban areas where there are no *sobas* or their power is diluted by the growth of urbanization, there are *bairro* coordinators and *comissoes de moradores* (resident committees).<sup>18</sup>

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<sup>12</sup> *Id.*, Chapter IV.

<sup>13</sup> *Id.*, Art 55.

<sup>14</sup> *Bairro commissars* and *Comissoes de Moradres* (residential commissions) are the governing bodies in these local areas, to some extent filling the role of *soba* while also serving as a quasi-governmental body. The *commissars* and commissions have no official government standing, but continue to exist in many urban areas as holdovers from political parties organized in the years post-independence. These residential commissions can be very powerful in some areas. In Kilamba Kiaxi, for example, the residential commissions are the institutions through which people obtain information regarding available land and are themselves a source of land. Terrafirma, 2005, at 18.

<sup>15</sup> *Id.*, at 13 (description of institution-building efforts); see also USAID/Angola Municipal Development Program.

<sup>16</sup> *Soba* is an Umbundu word for customary leader or chief, but the term is used generically throughout the country. Other leaders are *regedores* ("big *sobas*") and *skulos*, who oversee larger groups. See CARE-Angola 2004, at 5-6. This paper uses the term "*soba*" to refer to all traditional leaders.

<sup>17</sup> Some of CARE-Angola's recent work is focused on strengthening this link between rural communities and formal government. Noting that *sobas* are often elderly and may have limited access to the *comuna sede* (headquarters), among other efforts, CARE designed a *comuna* development structure, that supports the creation of committees that assist in interfacing with local government. See generally CARE-Angola, 2005.

<sup>18</sup> Terrafirma, 2005, at 39-43; Development Workshop, 2005, at 107-08.

## 2.0 CUSTOMARY LAW<sup>19</sup>

While the last decade has witnessed the enactment of formal land laws, customary law has substantial continued relevance in Angola. For a majority of Angola's population, some measure of customary law—along with traditional practices—govern land access, control of land and its production, transfers of land, and land use.

No statistics are maintained that identify what percentage of the country's land is under private tenure as opposed to communal tenure, but (as in many African countries) much of Angola's communal land has evolved into some type of more individualized tenure.<sup>20</sup> In Huambo Province, which is distinguished by its fertile land, organizations working with land issues report that individualized tenure is the norm,<sup>21</sup> while in areas with low demographic pressure and more isolated communities, especially in the eastern and south eastern regions of the country, communal tenure is more common.

However, even in areas where land rights are highly individualized, informal practices are prevalent. Most of the country's population is unfamiliar with the formal land laws and considers its rights and obligations relating to land governed by evolving principles of customary law and traditional practices. Those customary principles and practices related to land can be highly localized. Most, however, share the following general characteristics:

- **Land ownership.** Under customary law, land is regarded as owned by a universal deity and ancestors of living occupants; land is held by a community (or individuals within a community) and administered for the benefit of the community by the *soba*. The belief has persisted among much of the Angolan population through the period of Portuguese control, the nationalization of land at independence, the displacement of approximately four million residents, and the adoption of two formal land laws.
- **Land management and administration.** Traditionally, the *soba* was (and in many areas still is) responsible for managing the community's land, making allotments to individuals and households, establishing the areas of land for common use, setting rules regarding communal land and its resources (and in some circumstances, the use of land allotted to individuals), and adjudicating land disputes. The *sobas* oversee land transactions and the inheritance of land.

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<sup>19</sup> The information in this section is derived from the following sources: Jenny Clover, 2005. "Land Reform in Angola: Establishing the Ground Rules" in *From the Ground Up: Land Rights, Conflict, and Peace in Sub-Saharan Africa*, Chris Huggins and Jenny Clover, eds. ( Pretoria: Institute for Security Studies) and Paulo Filipe, 2005. *The Right to Land and a Livelihood: Kuanza Sul* (Oslo: Norwegian People's Aid); and Norwegian People's Aid, 2006. *The Land and Us: Rights and Obligations* (draft training manual on land law, on file with RDI).

<sup>20</sup> We have been unable to locate any statistics and upon inquiry, were told that the government does not gather or maintain that data. Some nongovernmental organizations (NGOs) have conducted studies that include land tenure information, but the data cannot be extended beyond the study areas. See e.g., Filipe, 2005. *The Right to Land and a Livelihood* and Rede Terre, 2004. *Levantamento Sobre Concessões de Terras na Província do Kwanza-Sul, 1992-2002* (Luanda: Rede Terra).

<sup>21</sup> Development Workshop, which works on land issues in Huambo Province, estimates that most of the land in the province, including rural land, is subject to some form of individualized tenure.

- **Rural land access for community members.** All members of the community (and those joining the community who are deemed trustworthy of integration, including most recently, ex-combatants<sup>22</sup>) are entitled to have use of a portion of land. Inheritance is the main source of rural land for most community members, followed by arrangements for leasing, borrowing, and sharecropping. In addition, the *soba* may allocate land to households and individuals. The *soba*'s allocation will usually be based on the size of the household, planned use for the land, and the availability of land to allocate.
- **Urban/peri-urban land access.** In most urban and peri-urban areas, land access (particularly in informal settlements that distinguish most land holdings in those areas) is less dependent on inheritance and allocations of land by traditional authorities and more dependent on the land market. Individuals and households desiring plots often begin by staying with relatives, then renting a plot, and ultimately buying a plot. In urban and peri-urban areas, if *sobas* are present, they are often without any authority over land allocation. For land matters, *bairro commissioiners* and residential committees often serve as the source of land and tenure security. These institutions are informal, arising from political parties in the years following independence, but they may also have qualities of traditional authorities. In areas where municipal offices are functioning, a coordinating commission may handle a land request with participation of the provincial level department of the Ministry of Public Works and National Institute for Spatial Planning (INOTU).<sup>23</sup>
- **Women's land access.**<sup>24</sup> Regardless of the source of land (*e.g.*, inheritance, lease, purchase), Angolan women generally do not have land access equal to men. Under traditional succession practices, family land passes to sons and male relatives of the deceased.<sup>25</sup> Women in rural areas generally move to their husbands' villages upon marriage and often live and cultivate land owned by the husband's family or granted by the family or *soba* to the husband. If the women are subsequently widowed, abandoned, or divorced, the former husband or relatives of the husband may force the women from the husband's land. Whether these women are welcome back in their natal homes is a matter of local custom and far from assured. In addition, women are less likely to have the assets necessary to lease or purchase land in urban and peri-urban areas. Women seeking land are often forced to resort to the most insecure and least lucrative arrangements: they may borrow land, sharecrop, or squat on former commercial farms, making sporadic payments to landlords. In all of these cases, the quality of land that women can access is most likely to be among the lowest quality.<sup>26</sup>

In addition, as land rights become more individualized, women are in danger of losing what land access they had while gaining no measure of increased security. Under traditional customary tenure practices, women usually have access to land through their status as a daughter or wife. As the system evolves to more individualized rights, the evolutionary process often omits identifying the

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<sup>22</sup> One study of ex-combatants' sources of land found, however, that ex-combatants were more likely to purchase or rent land in a village than obtain land through the *soba*. Development Workshop, 2006, at 41-43.

<sup>23</sup> Terrafirma, 2005, at 39-43; Development Workshop, 2005, at 107-08; Development Workshop, 2006, at 139.

<sup>24</sup> Additional information about women's land rights, under formal law and customary law and practice, is located in Section 6.0. The information in this section is drawn from Filipe, 2006, *The Right to Land and a Livelihood*, and personal interviews with Carolina Matheus (Gomes), a Lunada-based Angolan lawyer (and member of the non-profit *Associacao Maos Livres*), Helena Lowe Zefanias with Norwegian People's Aid in Luanda, and the staff of Development Workshop and CARE in January 2007.

<sup>25</sup> Note, however, in some areas, families are becoming more willing to consider including daughters in the inheritance plans for family land. Development Workshop, 2006. *What To Do When the Fighting Stops: Challenges for Post-Conflict Reconstruction in Angola*, Paul Robson, ed. (Luanda: Development Workshop), at 59.

<sup>26</sup> Similarly, ex-combatants often resorted to borrowing and renting arrangements to access land, and most relied on their families for such arrangements. *Id.*, at 41-45.



land rights of women. As a result, not only do women fail to obtain the benefits of the more individualized rights, they may simultaneously lose their traditional right of access.

In some areas, the *sobas* may support the rights of widows' rights to their husbands' land, or the rights of a divorced women seeking land from their fathers. However, the women's success depends on the active support of the *sobas* as opposed to settled principles of customary law.<sup>27</sup>

- **Transferability of land.** Customary law allows landholders to alienate communal land temporarily through a variety of means, including leases, rental agreements, borrowing arrangements, and loans. Historically, customary law prohibited permanent transfers because the land was deemed to be held in trust for ancestors and unborn generations and could not, therefore, be permanently transferred. However, as communal land systems evolved to include individualized tenure, the system recognized permanent transfers. In urban areas and regions with rich agricultural land, the majority of landholders have individualized rights, and such areas support active informal land markets.<sup>28</sup>

In sum, customary law has tended to serve the interests of much of Angola's population and has proved its ability to evolve to support the development of individual land rights and an informal land market. However, the customary system also has some weaknesses. Because customary systems tend to be based on inherited and otherwise established sources of power, they have more often promoted rather than challenged existing social hierarchies at the expense of equality of rights and opportunities. Those who are economically and socially disadvantaged—such as women, tribal minorities, and the disabled—have not fared as well under a customary system as the politically powerful and rural elite.

In addition, as currently conceived and practiced, customary law may be inherently inadequate to the challenges to land rights created by the pace of the anticipated economic development in Angola. While a few provisions of the 2004 Land Law and Proposed Regulations recognize customary law or traditional practices, the ambit of customary law is highly circumscribed and always subject to formal law. As competition for land and urbanization increases and authority of traditional rulers continues to erode or be diluted by growth of governmental bodies, formal law will increase in importance. Unless strategic efforts are made to include traditional systems and institutions in the design of formal mechanisms and institutions, they will rapidly become impotent. Those who ignore (or who are ignorant of) the formal legal system will be disadvantaged, and losses in the currently informal land rights are unlikely to be recovered.<sup>29</sup>

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<sup>27</sup> Even in areas where there are female *sobas*, women's land rights are not assured. Filipe, 2005, at 27.

<sup>28</sup> See sources cited for the content of Section III, including Jenny Clover, 2005. "Land Reform in Angola: Establishing the Ground Rules" in *From the Ground Up: Land Rights, Conflict, and Peace in Sub-Saharan Africa*, Chris Huggins and Jenny Clover, eds. ( Pretoria: Institute for Security Studies) and Paulo Filipe, 2005. *The Right to Land and a Livelihood: Kuanza Sul* (Oslo: Norwegian People's Aid); and Norwegian People's Aid, 2006. *The Land and Us: Rights and Obligations* (draft training manual on land law, on file with RDI).

<sup>29</sup> A general discussion of these principles in a broader African context is included in FAO, 2006. Agrarian Reform, Land Policies, and the MDGs: FAO's Interventions and Lessons Learned during the Past Decade, produced for the 24<sup>th</sup> Regional Conference for Africa, ARC/06/INF/7, and the studies cited therein.



# 3.0 OVERVIEW OF FORMAL LEGAL SYSTEM

In contrast to some systems of customary law, which when unchecked and isolated from natural processes of social change can reinforce entrenched rural hierarchies and power structures, formal tenure systems potentially provide a welcome neutrality. Formal systems are often based on constitutional proclamations of equal rights, principles of fair treatment, and the rule of law. The laws in formal systems are codified, public, and are usually applicable to all persons—regardless of economic status, ethnic group, gender, or other classification.<sup>30</sup>

Angola's formal legal system is based on a statutory or code system imposed by the Portuguese during the colonial period. Angolan courts applied Portuguese civil and military law, and the Metropolitan High Court in Lisbon heard appeals. Following independence in 1975, the GoA began the process of creating an independent legal framework to replace the colonial inheritance.

Angola's judicial system is structured around a central Supreme Tribunal, which operates primarily as an appellate court (although the court can exercise some original jurisdiction). Trial courts with original jurisdiction are provided for at the provincial and municipal levels.<sup>31</sup> As of 2000, all 18 provinces had functioning provincial courts; municipal courts were operating in 12 of 140 municipalities.

The president appoints Supreme Court (without confirmation by the National Assembly) and provincial judges, who in turn appoint municipal judges. Judges need not be licensed lawyers and are often lay persons. The Constitution provides for a Constitutional Court (which has not yet been established), administers justice on legal and constitutional matters, rules on constitutionality of the laws, and takes appeals on constitutional questions.<sup>32</sup>

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<sup>30</sup> Thomas Carothers, 1998. "The Rule of Law Revival," 77 *Foreign Affairs*, March-April 1998, at 95.

<sup>31</sup> Constitution, Article 125

<sup>32</sup> *Id.*, Arts 134-35



# 4.0 KEY GENERAL LEGISLATION

The key general legislation that impacts land rights in Angola include the Constitution of the Republic of Angola, the Civil Code, and the Family Code.<sup>33</sup> Angola’s primary land legislation is outlined in the following section.

## 4.1 CONSTITUTION OF REPUBLIC OF ANGOLA (1992)<sup>34</sup>

The Constitution of the Republic of Angola was adopted in 1992. Angola does not have comprehensive, stand-alone written statement of its land policy. The Constitution, therefore, provides one of the only expressions of possible land policy objectives. Some of the key constitutional principles articulated are:

- Angola is a sovereign and independent nation with the primary objective to build a free and democratic society of peace, justice, and social progress. (Art 1)
- Angola is a democratic state based on the rule of law, national unity, dignity of the individual, pluralism of expression and political organizations, respecting and guaranteeing rights and freedoms of persons as individuals and members of social groups. (Arts 2-3)
- All persons are equal under the law and shall not be discriminated against on the basis of race, color, ethnicity, sex, religion, level of education, economic, and social status. (Art 18) Disabled combatants of the national liberation struggle shall have special protection. (Art 48)
- The GoA has sovereignty over territory, water, air space, soil, and subsoil. All natural resources, including land, are the property of the GoA. (Arts 6 and 10) The GoA shall respect and protect people’s property, including land owned by peasants, although the GoA retains the right to expropriate property in the public interest.<sup>35</sup>
- Whether based on marriage or de facto union, men and women have equality within the family. (Art 29)

## 4.2 CIVIL CODE (2001) (“CODIGO CIVIL”)

The Angolan Civil Code is based on the Portuguese Civil Code and is the fundamental source of civil law in the country. The Civil Code contains sections on private obligations and contract rights, commercial law, debtor-creditor relations, property rights, and succession.

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<sup>33</sup> Other key legislation, although without significant connection to land rights, includes the Penal Code, various commercial and corporate laws, tax laws, and the General Labor Law.

<sup>34</sup> Attached as Appendix A.

<sup>35</sup> Article 12. Any confiscation of land in accordance with the law is valid and irreversible. Article 13.

Despite the passage of the 2004 land law and the proposed regulations, the Civil Code continues to govern many land issues—either because they fall outside the ambit of the Land Law or because the Land Law and Proposed Regulations specifically defer to the Civil Code as the governing law.<sup>36</sup> For example, the Civil Code provides terms relevant to tenancy rights, inheritance of property, and the GoA’s expropriation of property. The Civil Code also provides procedural remedies, such as the right to seek a declaratory judgment on the legality of a government action or nullify a government action.<sup>37</sup> However, while the Civil Code used to provide for some protection for those occupying land informally for long periods, the 2004 Land Law trumped those provisions, subjecting those with informal rights to eviction if they fail to apply for a concession in a timely fashion.<sup>38</sup>

## **4.2 FAMILY CODE (1989) (“CODIGO DA FAMILIA”)<sup>39</sup>**

The Family Code governs issues relating to the composition of the family, marriage and marital rights, and obligations to children. In pertinent part, the Family Code provides for the equality of women and men within marriage, recognition of registered and common law marriage, spousal rights to separate and community property (at their election), and the obligations of spouses in the event of separation and divorce.<sup>40</sup>

## **4.3 RECENT ECONOMIC LEGISLATION**

The National Assembly recently enacted several new laws intended to promote investment by eliminating market inequities between national and foreign enterprises, to protect market functioning, guarantee of repatriation of capital, and to provide protection for intellectual property. The laws allow for the creation of special economic zones, regulate the process of investment with regard to tax and customs policies, and provide incentives for industries such as agriculture, civil construction, and health and education.<sup>41</sup>

Notably, the package of laws includes an arbitration act that allows private parties to resolve commercial conflicts in an expeditious fashion. The law provides that it extends to property rights conflicts, and is referenced in the 2004 Land Law as governing the process of mandatory mediation and arbitration.<sup>42</sup>

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<sup>36</sup> These areas are identified in the outline of the Land Law and Regulations in the next section.

<sup>37</sup> See *e.g.*, Civil Code, 2001, Sections 289 and 1276.

<sup>38</sup> 2004 Land Law, Art 84.

<sup>39</sup> Excerpts attached as Appendix D.

<sup>40</sup> The paper discusses the Family Code in more depth in Section 6.0.

<sup>41</sup> National Business Incentive Act; Computation and Update of Fiscal Unit Act; Basic Law on Private Investment; Law on Tax and Custom Duty Incentives; Law of Promotion of National Entrepreneurship and Economic Crimes; Law that Updates the Formula for the Calculation of Corrective Fiscal Unit.

<sup>42</sup> Law on Voluntary Arbitration (Free Will Arbitration Act).

# 5.0 LAND POLICY AND LAW

## 5.1 ABSENCE OF NATIONAL LAND POLICY

Angola does not have a comprehensive, written statement of its national land policy and accordingly has no clear, overarching principles to guide land-related legislation and regulations, or to prioritize plans for economic growth and development with issues relating to land access, tenure security, land use, and land administration. The 2004 Land Law contains some expressions of policy (see Section 5.3); however, because the principles are housed within the legislation, they cannot guide the prioritization of those principles (and the attendant legislative terms) with relation to other legislation, such as laws designed to promote economic development, social welfare, and environmental sustainability.<sup>43</sup> Indeed, even within the legislation itself, the provisions conflict with the articulated principles.<sup>44</sup>

In addition, what policy statements do exist within the laws are far from comprehensive. For example, the land laws make no policy statements regarding the rights of women and other marginalized populations and no statement of non-discrimination in land access and the regularization of informal land occupations. The content of the legislation reflects the lack of policy guidance: the provisions of the Land Law and Proposed Regulations reflect no awareness of the barriers to land access, tenure security, and general well-being faced by the majority of the country's population.

## 5.2 PRE-2004 LAND LEGISLATION<sup>45</sup>

Prior to the current land law, which was enacted in December 2004 and became effective in February 2005, Angola's land was subject to a series of legislative efforts to direct land resources (primarily rural land) to the hands of a few. From colonial times through the 1990s, Angola's land laws attempted to identify and (in most cases) contain or circumscribe the land rights of the country's indigenous population, while at various times supporting the development of commercial farming and mineral extraction enterprises.

In the colonial period, the Portuguese established large farms and plantations (*fazendas*) to grow cash crops for export, and may ultimately have received title to land they occupied. At independence, Angola nationalized its land, and the majority of Portuguese vacated the farms. The country's subsequent efforts to collectivize the farms generally failed and by the 1980s most were abandoned and production ceased.

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<sup>43</sup> Comprehensive national land policies recognize these multidimensional aspects of the relationship between people and land (including potentially competing economic, social, environmental, and legal/administrative interests) and support interests of efficiency, certainty, equity, and environmental sustainability. Patrick McAuslan, 2003. *Bringing the Law Back In: Essays in Land, Law, and Development* (Burlington: Ashgate), at 9.

<sup>44</sup> An example is the broad authority granted the GoA for the expropriation of land while significantly limiting the rights of those with informal rights to urban and peri-urban plots.

<sup>45</sup> Jenny Clover, 2005. "Land Reform in Angola: Establishing the Ground Rules" in *From the Ground Up: Land Rights, Conflict, and Peace in Sub-Saharan Africa*, Chris Higgins and Jenny Clover, eds. ( Pretoria: Institute for Security Studies)

In 1992, Angola adopted its first post-independence land law.<sup>46</sup> The law mostly addressed surface use rights to rural land for agricultural use and was limited in scope to issues of land access and titling.<sup>47</sup> The law recognized the rights of those who received concessions in the post-Independence period. The law did not recognize customary rights of indigenous populations and did not regularize the rights of those who had informally occupied urban areas and abandoned farms. Not surprisingly, a period of intense land grabbing ensued. The government granted new concessions for *fazendas*, and state-owned plantations were privatized and sold. Commercial farmers received rights to fertile agricultural land and large cattle ranchers received rights to prime grazing areas.<sup>48</sup>

The law was criticized by civil society and some government officials for failing to recognize the customary land rights of the people and the need to create a fair and transparent process for formalizing rural and urban land rights. After significant effort by civil society (the substantive content of which was ultimately not reflected in the new law),<sup>49</sup> Angola passed the 2004 Land Law.

### 5.3 2004 LAND LAW (09/04) AND 2006 PROPOSED REGULATIONS<sup>50</sup>

Angola's 2004 Land Law became effective February 2005. The law includes some statements of policy and addresses the following topics (some in a cursory fashion, others more comprehensively):

1. fundamental principles and objectives;
2. scope of the law and classification of land;
3. GoA land grants;
4. terms of concessions;
5. delineation, demarcation, and registration;
6. rights and duties of concession holders;
7. concessions for urban land ownership;
8. transfers of land rights;
9. GoA land expropriation;
10. loss of land rights/protection of existing land rights;
11. administration; and
12. enforcement.

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<sup>46</sup> Law 21-C/92, *Regulamentos de Concessões*, Decree 32/95 of 8 December and 46/92 of 9 September.)

<sup>47</sup> A handful of decrees passed in the same period tried to address urban land issues. For example, Decree 46A granted provincial governments the right to grant concessions for urban land for a period of 25-60 years.

<sup>48</sup> In many cases, the war prevented the concession holders from beginning commercial farming, and they have only begun to resume farming in the last few years, creating potential conflicts with populations that have settled on the farms or use the farm for fodder and other resources during the war. Development Workshop, 2006, at 63-64.

<sup>49</sup> See e.g., discussion of process in Development Workshop, 2005, at Chapters 10-11.

<sup>50</sup> As a general matter, this outline of the 2004 Land Law focus on the enacted provisions. For a comprehensive review of the shortcomings of the law, see David Bledsoe and Carlos Pinto's December 2002 *Land Law and Policy Assessment*, prepared for USAID under the auspices of the National Democratic Institute (on file with RDI).



This section provides an overview of the content of the Land Law, organized under the identified topics. Where the Proposed Regulations supplement these provisions, the report makes such references.<sup>51</sup> In addition to supplementary provisions, the Proposed Regulations add two critical procedural rights:

- **Right to information.** The Proposed Regulations provide for a right of private individuals to information regarding government processes under the regulations.
- **Time periods.** Parties have 10 days from the time of an act or omission to challenge the act or omission. Time periods established in the regulations can be extended once for an equal period. (PRegs arts 6-7)

## 1. Fundamental principles and objectives.

The GoA owns and exercises ultimate authority over all land and natural resources, and has an irreversible right to expropriate land. The law expresses the government's desire to adopt a territory organization policy with objectives of well-being, economic and social development, and preservation of areas in which traditional ways of using the land are adopted.<sup>52</sup> The expressed objectives of the Land Law are:

- organization of territory;
- economically efficient and sustainable utilization of land;
- protection of the environment;
- prioritization of the public interest;
- economic and social development; and
- respect for principles underlying the law. (Art 14)

## 2. Scope of law and classification of land.

The Land Law reaches all rural and urban land to which the GoA can confer transferable rights to individuals and collective persons, which is limited to land within the GoA's private domain. The general terms of the Land Law does not extend to public land that cannot be the subject of private land rights, such as land in public domain (e.g., public roads, ports, national monuments)<sup>53</sup> or reserved land (land reserved for national security, environmental protection). (Art 29)<sup>54</sup> The Land Law also does not extend to privately owned land, such as land owned by the Catholic Church and foreign embassies. (Arts 21-27)<sup>55</sup>

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<sup>51</sup> Land Law references are designated: "Art \_\_\_\_." References to the Proposed Regulations are designate das "PReg art \_\_\_\_."

<sup>52</sup> Article 4. In some cases, these principles are undermined within the law itself. For example, while the law expresses support for the land rights of rural communities, the GoA also asserts its right to seize community land. See Article 9.

<sup>53</sup> The Land Law permits the Council of Ministers to transfer public land into the GoA's private domain. Article 66.

<sup>54</sup> Note, however, that the Land Law does preserve some rights for the GoA with relation to the public lands, such as the right to create reserves on rural community land and compensate rural residents with alternate land or compensation. See Article 33. This article is also referenced in the section on GoA land acquisition. Additionally, the Proposed Regulations create a category of "partial reserve."

<sup>55</sup> Estimates of the amount of privately held land vary, but do not exceed 10 percent of total land, and the amount may be far less.

The Land Law broadly classifies conferrable land within its private domain as follows:<sup>56</sup>

**2.1 Urban land:** Urban land is the area classified as such or an area delimited by urban agglomeration (*i.e.*, infrastructure zones) and destined for urban development. Urban land is comprised of urban lots, which are lots that are already developed, those that are under construction, and those lots that can be urbanized, *i.e.*, are within an urban plan. (Arts 1, 19, and 21).

**2.2 Rural land:** Rural land is outside the delimitation of an area of urban agglomeration and designated for the purposes of agriculture, animal husbandry, forest, and mining activities.<sup>57</sup> Rural lands include land used for rural residences and customary rural activities. (Arts 19, 22)<sup>58</sup>

**2.3 Rural communities/rural community lands:** Rural communities are comprised of neighboring families that have collective rights of possession, administration, use, and fulfillment of the means of community production. Rural communities occupy rural community land, using it in a useful and effective manner for purposes of habitation, activities, and other customary ends, and in accordance with principles of self-governance. Rural community lands are utilized by rural communities according to their customs of land use, and can extend to those land used for itinerant agriculture, cattle passageways, and lands used to access water and travel to urban centers. (Arts 1, 23)<sup>59</sup>

**2.3.1 Legal standing.** Rural communities are legal entities and have standing to defend their collective rights under the Land Law. (Art 70)

**2.4. Total and partial reserves.** The Proposed Regulations distinguish between the total reserves in the Land Law (*e.g.*, public land set aside for environmental protection and national monuments are not conferrable) and partial reserves, which the Proposed Regulations carve out for special treatment.

**2.4.1 Partial reserves.** A partial reserve is land set aside for public services, economical housing, water projects, public health facilities, public utilities, conservation zones, ports, airports, railways (with expansion zones), tourism related projects, industrial projects, forest protection, and prospecting for and utilization of mineral resources. (PReg art 27)

**2.4.2 Expropriation for reserves.** Holders of land rights affected by expropriations for reserves may select compensation for rights lost or participation in the reserve as a stockholder in mixed economy associations established for the activities on the reserve land. (PRegs, art 28)

**2.4.3 Calculation of land value.** The compensation paid for land expropriation for reserves shall be the fair value of the land as of the date of expropriation and cannot take into account the establishment of the reserve, and projects that were not completed on the land five years prior, and any improvements after notification of its status as a reserve. (PRegs, art 30)

**2.4.4 GoA obligation to delimit.** The GoA will delimit private land that border public land (PRegs, art 20), and reserves (PRegs, art 25).

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<sup>56</sup> The law breaks down many of the terms used in the definitions below into detailed descriptions for various land types, such as "road lands," and "installation lands," in Articles 24-27.

<sup>57</sup> Agricultural land, installation land, road land, and reserved lands are the subject of separate, supporting definitions. See Articles 24-27.

<sup>58</sup> The Proposed Regulations include in rural community lands areas complementary to itinerant agriculture, seasonal access corridors for cattle, and water passages, roads, and highways, to make consistent with the ambit of Land Law, Art 23. (PReg art 15)

<sup>59</sup> Article 19(7) states that "properties integrated into the State's public domain and community property" are not conferrable. The term "community property" is undefined, and it is unclear whether the reference is to land within the public domain or otherwise.

### 3. GoA grants of useful domain.

The GoA holds the “direct domain” and has the authority to confer or transfer the “useful domain” of land to individuals and entities. (Art 37)<sup>60</sup> The state can grant: (a) private property rights to urban land; (b) useful customary domain to rural communities; (c) useful civic domain; (d) surface rights; and (e) temporary occupation rights. (Art 34) The transfer of land rights does not include a right to any natural resources. (Art 10) The recipients’ use of all land rights received remains subordinate to the economic and social purposes for which the GoA granted the rights.<sup>61</sup>

**3.1 Requirement of useful and effective usage.** All GoA land grants and transfers are subject to the requirement of useful and effective usage of land, which is established by land evaluation and land use instruments. The law sets two specific requirements: (a) the GoA cannot grant a household more than one-third of the surface corresponding to the work capacity of the household; and (b) a recipient of land rights shall forfeit the rights in the event he or she fails to use the land in accordance with the use plan or index for three consecutive years, or six non-consecutive years, regardless of reason. (Art 7)

**3.2 Types of grants.** The following provides further details regarding the types of land grants, which are defined by the terms of the grant and classification of land:

**3.2.1 Urban land: private rights.**<sup>62</sup> The GoA can transfer title to urban land to individuals and collectives if: (1) the land is within an urban plan or legally equivalent document; (2) the GoA has approved the land division; and (3) the land right is transferred by public auction, contract, or redemption of title in accordance with the law. In order to receive title, the land must have infrastructure for water, electricity, and sanitation. The right granted is perpetual. The landholder’s use of the private property transferred is restricted by the terms of applicable urban plans. Private urban land rights held by individuals and entities can be subsequently transferred, subject to the terms of the applicable provisions of the law and proposed regulations. Title to urban land delimits the area that the GoA will concede to local authorities for independent administration. (Arts 36, 41, 52-53, and 55; PRegs art 32)

**3.2.2 Useful customary domain.** Rural communities can obtain a perpetual right of useful customary domain by means of receipt of recognition title given by the local authority consistent with the processes recognized by the Land Law. The GoA remains the holder of the direct domain; only the useful domain transfers. Holders of useful customary domain title have the rights of occupation, possession, and use of the land.

- **Extent of land.** The relevant government authority has the power to recognize a rural community’s useful customary domain for land occupied by the community and used by the community in a useful and effective manner and according to custom. (PReg arts 71-72) The delimitation of rural community land and definition of effective use of the land must be made by the relevant authority in accordance with the regulations and any land organization documents. The processes shall include input from traditional authorities, administrative authorities, and affected residents of the rural community. (Arts 23 and 51; PReg art 18)<sup>63</sup>

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<sup>60</sup> Article 37. This section is subject to the terms of the Civil Code, Art 1302-1384.

<sup>61</sup> Article 18. The Civil Code dictates the standards for abuses of rights granted.

<sup>62</sup> The precise nature of the private rights available under this section is unclear. While the law makes no statement (as it does in the following provision regarding useful customary domain) about whether it releases its rights to direct domain, the implication (based on language used and with relation to other provisions) is just that: under this section the transferee receives a freehold right to the urban land, akin to private ownership rights held by the church and embassies.

<sup>63</sup> Proposed Regulation Art 16 echoes this article.

- **Recognition title form.** The Proposed Regulations supplement the provisions regarding useful customary domain with reference to a model form for the Recognition Title granted by the local authority.
- **No concession.** If the community land is recognized as a useful customary domain, it cannot be subject to a concession.<sup>64</sup>
- **No fee.** The community's exercise of useful customary domain is free; titleholders are exempt from fees. The title cannot be transferred, with the exception of mortgages for loans taken for effective use of land. (Art 37 and 55; PRegs 70-76)<sup>65</sup>

**3.2.3 Useful civil domain.** Useful civil domain refers to use rights gained pursuant to principles of civil law. Useful civil domain can be obtained over rural and urban land by means of a concession contract (lease) between the state and the individual or entity. Useful civil domain requires payment of fees for the concession and an annual rent. The right can be mortgaged. (Art 38)<sup>66</sup> Useful civil domain is a perpetual right. (Art 55)

The following details of the lease agreements for useful civil domain are derived from the Proposed Regulations:

- **Cost.** Holders of the right of useful civil domain pay a one-time fee for the concession and annual rent based on the classification and use of the land. If an entity that has paid the cost of demarcating land does not receive the concession, it is entitled to reimbursement.<sup>67</sup>
- **Public auction.** Where possible, concessions for useful civil domain are given at public auction, but exceptions are noted.
- **Special leasing clauses.** In some circumstances, the concession contract may contain a special premium. (ProRegs arts 66-70)

**3.2.4 Surface rights.** The state can grant surface rights to rural and urban land to individuals and entities under the following terms:

- **Purpose.** Under the terms of the Civil Code, surface rights are granted for the purpose of construction of buildings or to make or maintain plantations.<sup>68</sup> The Proposed Regulations provide that through a surface right, rights to trees may be held that are separate from right to the land. (Pre art 77)
- **Fees.** Surface rights are subject to annual fees, calculated according to tables maintained by the Ministries of Finance and Urbanism and the Environment. The rights holder may also opt for a one-time payment tied to the product value. (PReg, art 79)

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<sup>64</sup> See also ProReg, art 19. Rural communities can, however, freely vacate rural community land, and traditional leaders can identify ineffective (unusable?) community land. See Article 37(4-5).

<sup>65</sup> Civil Code Sections 1491-1523 are applicable if questions regarding useful customary domain cannot be resolved by direct customs.

<sup>66</sup> Civil Code articles 1501, and 1491-1523 define the ambit and terms of useful civil domain. Article 38.

<sup>67</sup> The regulation does not state whether the local government or recipient of the concession must make the reimbursement. (PReg art 68)

<sup>68</sup> Civil Code, Articles 1524-1525.

- **Transfer.** Surface rights can be mortgaged. The holder of a surface right has a preferential right in the event of the sale or other grant of greater land rights to the area, and has the right to purchase the land without public auction (although the Proposed Regulations note a preference for the public auction procedure, with exceptions. (Arts 39 and 48, PReg arts 38, 79-80)<sup>69</sup>
- **Term.** Under the Land Law, surface rights are granted for 70-year periods, subject to renewal. (Art 55) The Proposed Regulations require surface rights initially to be granted provisionally, for a period of no more than five years. The right will be extended only after proof that the holder of the right has met the obligation of effective use and the land is demarcated. (PReg, art 78)

### 3.2.5 Precarious occupation rights/temporary leaseholds.

- **Term and Purpose.** The state can grant temporary occupation rights up to one year in duration (subject to renewal) to rural and urban land to individuals and entities for purposes of construction, mining, scientific investigation, and other activities permitted by the relevant authorities' regulations.<sup>70</sup> Leases can be terminated by either party on 60-days notice. Rights regarding installations and improvements by lessees are subject to applicable provisions of the Civil Code. (Arts 40 and 55)<sup>71</sup>
- **Public auction.** Where possible, concessions shall be granted by public auction (with exemptions noted). (PRegs, arts 91-92)
- **Size of leasehold.** Under the Proposed Regulations, leaseholds may not exceed one hectare for quarries and one-half a hectare for other uses. (PReg, art 44)
- **Rate and arbitration.** Annual lease rates are calculated based on Ministry tables, subject to annual revision. (PReg arts 83-89) Disputes regarding lease rates are subject to mandatory arbitration. (PReg art 90)

**3.2.6 Public interest land.** The Proposed Regulations add an additional category of land: land occupied or to be occupied for achievement of public interest objectives. These lands are reserved to the GoA, which will deliver them to the entity performing the public service, to be used in accordance with their objective. The nature and term of the concession is not stated and public interest is undefined. Third parties occupying these lands, whether under a free or paid concession, require special permission of the GoA and can have only precarious or temporary occupancy rights. (PReg, art 40)

## 4. Concession requirements.

Concessions have the following requirements:

**4.1 Eligible titleholders.** The Land Law identifies requirements for titleholders, including nationals and foreign titleholders, individuals and collectives, and those with accumulated land rights (Arts 42 and 44);

### 4.2 Size of concessions.

- In urban areas, concessions are limited to two hectares.

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<sup>69</sup> Civil Code article 1524-1542 are applicable to surface rights, and the preference right held by the holder of the surface right is subject to Civil Code, Articles 416-418 and 1410.

<sup>70</sup> The Proposed Regulations are more specific: temporary leases can be granted for quarries, property adjacent to a mineral deposit (only available to same entity that has the mine concession), and any other properties necessary for achievement of specific objectives. (PReg art 39)

<sup>71</sup> Article 1273 of the Civil Code.

- In suburban areas (the term “suburban” is undefined), concessions are limited to five hectares.
- In rural areas concession can be granted for between two and 10,000 hectares. (Art 43)

The Council of Ministers has authority to circumvent some of the Land Law provisions, including granting concessions in excess of size limitations. (Art 66; PReg arts 41-42; 45) The Proposed Regulations advise that land held by spouses (de jure and de facto) and their minor children is included in calculation land holdings. Partners with more than 50 percent interest in an entity is considered equivalent to the entity (not a separate person) for the purpose of calculating landholdings. (PReg art 43) Under the Proposed Regulations, leaseholds may not exceed one hectare for quarries and one-half a hectare for other uses. The limitation may be exceeded if justified in the interest of the GoA. (PReg, arts 44-45)

**4.3 Use requirement.** The concession holder must use the land. Applicants for concessions must demonstrate the capacity to put land to effective use. (Art 45)<sup>72</sup> The GoA may grant successive concessions subject to the useful and effective use of the land. (PReg, art 46)

**4.4 Length.** Most concessions have perpetual terms. Exceptions are a 70-year limit on surface right concessions and temporary occupation leases, which cannot exceed one year. The terms are renewable. (Art 55)

**4.5 Methods of obtaining concession.** Concessions can be obtained by:

- purchase and sale contract,
- forced acquisition,
- contract for establishment of a right of useful civil domain,
- contract for surface rights, and
- lease for temporary occupation rights. (Art 46; PReg arts 35-39)

**4.6 Title documentation.** Concessions must be in writing and include the rights and duties of concessionaries, sanctions for non-compliance, and causes under which rights may be extinguished.<sup>73</sup> The concession title is provided by the relevant authority and includes a definition of the land, type of land right granted, date of transfer, period of concession, identification of the authority granting the concession, and any fees and taxes paid. (Art 59)

**4.7 Concession fees.** In order for effective title to pass, the concession holder must pay the appropriate fee, unless exempt because the holder is entitled to a free concession or land right grant. Concession fees must be paid in cash, payable by lump sum or installments. The price of urban land shall be fixed by private offering in accordance with price indexes and any rules in effect in the local area. (Arts 47 and 57)

**4.8 No-fee concessions.**

The GoA may grant no-fee concessions in accordance with the following principles:

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<sup>72</sup> Article 45. The requirement of proof of adequate capacity is not required for some small holdings.

<sup>73</sup> Article 53.

**4.8.1 Eligibility.** The state may grant no-fee concessions to:

- those with insufficient financial means and who wish to integrate populations into less developed areas of the country;<sup>74</sup>
- institutions engaged in public services relating to social, solidarity, religious, and recreation activities. (Arts 47 and 50)

The Proposed Regulations add the following entities and persons entitled to free concession:

- local authorities;
- families that are part of rural communities with useful customary domain used effectively and according to custom who have concessions adjacent to the useful customary domain;<sup>75</sup> and
- entities with religious affiliation for construction of places of worship, schools, and assistance-related activities. (PReg, art 47)

**4.8.2 Transfers.** Transfers of free concessions are restricted; the conceding authority can approve a transfer only in favor of a transferee who meets the requirements for a free concession. (Art 63; PReg art 96)

**4.8.3 Useful customary domain.** Recognition of a rural community's useful customary domain is not subject to any fee. (Arts 47 and 50)

**4.8.4 Conversion.** Free concessions may be converted to fee concessions, with the fee set by the Ministries of Finance and Urbanism and the Environment.

**4.9 Duties of concession holder.** Those who acquire concessions have obligations to pay any fees in a timely manner; to use the land effectively and consistently with the land use plan and protection of the environment; to respect the land rights of rural communities; and provide local authorities with relevant information on the use of land. (Art 56)

**4.10 Concession application process.** The Land Law breaks down the process for obtaining a concession into five main steps: (1) application of interested party; (2) provisional demarcation; (3) evaluation of application and provisional demarcation; (4) approval; and (5) definite demarcation. (Art 56) The local authority granting the concession should send the documents to the cadastral registry for entry and provide evidence of registry. Concession rights are only effective after registry and against those who do not already have recorded their rights. (Art 60) The Proposed Regulations add more detail to the requirements of the process. Those requirements are outlined in Section 5.

**4.11 Extinction of land rights.** A concession contract is extinguished: (1) at the conclusion of its term; (b) by the recipient's failure to make effective use of the land; (3) by using the land inappropriately; (4) by its expropriation; or (5) by its disappearance. (Art 64)

**4.12 Parceling and subdivision.** Any subdivision of the concession must be the result of judicial decision and noted on the concession title. (Art 62)

**4.13 Restrictions on concessions.** The Proposed Regulations state that concessions cannot be granted for public land, total reserves, rural community land recognized as useful customary domain, and land

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<sup>74</sup> The Land Law is unclear whether those with insufficient financial means are entitled to a free concession regardless of area sought for the concession, or whether they are required to seek a concession in a less developed area.

<sup>75</sup> This is ambiguous but appears to allow for a rural household that has land within a recognized useful customary domain to obtain a concession for other land, possibly in the same area or adjacent.

occupied by special license. Land in partial reserves are subject to concessions in accordance with the objectives of the partial reserve. (PRegs, art 34)

## **5. Land delimitation, demarcation, and registration process.**

The Proposed Regulations expand on the delimitation, demarcation, and registration process referenced in the Land Law, and include a “common process” and “special process,” which is reserved for those seeking free concessions and concessions for temporary occupancy.<sup>76</sup> Everyone who does not qualify for a fee concession and application of the “special process” must proceed under the “common process.”

### **Common Process**<sup>77</sup>

**5.1 Contents of petition.** The applicant files a petition for concession with Secretariat of the provincial government and posts the petition at the municipal and communal headquarters. The petition must include a basic description of the land parcel, identity of applicant, type of concession sought, price offered for concession, and any other concessions owned. The petition must be supported by: (1) the applicant’s identity card and birth certificate if an Angolan national (with some alternatives if applicant does not have these documents<sup>78</sup>), and passport and card if foreign; (2) certificate of commercial registry, if collective, with supporting corporate data; (3) certificate of registry of private instrument (CRIP); (4) plan for use of the land; (5) declaration of authority of Angolan law (for foreigners); and (6) a certificate of lot description. Applicants must have the capacity to contract.

**5.2 Initial evaluation of petition.** The Secretariat’s office performs initial research gathering opinions regarding the application, including the adequacy of the land for the uses, the existence of rights of third parties, time frames, and any need for special clauses in any concession granted. The Secretariat makes preliminary findings and in the absence of cause to deny, orders the provisional demarcation process and public auction, if indicated.

**5.3 IGCA lead role in delimitation.** The central registering office, the Institute of Geography and Cadastral of Angola (IGCA),<sup>79</sup> takes the lead role in performing the delimitation and demarcation process. The Proposed Regulations allow some discretion in the positions held by accompanying officials but may include technicians from the Ministries of Agriculture and Rural Development, Mines, and the Environment, as warranted. The IGCA consults any existing cadastre for records relating to parcel and notes any registered rights.

**5.4 Public announcement of provisional demarcation.** The IGCA announces a date for provisional demarcation by publishing notice in a national newspaper and posting the text of the notice in the office of the conceding authority and the headquarters of municipal and community administrations. The notice must give at least five-days notice and invite all interested parties to attend.

**5.5 Provisional demarcation.** The applicant, IGCA official, and other interested parties attend the provisional demarcation at the site. The provisional demarcation is based initially on existing urban and rural plans and the statements of the applicant. Plots shall be designed to be polygonal with few sides,

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<sup>76</sup> The proposed regulations state that the special process may also apply to other cases “expressly foreseen” by the regulations. PReg art 153(3).

<sup>77</sup> These requirements and procedures are set forth in the Proposed Regulations, articles 100-119 and 134-149.

<sup>78</sup> The applicant can provide, as alternatives, any document with a photograph and fingerprint or signature with name, sex, address, birth date, and parents, or have two people who have identity cards witness the applicant’s identity. (PRegs art 138)

<sup>79</sup> The IGCA is officed within the Ministry of Urbanism and the Environment and has provincial offices. The National Institute for Spatial Planning and Urban Development (INOTU) handles development and zoning and is also under the MINUA. IGCA should have central control of the cadastre as it is developed.



preferably quadrilateral, and will include rights for passage. Temporary markers are placed where boundaries will be set. The applicant for a concession pays the cost of the demarcation (provisional and definite).

**5.6 Acceptance of provisional demarcation.** Once the provisional demarcation is set, the applicant has five days to declare in writing whether the applicant accepts the demarcation. Lack of response is deemed to be acceptance. The provisional demarcation gives no rights but prevents others from new demarcations in the same area.<sup>80</sup>

**5.7 Publication of provisional demarcation.** At expiration of the five days, the announcement of the demarcation is publicized through publication of the application in a national newspaper and posting of the application at the provincial government office and municipal and community government offices. The posting states the name of applicant, the locality, the boundaries, the type of land, the objective of the concession, and the time period for presenting challenges, which is not more than 30 days from the date of the publication.

**5.8 Challenges to provisional demarcation.** Anyone may file a challenge to a provisional demarcation by submitting a statement of the basis for challenge, submitting supporting documents, identifying any witnesses, and depositing an estimated fee for adjudicating the matter (based on a fee schedule). The applicant for the concession has 10 days to respond to the challenge.

**5.9 Decision on challenge.** The conceding authority will consider any challenges to the provisional demarcation and enter a judgment. The ruling of the conceding authority can be appealed by either party under general civil procedures.

**5.10 Definite demarcation.** Once time expires for registering challenges to the provisional demarcation (or if a challenge was filed, once a ruling has been entered), the provisional demarcation expires and the definitive demarcation process begins. The applicant must: (1) make a deposit of amount necessary to pay for demarcation process, including publications, title, registration, and inspections, if applicable to the applicant; (2) provide proof of the work capacity of applicant and family; (3) provide proof of financial and technical capacity to execute development plan; and (4) provide proof of the useful and effective development of any parcel previously given. The IGCA supervises the setting of boundary markers. The boundaries set in the definitive demarcation are based on the provisional demarcation, with any revisions from the process.

**5.11 Public auction.** If a public auction is required, the conceding authority will begin process of announcement of auction and follow public auction requirements (see Section 7.3.1). (PRegs arts 143-144)

**5.12 Issuance of concession title.** At the conclusion of the public auction process (or otherwise if not required), the Secretariat issues a document evidencing the concession right granted. The document constitutes proof of the identification of the land and the rights held. (PRegs arts 145-6).

**5.11 Registration.** The Secretariat forwards the concession title to the cadastre office for registration. The concession holder must go to the cadastre office and obtain a certificate of registry. The cadastre registry must send a list of all registrations to the conceding authority on a monthly basis.

**5.12 Expenses and stamp duty.** The Proposed Regulations set out extensive requirements for the payment of stamp duty and expenses at various stages of the concession application process (and where applications for concessions are challenged). Failure to pay required taxes results in withdrawal of the application. Free concessions are exempt from payment. (PRegs arts 156-160)

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<sup>80</sup> Article 120.

## **Special Process**

Applicants for concessions without fees and for concessions for temporary occupancy follow a separate, streamlined procedure to obtain a concession (PRegs arts 151-155):

- The applicant files a petition with the Secretariat that includes a sketch of the land, its description, and the applicant's plan for its use. If the applicant is a local authority or institution acting in the public interest, the application must include a copy of the session in which the request for free concession was deliberated upon;
- The Secretariat evaluates the petition for the appropriateness of the expected use, the existence of third party rights, and the need for any amending clauses in the contract of concession with respect to the rights of the state, the interests of third parties, and the objective of concession;
- The Secretariat can grant provisional occupancy under a rental contract; and
- The Secretariat grants or denies the free concession.<sup>81</sup>

### **6. Rights and duties of concession holders.**

**6.1 Water rights.** Concession holders may utilize running water passing through the land subject to the concession, with the understanding that the state maintains ultimate rights to all water and quarries, and the concession holder cannot obstruct any water course. (PRegs art 133).

**6.2 Obligations.** The duties of concession holders include the preservation of markers, compliance with any conditions imposed and use plans, permitting public access as necessary and warranted, and development of the land in accordance with imposed definitions of useful and effective development. (PRegs art 121-26) In the case of urban land, the Proposed Regulations impose time limits for the presentation of architectural plans, presentation of the project, beginning and concluding the work. Failure to comply with the time limits results in penalties, pecuniary sanctions, and possible rejection of project.<sup>82</sup> The conclusion of urban development is deemed to be the date when all construction is completed in conformance with the plans. Rural community land is deemed developed when rural households inhabit the land and are using the land and realizing customary objectives.<sup>83</sup> The Proposed Regulations allows for changes to the development plan, including renunciation, with advance authorization from the conceding authority.<sup>84</sup>

**6.3 Concession process: substitution of parties and transmission between parties.** The Proposed Regulations provide for the methods by which parties may substitute during the concession application process, time frames for substitutions and transmissions, including substitutions in the event of the applicant's death, and other requirements. (PRegs, arts 167-183)

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<sup>81</sup> This special process does not include requirements of public announcements, opportunities for challenge, public auction, waiting periods, or procedures for registration of the concession. Note also that neither concession system applies to the process of recognizing useful customary domain.

<sup>82</sup> Article 127.

<sup>83</sup> Article 128. The Regulations also define the conclusion of development for forest, agrarian land, roads, installation land, etc.

<sup>84</sup> Articles 129-131.

**6.4 Division of conceded property.** Where conceded property is subject to division among heirs or co-titleholders, the division must result in parcels that are adequate to the purpose of the concession. If there is no agreement regarding the terms of division, the Civil Code governs.<sup>85</sup>

**6.5 Suspension, archiving, expiration of concession process.**

- **Denial.** The GoA will deny concession applications where the applicants do not comply with the law or regulations, and where valid complaints are lodged against the concession. If the complaints presented are appropriate for resolution in a civil forum, the parties shall have access to the forum consistent with its rules and procedures, and the actions of the local authority shall be suspended until final decision is reached.
- **Archive.** Concession cases will be archived where a party is not authorized to proceed, an applicant does not participate in the public auction, or the applicant does not pay the required fees.
- **Expiration.** Concessions expire at the expiration of their terms, when the property is not used consistent with its objective, property is not developed within the required term, the land is expropriated, rural property is not utilized within six months of the concession award, or the land is sublet without permission.<sup>86</sup>

**7. Concessions for urban land ownership**

**7.1 Lands subject to purchase.** The Proposed Regulations state what the Land Law implies: urban land that is integrated into the state or local authority domain may be sold.

The Proposed Regulations also permit sale of:

- small plots of land of insufficient size for construction that border land on which a petitioner for a concession already has a private land right, and that cannot be used by any other bordering owner or concession holder; and
- parcels that are adjacent to a petitioner's land and form a continuous property (to which he or she already has a private land right) and that the petitioner already leases or rents, and that have approved construction. (PReg art 36)

**7.2 Lands not subject to sale.** An ownership right to integrated<sup>87</sup> rural land, whether within the state's public or private domain, cannot be sold to any individual or collective. (PReg art 36)

**7.3 Purchase and sale of urban land.** The purchase and sale of urban land must be by public auction, with prices of urban land fixed by price indices and municipal rules. The recipient of private property rights from the state can only transfer those rights with consent of the local authority and after a period of five years of effective use of the land. The land purchase can be nullified if the concession holder fails to put the land to effective use. (Art 48)

**7.3.1 Public auction requirements.** The requirements for the sale of land at public auction are set forth in the Proposed Regulations, articles 48-63. The following elements are set forth:

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<sup>85</sup> Article 185.

<sup>86</sup> Articles 187-189. The articles following set forth the various penalties paid, effect of expiration, renunciation of rental contracts, and eviction terms. See Articles 189-196

<sup>87</sup> This term is not defined.

- Comprehensive announcement of sale must be made at least 10 days in advance, posted at municipal and communal headquarters and published in a national newspaper on two consecutive days. In addition, if the auction is of a concession holder's rights, the provincial magistrate must be notified (PRegs art 207);
- A property registry of the auctioned land must be kept;
- The authority must be willing to show the land in advance of the sale, but can set and publicize inspection times;
- Sales are conducted by the concession-granting authority and presided over by a functionary of the office and auctioneer;
- Land value is established by prices indexes fixed by the market;<sup>88</sup>
- Acceptable bids must be at least two-thirds of the index value. If the land remains unsold after a second auction, the land can be sold by closed envelope bid;
- Sales (or lack thereof) are evidenced by an article of sale (or article of lack of sale), signed by the parties and presiding officials;
- The buyer is required to pay the sale price within 10 days, with numerous forms and places of payment delineated;
- Failure to pay results in sanctions, including confiscation of the buyer's property to guarantee payment, nullification of sale and re-sale, and penalties for expenses and costs;
- The buyer takes possession of land after the buyer has fulfilled all financial obligations (evidenced by a bill of sale); and
- Any irregularities in the public auction procedures must be addressed at the time of the procedure. (PRegs arts 48-63)

## **8. Transfers of land rights.**

Concession holders may transfer their rights by agreement, subject to the following terms:

**8.1 Right of first refusal.** The GoA has a right of preference in all transfers.<sup>89</sup>

**8.2 GoA approval.** The conceding authority must sanction all transfers. Transfers must occur within one year of the receipt of the permission of the conceding authority.

**8.3 Five-year moratorium.** Transfers are only valid when made after five years of effective use of the land, measured from the date the concession was granted.

**8.4 Transfer process.** The transfer process requires: (i) registration of the transfer with the cadastral office; (ii) titleholder must indicate transferee on the title; (iii) the land value must be noted; and (iv) the successor must provide proof of identity. (Art 61)

**8.5 Transfer at death.** The ability of a successor to claim transferee rights upon death of a concession holder is subject to the terms of the concession,<sup>90</sup> and proof of identity. (Art 61)

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<sup>88</sup> If a concession holder's rights are auctioned, the base price set cannot be below any debt owed the state. (PRegs, art 208)

<sup>89</sup> The state's right is supplemented by the terms of the Civil Code, Article 416-418 and 1410.

**8.6 Restrictions on transfers.** The holder of useful customary domain cannot transfer the land rights granted. A right of useful customary domain cannot be seized unless by foreclosed mortgage. Those lands for which the government grants free rights cannot be transferred, unless in favor of persons who meet the requirements of recipients of free concessions. (Art 63)<sup>91</sup>

## **9. GoA land acquisitions<sup>92</sup>**

**9.1 Broad authority.** The Land Law and Proposed Regulations grant the GoA broad authority for land expropriation. All land acquisitions by the GoA are inherently valid and irreversible. The state can expropriate land for public use (a term that is undefined).<sup>93</sup> Local authorities must pay compensation to the landholder who is deprived of rights. (PReg art 21)

**9.2 Expropriation of rural land.** The land held by rural communities can be appropriated for public benefit or be requisitioned with payment of compensation. (Art 9.2 and 12)

**9.3 Proposed regulations.** The Proposed Regulations expand the land law provisions regarding the government's right to expropriate land for public use. The Proposed Regulations provide:

- The GoA may take any land subject to a concession, in whole or in part, to meet public use objectives.<sup>94</sup>
- Concession holders should receive six-months notice of expropriation;
- The expropriating entity must pay the concession holder the value of any improvements he or she made on the land;
- The expropriating entity can give the concession holder another parcel of land that can be similarly used; and
- The expropriating entity can deposit the amount believed owed in an account for the concession holder. The concession holder's withdrawal indicates acceptance of the expropriation without further obligation. (PRegs art 132)

## **10. Loss of land rights/protection of existing land rights.**

**10.1 Loss of land rights.** Land rights can be extinguished if (a) the term of the concession expires without renewal; (b) the land is not effectively used within a consecutive three years, or non-consecutive six years; (c) the land is used in an unauthorized manner; (d) the land is expropriated for public use; or (e) the land disappears. (Art 64)

**10.2 Application of former rights.** How land rights existing or asserted at the time the Land Law was enacted are managed depending on when the rights were asserted or obtained and under what law. In general, land acquisitions under the 1992 land law (Law 21-C/92 and regulations) continue to be valid

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<sup>90</sup> This provision is unclear (for example, does the holder of the right need to identify the heritability of the right on the document?).

<sup>91</sup> Article 63. This provision is unclear regarding to whom rights to communal land can be transferred.

<sup>92</sup> On the subject of the GoA's power to expropriate land and the use of that power, see Amnesty International, 2007. *Angola: Lives in Ruins: forced evictions continue*, AI Index12/001/2007 (London).

<sup>93</sup> The Proposed Regulations permit expropriation for public use "or temporary requisition." ProRegs, art 21.

<sup>94</sup> This term is undefined.

under the 2004 Land Law, subject to the terms of the 2004 Land Law. (Art 83)<sup>95</sup> Land rights that were established before the 1992 Land Law may be valid so long as the land in question was not nationalized or confiscated and the landholders proceeded to obtain regularization under the 1992 law. (Art 83)

**10.3 Pending concession applications.** Applicants for concessions whose applications were pending at the time the 2004 Land Law was enacted have one year from the date that the regulations are enacted to reapply under the new law. (Art 83(4))

**10.4 New applications for occupancy titles.**<sup>96</sup> Those who occupy land without title have three years from the date of publication of the regulations to apply for a concession title. All concession title requirements, such as the need for an urban plan for urban concessions and approval by appropriate institutions, apply to the new applications made. (Art 84)<sup>97</sup>

**10.4.1 Possible extension of time frame.** Under the Proposed Regulations, time periods established in the regulations can be extended once for an equal period.<sup>98</sup> (PRegs arts 6-7)

## **11. Land administration.**

**11.1 Central government.** The central GoA office is responsible for maintaining a central archive of land, demarcation, maps, and records. (Arts 60 and 67)

**11.2 Provincial government.** The provincial government is responsible for authorizing the transfer of provincial land 1,000 hectares or less in size, with the exception of public lands, which are within the jurisdiction of the Council of Ministers.<sup>99</sup> The provincial government has authority over the transfer of urban land and establishment of rights to urban land in accordance with urban plans, manages leases, and administers the province's land. (Art 68)

**11.3 Municipal and *comuna* government.** No specific responsibilities or authority is granted the municipal- and *comuna*-level officials under the land legislation, although the provincial government can devolve its authority for demarcation if desired.

## **12. Enforcement**

**12.1 Standing.** Various parties—including rural communities, environmental groups, and associations of economic interests—can bring an action against the relevant ministry to declare the actions of a government authority to be contrary to law and void. (Arts 70 and 71)

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<sup>95</sup> Those who obtained rights under the 1992 law will have those rights recognized, but it is unknown to what extent their exercise of the rights may be subject to the 2004 law (see use of term “surface rights”). If, for example, an individual received a concession for a farm under the 1992 law, that concession holder will have the right to transfer that land to a new concession holder, and farmers who have encroached on the land (under agreement with the landowner or otherwise) cannot assert their rights against a subsequent owner.

<sup>96</sup> It is unclear the extent to which this provision could be interpreted to apply to the right of rural communities to obtain customary useful domain. Customary useful domain is understood within the law as one of the types of land right grants given by the GoA (see Section 3). However, the law distinguishes it from concessions granted by the GoA.

<sup>97</sup> Note that this three-year time limit may be subject to extension (up to a total of six years) under the Proposed Regulations, Article 6.

<sup>98</sup> A local Angolan lawyer believes that the time extension provision would allow for the extension of the three-year period to file applications for concessions to be extended to six years. The process to make application for an extension under such a legislative provision is relatively simple, but those interviewed were uncertain what standards are applied to determining a request for extension (though both believe the request would not be arbitrarily denied). Personal interview with Carolina Matheus in Luanda, January 2007.

<sup>99</sup> As are transfers over 1,000 hectares. Articles 67-68.

**12.2 Jurisdiction and venue.** Land rights holders can enforce their rights in the Provincial Tribunal Civil and Administration Hall and have a right of appeal to Supreme Tribunal. An action for nullification can proceed in a summary fashion and is exempt from fees. (Arts 71-74) The mandatory mediation procedures do not apply to actions for nullification. (Art 77)

**12.3 Judicial procedure.** Tribunals hearing actions under this section have 30 days from judgment to provide the registry with a copy of the decision. (Art 75)

#### **12.4 ADR and customary dispute resolution.**

**12.4.1 Mediation and arbitration.** The Land Law contains a mandatory mediation and conciliation procedure and requires arbitration before a provincial level tribunal. (Art 77-78) The provincial government is responsible for organizing arbitration panels. The panels will conduct proceedings in Portuguese and must reach a decision within six months of the date it is empanelled.<sup>100</sup> Under the Proposed Regulations, mediators must be assigned within five days of the notice of the dispute, a hearing held within five days thereafter, and a decision within 10 days of the hearing. The mediators shall make a proposal that the parties must both accept within five days of receipt, or it will be deemed refused.<sup>101</sup>

**12.4.2 Rural community disputes.** Disputes relative to rights of possession, management, use and production of rural community land, and issues related to the useful domain of rural community lands, shall be decided within those communities consistent with their effective customs, with a right of appeal by any party to the mandatory mediation, conciliation, and arbitration process. (Art 82)

#### **D. Other laws governing land rights**

- **Law of Territorial Planning and Urbanization, Lei 03/04, 25 June 2004 (*Lei do Ordenamento do Território e do Urbanismo*)** (“LOTU”) governs both rural and urban land and requires territorial development plans at central, provincial, and municipal levels. The National Assembly is charged with approving high level strategic plans. The provincial government officials develop their provincial level plans within the national framework. Municipal level plans (or city level management) plans follow from the provincial and are used for implementation. (Art 32)
  - **Land policy.** The law includes objectives such as reclaiming areas of illegal occupation and degraded areas for rehabilitation and development. In addition, the law identifies a goal of creating employment opportunities in rural areas. (Arts 4, 19, and 32)
  - **Community participation.** Like the 2006 Proposed Regulations, the LOTU provides the public with a right to information regarding planning processes. The *autarquias locais* participates in the planning processes (or in the absence of the *autarquias locais*, the local government), and the rural communities can participate in planning processes (Arts 5-6, 21, and 53)
- **Law Concerning Refutation of Administrative Decisions, 2/94 (14 January 1994):** permits challenge of government processes and exercises of authority, such as alleged arbitrary expropriations of land and urban evictions for land development.

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<sup>100</sup> Article 80. Law 16/03, July 25, 2003, governs the process of voluntary arbitration and is referenced as a framework for this mandatory provision.

<sup>101</sup> Articles 209-212.

- **2001 Decree Regarding Resettlement of Displaced People.** The Resettlement Law, which addresses resettlement of persons displaced by the conflict, acknowledges a right to housing, and provides for new government allocations of land (Article 14).<sup>102</sup>
- **Decrees (Decreto-Lei) 17/99 and (Decreto) 27/00** assign to the provincial government the control over development, plot demarcation, and registration through an Inspection and Control Office (*Gabinete de Inspeccao e Fiscalizacao*) and planning and housing responsibilities through the Provincial Directorate for Public Works and Urbanism (*Direccao Provincial de Obras Publicas e Urbanismo*)

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<sup>102</sup> To date, we have found no reliable studies on the implementation of this law with regard to allocations of land to displaced persons.



# 6.0 LAND RIGHTS OF WOMEN<sup>103</sup>

**Legislative statements of gender equality.** Angola’s Constitutional establishes a right of non-discrimination on the basis of sex (Art 18) and provides for the equality of men and women within the family. (Art 29).

**Marriage.** The Family Code recognizes both registered marriages and de facto (common law) marriages. The Family Code requires spouses to register marriages (Art 38) but recognizes the de facto union of couples who have cohabitated for three years and are otherwise capable of entering into a registered marriage. (Arts 112-113) The vast majority (anecdotal evidence suggests 80 percent or more) of marriages in Angola are de facto marriages; formal marriage requires registration, which requires payments of fees and time navigating the administrative formalities, and weddings can be costly. The Family Code does not permit polygamy. (Art 25).<sup>104</sup>

**Dowry.** Angola has a dowry system. The country does not have a system of paying *lobolo* (“bride price”). Dowry is set based on the bride’s family’s resources and is usually not very high.<sup>105</sup> In rural areas, payment is made with livestock, and an average dowry is three or four cows.

**Separate and community property.** Angola recognizes that a married (registered and de facto) may hold separate and community property. The Family Code requires couples to elect whether to hold property individually within the marriage or recognize community property. (Art 49) If the couple elects a community property system, the couple segregates that property obtained prior to the marriage as their separate property, and property earned and received during the marriage as community property (with some exceptions). If there is no election, the presumption of community property governs. (Arts 51-53)

The spouses have equal, undivided shares of community property. A spouse cannot alienate community property without the consent of the other spouse. At death, community property carries no right of survivorship; spouses can gift their 50 percent share as they wish at their death. (Art 56) Those spouses who have not reached the three-year requirement for common law marriage can make an application in court for a Declaration of Joint Ownership of Property.<sup>106</sup>

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<sup>103</sup> This section is supplementary to Renee Giovarelli’s report, *Angola Women and Land Issues* (January 18, 2007). The content of the section is based on the cited sources and a interview with Carolina Matheus (Gomes), a Lunada-based Angolan lawyer (and member of the non-profit Associacao Maos Livres) who has experience in the area of women’s rights, land issues, and general civil practice; conversations with Helena Lowe Zefanias, who was been active in the Norwegian People’s Aid land tenure study; the Norwegian People’s Aid (NPA) draft materials for public awareness building on women’s land rights; and conversations with staff of Development Workshop and CARE in January 2007.

<sup>104</sup> Limited anecdotal evidence suggests incidents of polygamy are known but not common, especially among educated persons. Most interviewed opined that the practice is more common in rural areas, although the trend is away from such arrangements.

<sup>105</sup> The anecdotal evidence gathered on this topic (see footnote 103) suggests that dowry can be a hardship on the bride’s family in Angola.

<sup>106</sup> According to the sources cited in footnote 101, as with challenges to inheritance discussed below, this avenue is rarely taken. The women would need to know of the availability of the procedure, obtain legal counsel, and pay at least \$2,000 for the legal services required. Legal aid is available in some areas, but not well-known.

It is unknown what percent of Angola's population is aware of the legal principles of separate and community property and their rights as spouses. Based on anecdotal evidence gathered from de facto married individuals in Luanda and Huambo, in the event of divorce, most couples will divide their property from the marriage equally, although provision will be made for children as a priority in making property allocations. The couple will handle the division of property themselves, with the involvement of the families. Disputes are referred to elder family members or respected members of the community. No one spoken with personally knew of anyone who pursued a property case through legal channels, including use of the Family Council established by the Family Code.

**Inheritance.** The succession provisions of Angola's Civil Code appear to allow for testamentary disposition of property in accordance with the testator's wishes. Intestate provisions grant property to surviving spouses and children equally.<sup>107</sup> As a matter of practice, however, women did not traditionally inherit land, and a family's land will usually be passed to the male children because female children are presumed to obtain land through their husbands or in the course of their marriage.

Those women who do inherit land are often expected to relinquish any implied control to their husbands or male relatives. If her husband dies, the woman holds his land on behalf of his children, but she often has no individual right to the land or its production. If she has no children, the husband's family can dispossess her of land in most communities. Widows who have joined their husbands' communities are often expected to return to their own communities and seek land there.

Daughters who do not receive land through inheritance have the right to challenge the decision by bringing an action under the Civil Code.<sup>108</sup> However, very few women are likely to do so for the following reasons: (1) women often have no knowledge that they have a legal right to family land; (2) they have no knowledge of how the legal system functions and no notion therefore of how to pursue a claim; (3) they usually do not have the financial resources to pursue a claim; and (4) they would be very unlikely to raise the issue of a right to land within the family, let alone bring a legal action against a family member.

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<sup>107</sup> These statements require verification and further development upon receipt of the new translation of these provisions of the Civil Code. While local lawyers stated the Code prohibited discrimination in inheritance on the basis of sex, at least one provision favors male children to manage the affairs of the decedent, suggesting a need for further translation and research. (Art 2080[4])

<sup>108</sup> This information was provided by a local Angolan lawyer and requires verification.

# 7.0 LAND ADMINISTRATION AND MANAGEMENT

In order for land to play a key role in the economic growth and poverty alleviation, a functioning land administration system must support secure, easily transferable land rights. The system must be capable of:

- maintaining comprehensive, clear, accessible land records;
- creating mechanisms for the efficient and effective transfer of land for a reasonable fee; and
- providing accessible avenues for handling land disputes fairly, predictably, and in a timely fashion.<sup>109</sup>

Angola's system does not currently support these elements of a functioning land administration system—either in design or in practice. The system suffers from an incomplete design, incomplete (or nonexistent) data on land holdings, a lack of records; cumbersome, time consuming, and imperfectly understood transaction processes; high transactions costs; lack of information and processes to determine land values; and lack of institutional capacity to create and maintain records and manage transfers.<sup>110</sup>

The mechanisms and processes for the resolution of land disputes are housed within often parallel formal and traditional systems. The formal systems are inaccessible to the majority of the population, lack social legitimacy, and in many cases simply not functioning. Traditional systems may have more social acceptance but are localized, have limited impact, often lack neutrality, reflect existing social hierarchies at the expense of equality, and are impotent against the formal law.

This section briefly overviews the legislative organization of the land administration system. The framework for handling land disputes is the subject of a separate companion paper.

- 1. Central level.** The Ministry of Agriculture and Rural Development (MINADER) has responsibility for rural land. In 2003, the Ministry of Urbanism and Environment (MINUA) was created and given authority over urban land matters, including urban planning. MINUA includes the National Institute of Geography and Cadastre (INGC), which is responsible for creating and maintaining the cadastre, and the National Institute of Spatial Planning and Urban Development (INOTU), which is charged with setting planning and development standards. The Ministry of Public Works (MOP) is responsible for the development of roads, highways, and other physical infrastructure.
  - **National cadastre.** MINADER and MINUA have no current plan for systematic updating of the existing (1975) cadastre or creation of a new cadastre. The ministries respond to requests and generally proceed relative to the land area impacted.

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<sup>109</sup> World Bank, 2003. *Land Policies for Growth and Poverty Reduction* (Washington DC: The World Bank), at 79-98. Land disputes are the subject of a separate report prepared for the project, *Strengthening Land Tenure and Property Rights Land Law and Policy*. See Robin Nielsen, 2007. *Background Report: Land Dispute Systems in Angola* (on file with RDI).

<sup>110</sup> CARE, 2005, at 14.

2. **Provincial level.** The provincial government is responsible for delimitation, demarcation, and registration of concessions. The provincial government is also responsible for initiating the process for recognition of customary useful domain for rural communities.<sup>111</sup>
3. **Municipal level.** The municipal government has general responsibility for management of agricultural land, education, social welfare, and some infrastructure. The provincial government can devolve its authority over delimitation, demarcation, and registration of concessions to the municipal level. To date, no provincial government has devolved the authority successfully.<sup>112</sup>
4. **Quasi-governmental bodies.** *Bairro* level authorities and *Comissoes de Moradores*—bodies that operate informally and without government sanction—provide access to land and “regularize” encroachments. The population recognizes these bodies, which grew out of the operations of political parties after independence, as having authority over land in urban and peri-urban informal settlements.
5. ***Autarquais locais.*** Angola plans to further devolve authority of matters such as land administration and management, by creating a system of locally elected governmental councils. These councils will operate as the lowest level of formal government (below the *comuna* level). These bodies have yet to be established, and it is unknown what authority they will have over land matters and whether they will achieve a form of community-based land administration.

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<sup>111</sup> Decrees 17/99 and 27/00 devoted responsibility for demarcation, registration, planning, and housing to the provincial level, implemented through the Director of Public Works.

<sup>112</sup> CARE, 2005, at 103-04.

# 8.0 AREAS OF OPPORTUNITY

The legal framework contains a number of areas of ambiguity and other sections where no guidance is offered. These types of legislative voids often operate to the advantage of the wealthier, more educated members of a society, and to the disadvantage of poorer, less educated, and socially marginalized members. Those with knowledge and resources have the ability to engage lawyers to analyze their position and assert their rights to their advantage. The poor rarely have knowledge of the intricacies of formal laws, let alone the ability and resources to use that knowledge to benefit themselves.

Thus, to the extent that the project can use the experience from the pilots to advocate for supplementing the existing legal framework, the greater the opportunities to benefit the poorer and more disadvantaged members of the population. The following are areas of potential opportunity for addendums to the land law and proposed regulations or by-laws. As an alternative, some additional guidelines may be able to be adopted at the provincial level. The following are several areas for consideration:

## 8.1 CLARIFYING LAND ACCESS

In many cases, the Land Law and Proposed Regulations appear to permit certain groups to access land, but the rights are not express. Clearer expressions of land rights will assist those who will otherwise be unlikely to know of their rights in the following areas:

- 1. Land access for the poor.** The Land Law and Proposed Regulations permit the GoA to grant economically disadvantaged persons free concessions. (Art 50; PReg 47) The legislation does not, however, provide a means of determining who will qualify for the free concession or require efforts to identify such persons for inclusion in land development plans for economical housing and other development critical to the livelihoods of the poor.
- 2. Land access for pastoralists and hunter-gatherers.** The definition of useful customary domain and rural communities (PRegs arts 71-72) potentially allows for pastoralists and hunter-gatherers to seek recognition of their customary land use rights. However, the language in the law and regulations is drafted with sedentary communities in mind and the rights for other types of communities, such as those that migrate, are not considered. The needs of pastoralists will be different from those of sedentary rural communities and will likely involve overlapping use rights with other communities. Similarly, hunter-gatherers in the southeastern part of the country have specific types of land uses that likely overlap with other communities. Options for these groups include rights of priority access, rights of first refusal to inhabit land on a year-round basis in the event the community becomes more sedentary, and the right to be represented on committees and tribunals adjudicating land rights.
- 3. Land access for divergent and evolving land uses by rural communities.** The definition of useful customary useful domain encompasses the customary uses of land but does not include many examples, leading to questions about how far the community land rights can extend (e.g., to gather forest products, hunting on partial reserves, fishing in public waters, etc.) (See PRegs 71-72) In addition, the language of the various provisions creates some ambiguity as to whether the rights extend to evolving community uses of land (as opposed to only those uses that exist as a matter of custom or as currently practiced).

## 8.2 INCREASING TENURE SECURITY

The current Land Law and Proposed Regulations contain a number of areas in which clarifying addendums and guidelines can increase tenure security for a variety of land occupants. Some initial areas for attention include land expropriations, where the GoA's authority to expropriate land and evict landholders is, as a practical matter, unchecked; where those evicted have no right to alternate land; and where compensation schemes are poorly defined. (Art 9 and 12; PRegs arts 21, 132)<sup>113</sup> Other areas include the legislative system for obtaining land concessions, which is lengthy, costly, requires capacity of institutions that are often barely functioning—if they exist at all. (PRregs 100-119; 134-149) A third area is the recognition of useful customary domain—a right that has no procedures attached and no provision for individualization of land within the domain.

The following are possible areas for addendums, by-laws, and guidelines:

- 1. Establish a series of intermediate land rights.** Stepped land rights would occupy the space between completely informal rights and freehold ownership rights. The objective in creating a series of well defined intermediate rights will be to offer opportunities for the land occupants to obtain some tenure security quickly and at a low cost. Options for intermediate rights include forms of collective rights (such as registering a section or block of land versus individual plots), individual rights, rights that give some protection against eviction, temporary rights of occupancy, fixed-term leases, and transferable fixed-term leases.<sup>114</sup>
- 2. Individualization of rural community land.** Develop a system to allow individualization of land within community-held useful customary domain.
- 3. Registration of rights to rural community land.** Create defined processes for the registration of useful community domain. Within communities, design systems for recognizing individual land rights. The boundaries of the useful customary domain could be registered at the central or provincial levels, with the individual plot rights registered locally.
- 4. Streamline land rights formalization process.** Develop streamlined procedures for land rights formalization that are realistic and take into account institutional capacity, especially in areas of cadastre, demarcation, land valuation, and registration of rights.

## 8.3 ENHANCING WOMEN'S LAND RIGHTS

The Land Law and Proposed Regulations fail to identify women (or any marginalized population) as groups requiring focused attention, and thus make no provision to protect the land rights of women and other marginalized people in the course of the land rights formalization processes. The following are some initial ideas for addendums or guidelines that assist these groups to achieve and retain equality of land access, tenure security, and equal control over land use and production:<sup>115</sup>

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<sup>113</sup> See also discussion in Amnesty International, 2007. *Angola: Lives in Ruins: forced evictions continue*, AI Index12/001/2007 (London)

<sup>114</sup> These options are discussed in detail in Development Workshop, 2005, at 152-56, and in Terrafirma, 2006, at 22.

<sup>115</sup> These preliminary thoughts will be expanded on by the gender team working on the project.

1. **Communications.** Announcements of meetings regarding land issues (including concession applications, land development plans, land acquisitions, etc.) must be made in a fashion and through means designed to reach women, disabled, illiterate, ethnic minorities, and migratory populations.
2. **Participation.** Meetings shall be held at times and in places in which women and all others with multiple employment, livelihood, and household responsibilities will be able to attend. To the extent necessary, separate meetings with women shall be held to ensure participation and understanding. Any committees and action groups formed shall include a percentage of female community members, along with representatives of other marginalized groups, to the extent appropriate.
3. **Land delimitation meetings.** Any meetings regarding land delimitation and demarcation shall be held at times and in locations in which all interested parties can attend, including women and other marginalized populations. Specific affirmative steps shall be taken to account for all potentially interested parties (e.g., absent spouses, widows, migratory populations) and include them in the delimitation procedure, including informing them of the right to challenge the delimitation. The challenge process shall be designed for ease of use (e.g., shall not require a written application or written evidence of a land right).
4. **Documentation of land rights.** All documentation related to the land rights formalization process shall require identification of both spouses (registered or de facto) as holders of land rights, unless compelling evidence suggests the right is held individually. Any confusion or uncertainty regarding the holder of land rights shall be resolved in favor of joint rights.
5. **Transfers of land rights.** All transfers of land rights held by a married couple shall require the written consent of both spouses. Procedures shall be adopted (such as a requirement of separate interviews with spouses) to verify that consent is freely given and not coerced. Any proceeds from the transfer of land rights shall be made in the name of both spouses and released to the couple jointly.

## 8.4 LIST OF LEGISLATIVE PROVISIONS FOR EVALUATION

The following provisions of the Land Law and Proposed Regulations are candidates for in-depth consideration and possible revision or enhancement following the pilot experience in order to address the objectives set out above.<sup>116</sup> The parenthetical notations are broadly noted, preliminary possibilities for examination and revision; the pilots will provide the experiences and lessons learned that will inform the identification of provisions and gaps in legislation for attention.

### 1. Provisions from 2004 Land Law

- Art 9: Rights of rural communities (further identification and expansion of rights for rural communities);
- Art 12: Expropriation of land (need for definitions and procedural safeguards);
- Art 19: Land classifications (clarification of ambiguities and inconsistencies);
- Art 22-27: Land definitions, including rural community lands, agricultural lands, etc. (clarification of ambiguities and inconsistencies; expand definition of rural community lands);
- Art 33: Rural community rights (increase rights of rural communities on reserved land);

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<sup>116</sup> Note that there are other aspects of the legislation, such as the provisions regarding the expropriation of land, that are not identified as candidates for revision and enhancement because they are outside the scope of the project.

- Art 37: Useful customary domain (clarification of nature of rights held, process for obtaining right, expand to include individualization);
- Art 38: Useful civil domain (harmonize inconsistencies in proposed regulations, possible reorganization);
- Chapter III: Concessions (evaluation and streamlining of entire section)
- Art 61: Transfer of land rights (clarification and expansion of transfer rights)
- Art 68: Provincial government roles (clarification of duties; evaluation of possible reorganization);
- Art 77-82: Dispute resolution procedures (expand consistent with overall design of new system)
- Art 83: Transitional situations (harmonize different standards to ensure equitable treatment; extend deadlines to allow reasonable period)
- Art 84: Rights of occupants without title (extend deadline for concession application to allow reasonable time period)

## **2. Provisions from 2006 Proposed Regulations**

The project pilots are expected to create experiences relevant to the provisions in the Proposed Regulations, with the most attention given to those provisions listed below.

- Arts 15-19: Definition and use of community lands (expansion and clarification of terms used to define and circumscribe community land);
- Arts 35-40: Disposition of land (possible liberalization of methods for and terms of transferring various categories of land);
- Arts 41-47: Lands subject to concession and occupation (clarification of terms)
- Arts 94-99: Free concessions (supplement with criteria for ensuring land access for appropriate populations; simplify and streamline);
- Chapter V: Demarcation process (possible simplification of process)
- Chapter VI: Concession process (clarification; reconfiguration of process, simplification of process)
- Arts 209-212: Mediation and conciliation (supplement and revise with new system)
- Chapter X: Final and transitory dispositions (clarify, ensure equitable treatment; restate deadlines or eliminate; supplement with eligibility and process for extension)

## **3. Gaps in Legislation**

In addition to possible revisions to drafted legislation and proposed legislation, the existing and proposed legislation does not adequately address the following:

- The need for a comprehensive, stand-alone land policy;
- Recognition, protection, and improvement of the land rights of women and other marginalized groups;
- Recognition, protection, and improvement of the land rights of hunter-gatherers and migratory populations; and
- Establishment of an appropriate process for the identification of land rights and potential land disputes, adjudication and conciliation of disputes, and resolution of disputes.



# 9.0 CONCLUSION

Angola's Land Law and Proposed Regulations are not as hoped. During the drafting phases, with the support of several members of Angola's government, members of civil society made sustained and comprehensive efforts to influence the content of legislation for the benefit of the majority of Angola's population. The resulting legislation does not reflect the effort expended.

However, opportunity still remains to impact the legislation. The Land Law and Proposed Regulations have numerous areas of ambiguity and a significant number of gaps that require additional guidelines and detail. USAID's land project is designed to create the experiences that can inform those additional guidelines. Specifically, the project rural and peri-urban pilots are designed to increase understanding and experience, and to provide a basis for drafting recommendations in the following areas:

- Increasing land access, especially for the poor and marginalized through stepped or intermediate land rights;
- Expanding scope of customary useful domain for community land rights;
- Development of practical, streamlined process for obtaining land concessions (both common and special processes);
- Individualizing land rights within community-held land;
- Establishing appropriate mechanisms and institutions for land dispute resolution; and
- Strengthening women's land rights.

Through the pilots, the project will test the land rights formalization processes outlined in the regulations, refine and develop those processes, and develop a conflict identification and resolution system. The project will produce models for land rights formalization that will inform supporting legislation capable of clarifying land rights—and the processes for securing and enforcing them—to the benefit of Angola's entire population.



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# APPENDICES



# APPENDIX A: ANGOLA CONSTITUTION





# Angola Constitution

*{ Adopted by the People's Assembly on: 25 Aug 1992 }*  
*{ Official Title: Constitutional Law of the Republic of Angola }*  
*{ ICL Document Status: 25 Aug 1992 }*

## **Part I. Fundamental Principles**

### **Article 1**

The Republic of Angola shall be a sovereign and independent nation whose primary objective shall be to build a free and democratic society of peace, justice and social progress.

### **Article 2**

The Republic of Angola shall be a democratic State based on the rule of law, national unity, the dignity of the individual, pluralism of expression and political organization, respecting and guaranteeing the basic rights and freedoms of persons, both as individuals and as members of organized social groups.

### **Article 3**

- (1) Sovereignty shall be vested in the people, who shall exercise it in the manner provided for in the present Law.
- (2) The Angolan people shall exercise political power through periodic universal suffrage to choose their representatives, by means of referendums and other forms of democratic participation in national life.
- (3) Special laws shall regulate the process of general elections.

### **Article 4**

- (1) Political parties, within the framework of the present law and statutory laws, shall compete, on the basis of a project for society and a political program, to organize and express the will of citizens, participating in political life and the exercise of universal suffrage by democratic and peaceful means.
- (2) Political parties shall, in their objectives, program and activity, contribute to:
  - (a) The consolidation of the Angolan nation, national independence and strengthened national unity;
  - (b) The safeguarding of territorial integrity;
  - (c) The defense of national sovereignty and democracy;
  - (d) The protection of fundamental freedoms and the rights of the individual;
  - (e) The defense of the republican form and unitary and secular nature of the State.
- (3) Political parties shall be entitled to equal treatment by those exercising public power, as well as to equal treatment by the press, in accordance with the law.
- (4) The constitution and functioning of parties shall, in accordance with the law, comply with the following fundamental principles:
  - (a) National in character and scope;
  - (b) Free constitution;
  - (c) Public pursuance of aims;
  - (d) Freedom of membership and single membership;
  - (e) Exclusive use of peaceful means in pursuing their aims, prohibiting the creation or use of military, paramilitary or militarized organizations;
  - (f) Democratic organization and functioning;
  - (g) Prohibition to receive contributions of monetary or economic value from foreign governments or governmental institutions.

**Article 5**

The Republic of Angola shall be a unitary and indivisible State whose inviolable and inalienable territory shall be that defined by the present geographical limits of Angola, and any attempt at separatism or dismemberment of its territory shall be vigorously combated.

**Article 6**

The State shall exercise its sovereignty over the territory, internal and territorial waters, air space, soil and sub-soil.

**Article 7**

Economic, social and cultural solidarity between all regions of the Republic of Angola shall be promoted and intensified, with a view to the common development of the Angolan nation as a whole.

**Article 8**

(1) The Republic of Angola shall be a secular State, and there shall be separation between the State and churches.

(2) Religions shall be respected and the State shall protect churches and places and objects of worship, provided they abide by the laws of the State.

**Article 9**

The State shall guide the development of the national economy, with a view to guaranteeing harmonious and balanced growth of all sectors and regions of the country, and rational and efficient use of all productive capacity and national resources, as well as heightening the well-being and quality of life of citizens.

**Article 10**

The economic system shall be based on the coexistence of diverse forms of property - public, private, mixed, cooperative and family - and all shall enjoy equal protection. The State shall encourage participation in the economic process of all agents and forms of property, creating conditions for them to function efficiently in the interests of national economic development and satisfying the needs of citizens.

**Article 11**

(1) Sectors and activities that remain the preserve of the State shall be determined by law.

(2) In the use and exploitation of public property, the State shall guarantee efficiency and profitability, in accordance with the proposed aims and objectives.

(3) The State shall encourage the development of private, mixed, cooperative and family enterprises, creating conditions for them to operate, and shall give special support to small and medium-scale economic activity, in accordance with the law.

(4) The State shall protect foreign investment and foreign property, in accordance with the law.

**Article 12**

(1) All natural resources existing in the soil and subsoil, in internal and territorial waters, on the continental shelf and in the exclusive economic area, shall be the property of the State, which shall determine under what terms they are used, developed and exploited.

(2) The State shall promote the protection and conservation of natural resources guiding the exploitation and use thereof for the benefit of the community as a whole.

(3) Land, which is by origin the property of the State, may be transferred to individuals or corporate bodies, with a view to rational and full use thereof, in accordance with the law.

(4) The State shall respect and protect people's property, whether individuals or corporate bodies, and the property and ownership of land by peasants, without prejudice to the possibility of expropriation in the public interest, in accordance with the law.

### **Article 13**

Any nationalization or confiscation carried out under the appropriate law shall be considered valid and irreversible for all legal purposes, without prejudice to the provisions of specific legislation on reprivatization.

### **Article 14**

(1) The fiscal system shall aim at meeting the economic, social and administrative needs of the State and ensuring the fair distribution of income and wealth.

(2) Taxes may be created or abolished only by law, which shall determine applicability, rates, tax benefits and guarantees for taxpayers.

### **Article 15**

The Republic of Angola shall respect and implement the principles of the United Nations Charter, the Charters of the Organization of African Unity and the Movement of Non-Aligned Countries, and shall establish relations of friendship and cooperation with all States, based on the principles of mutual respect for sovereignty and territorial integrity, non-interference in the internal affairs of each country and reciprocal advantages.

### **Article 16**

The Republic of Angola shall support and be in solidarity with the struggles of peoples for national liberation and shall establish relations of friendship and cooperation with all democratic forces in the world.

### **Article 17**

The Republic of Angola shall not join any international military organization or permit the establishment of foreign military bases on its national territory.

## **Part II Fundamental Rights and Duties**

### **Article 18**

(1) All citizens shall be equal under the law and shall enjoy the same rights and be subject to the same duties, without distinction as to color, race, ethnic group, sex, place of birth, religion, ideology, level of education or economic or social status.

(2) All acts aimed at jeopardizing social harmony or creating discrimination or privileges based on those factors shall be severely punishable by law.

### **Article 19**

(1) Angolan nationality may be by origin or acquired.

(2) The requirements for the attribution, acquisition, loss or re-acquisition of Angolan nationality shall be determined by law.

### **Article 20**

The State shall respect and protect the human person and human dignity. Every citizen shall be entitled to the free development of his or her personality, with due respect for the rights of other citizens and the highest interests of the Angolan nation. The life, freedom, personal integrity, good name and reputation of every citizen shall be protected by law.

### **Article 21**

- (1) The fundamental rights provided for in the present Law shall not exclude others stemming from the laws and applicable rules of international law.
- (2) Constitutional and legal norms related to fundamental rights shall be interpreted and incorporated in keeping with The Universal Declaration of the Rights of Man, the African Charter on the Rights of Man and Peoples and other international instruments to which Angola has adhered.
- (3) In the assessment of disputes by Angolan courts, those international instruments shall apply even where not invoked by the parties.

### **Article 22**

- (1) The State shall respect and protect the life of the human person.
- (2) The death penalty shall be prohibited.

### **Article 23**

No citizen may be subjected to torture or any other cruel, inhuman or degrading treatment or punishment.

### **Article 24**

- (1) All citizens shall have the right to live in a healthy and unpolluted environment.
- (2) The State shall take the requisite measures to protect the environment and national species of flora and fauna throughout the national territory and maintain ecological balance.
- (3) Acts that damage or directly or indirectly jeopardize conservation of the environment shall be punishable by law.

### **Article 25**

- (1) Any citizen may move freely and reside in any part of the national territory, and shall not be impeded from so doing for political or any other reasons, except in cases provided for under Article 50 of the present Law, and where for the protection of the economic interests of the nation the law determines restrictions on citizens having access to or residing in reserve or mining areas.
- (2) All citizens shall be free to leave and enter the national territory, without prejudice to limitations stemming from the fulfillment of legal duties

### **Article 26**

Any foreign or expatriate citizen shall be guaranteed the right to ask for asylum in the event of persecution for political reasons, in accordance with the laws in force and international instruments.

### **Article 27**

- (1) The extradition or expulsion of Angolan citizens from the nations territory shall not be permitted.
- (2) The extradition of foreign citizens for political motives or for charges punishable by the death penalty under the laws of the applicant county shall not be permitted.
- (3) In accordance with the law, Angolan courts shall know the charges made against citizens whose extradition is not permitted under the foregoing paragraphs of the present Article.

### **Article 28**

- (1) It shall be the right and duty of all citizens aged over 18, other than those legally deprived of political and civil rights, to take an active part in public life, to vote and stand for election to any State body, and to fulfill their offices with full dedication to the cause of the Angolan nation.
- (2) No citizen shall suffer discrimination in respect of employment, education, placement, professional career or social benefits to which he or she is entitled owing to political posts held or to the exercise of political rights.
- (3) The law shall establish limitations in respect of the non-party affiliations of soldiers on active service, judges and the police forces, as well as the electoral incapacity of soldiers on active service and police forces.

### **Article 29**

- (1) The family, the basic nucleus of social organization, shall be protected by the State, whether based on marriage or de facto union.
- (2) Men and women shall be equal within the family, enjoying the same rights and having the same duties.
- (3) The family, with special collaboration by the State, shall promote and ensure the all-round education of children and young people.

### **Article 30**

- (1) Children shall be given absolute priority and shall therefore enjoy special protection from the family, the State and society with a view to their all-round development.
- (2) The State shall promote the harmonious development of the personality of children and young people and create conditions for their integration and active participation in the life of society.

### **Article 31**

The State, with the collaboration of the family and society, shall promote the harmonious development of the personality of young people and create conditions for fulfillment of the economic, social and cultural rights of the youth, particularly in respect of education, vocational training, culture, access to a first job, labor, social security, physical education, sport and use of leisure time.

### **Article 32**

- (1) Freedom of expression, assembly, demonstration and all other forms of expression shall be guaranteed.
- (2) The exercise of the rights set out in the foregoing paragraph shall be regulated by law.
- (3) Groupings whose aims or activities are contrary to the fundamental principles set out in Article 158 of the Constitutional Law and penal laws, and those that, even indirectly, pursue political objectives through organizations of a military, paramilitary or militarized character, secret organizations and those with racist, fascist or tribalist ideologies shall be prohibited.

### **Article 33**

- (1) The right to professional and trade union organization shall be free, and the forms in which it is exercised shall be guaranteed by law.
- (2) All citizens shall have the right to organize and take part in trade union activity, which shall include the right to constitute and freely join trade unions.
- (3) Adequate protection for the elected representatives of workers against any form of restriction, constraint or limitation on the performance of their duties shall be established by law.

### **Article 34**

- (1) Workers shall have the right to strike.
- (2) A specific law shall regulate the exercise of the right to strike and limitations thereto in essential services and activities, in the pressing public interest.
- (3) Lockouts shall be prohibited.

### **Article 35**

Freedom of the press shall be guaranteed and may not be subject to any censorship, especially political, ideological or artistic. The manner of the exercise of freedom of the press and adequate provisions to prevent and punish any abuse thereof shall be regulated by law.

**Article 36**

- (1) No citizen may be arrested or put on trial except in accordance with the law, and all accused shall be guaranteed the right to defense and the right to legal aid and counsel.
- (2) The State shall make provision to ensure that justice shall not be denied owing to insufficient economic means.
- (3) No one shall be sentenced for an act not considered a crime at the time when it was committed.
- (4) The penal law shall apply retroactively only when beneficial to the accused.
- (5) The accused shall be presumed to be innocent until a judicial decision is taken by the court.

**Article 37**

Preventive detention shall be permitted only in cases provided for by the law, which shall establish the limits and periods thereof.

**Article 38**

Any citizen subject to preventive detention shall be taken before a competent judge to legalize the detention and be tried within the period provided for by law or released.

**Article 39**

No citizen shall be arrested without being informed of the charge at the time of arrest.

**Article 40**

Any arrested citizen shall have the right to receive visits from family members and friends, and to correspond therewith, without prejudice to the conditions and restrictions provided for by law.

**Article 41**

Any citizen sentenced shall have the right to appeal to the competent court or to the Supreme Court against the judicial decision taken in accordance with the law.

**Article 42**

- (1) To prevent any abuse of power through imprisonment or illegal detention, a writ of *habeas corpus* may be presented to the competent legal court by the person concerned or any other citizen.
- (2) The right to *habeas corpus* shall be regulated by law.

**Article 43**

Citizens shall have the right to contest and take legal action against any acts that violate their rights as set out in the present Constitutional Law and other legislation.

**Article 44**

The State shall guarantee the inviolability of the home and the secrecy of correspondence, with limitations especially provided for by law.

**Article 45**

Freedom of conscience and belief shall be inviolable. The Angolan State shall recognize freedom of worship and guarantee its exercise, provided it does not conflict with public order and the national interest.

**Article 46**

- (1) Work shall be the right and duty of all citizens.
- (2) Every worker shall have the right to fair pay, rest, holidays, protection, health and security at work, in accordance with the law.
- (3) Citizens shall have the right freely to choose and exercise an occupation, apart from requirements established by law.

**Article 47**

- (1) The State shall promote the measures needed to ensure the right of citizens to medical and health care, as well as child, maternity, disability and old-age care, and care in any situation causing incapacity to work.
- (2) Private and cooperative enterprise in health, social welfare and social security shall be exercised in accordance with the law.

**Article 48**

Disabled combatants of the national liberation struggle, the minor children of citizens who died in the war and those physically or mentally handicapped as a result of war shall have special protection, to be established by law.

**Article 49**

- (1) The State shall promote access to education, culture and sports for all citizens, guaranteeing participation by various private agents in the provision thereof, in accordance with the law.
- (2) Private and cooperative enterprise in education shall be practiced in accordance with the law.

**Article 50**

The State shall create the requisite political, economic and cultural conditions to enable citizens effectively to enjoy their rights and fully perform their duties.

**Article 51**

The State shall protect Angolan citizens abroad or resident abroad, who shall enjoy the rights and be subject to duties that are not incompatible with their absence from the country, without prejudice to the effects of unjustified absence provided for by law.

**Article 52**

- (1) The exercise of the rights, freedoms and guarantees of citizens may be restricted or suspended only in accordance with the law if such constitute a threat to public order, community interests, individual rights, freedoms and guarantees, or in the event of the declaration, a state of siege or emergency, and such restrictions shall always be limited to necessary and adequate measures to maintain public order, in the interest of the community and the restoration of constitutional normality.
- (2) On no account shall the declaration of a state of siege or state of emergency affect the right to life, personal integrity, personal identity, civil capacity, citizenship, the non-retroactive nature of penal law, the right of the accused to defense or freedom of conscience and religion.
- (3) A state of siege and state of emergency shall be regulated by a specific law.

## **Part III State Bodies**

### **Chapter I Principles**

#### **Article 53**

- (1) The President of the Republic, the National Assembly, the Government and the Courts shall be sovereign bodies.
- (2) The formation, composition, powers and functioning of the sovereign bodies shall be set out in the present Law.

#### **Article 54**

State bodies shall be organized and function in keeping with the following principles:

- (a) Members of representative bodies shall be elected in accordance with the appropriate Electoral Law;
- (b) State bodies shall be subject to the law, which they shall obey;
- (c) The functions of sovereign bodies shall be separate and interdependent;
- (d) There shall be local autonomy;
- (e) There shall be administrative decentralization and devolution, without prejudice to governmental and administrative unity of action;
- (f) Holders of political posts shall be civilly and criminally answerable for actions and omissions committed in the discharge of their duties;
- (g) Decisions of collegial bodies shall be taken in keeping with the principles of free discussion and criticism and acceptance of the will of the majority.

#### **Article 55**

The territory of the Republic of Angola shall, for political and administrative purposes, be divided into Provinces, Municipalities, Communes and Neighborhoods or Villages.

### **Chapter II Office of the President of the Republic**

#### **Section I President of the Republic**

#### **Article 56**

- (1) The President of the Republic shall be the Head of State, symbolize national unity, represent the nation domestically and internationally, ensure compliance with the Constitutional Law, and shall be Commander-in-Chief of the Angolan Armed Forces.
- (2) The President of the Republic shall define the country's political policy, ensure the proper functioning of State bodies and guarantee national independence and the country's territorial integrity.

#### **Article 57**

- (1) The President of the Republic shall be elected by universal, direct, equal, secret and periodic suffrage by citizens resident in the national territory, in accordance with the law.
- (2) The President of the Republic shall be elected by an absolute majority of valid votes. If no candidate obtains one, there shall be a second vote in which only the two candidates who obtained the greatest number of votes in the first and who have not withdrawn may compete.

#### **Article 58**

Natural born Angolan citizens of over 35 years of age and enjoying full civil and political rights shall be eligible to the post of President of the Republic.



### **Article 59**

The President of the Republic shall serve a five-year term of office which shall end on the swearing in of the new elected President. The President of the Republic may be re-elected for two consecutive or discontinuous terms of office.

### **Article 60**

- (1) Candidacies to the post of President of the Republic shall be presented by legally constituted political parties or coalitions of political parties or by at least five thousand and no more than ten thousand voters.
- (2) Candidacies shall be presented to the President of the Supreme Court no less than sixty days prior to the scheduled election date.
- (3) In the event of the definitive incapacity of any presidential candidate, a new candidate may be nominated to substitute the incapacitated candidate, in accordance with the law.

### **Article 61**

- (1) The election of the President of the Republic shall take place within thirty days of the expire of the term of office of the incumbent President.
- (2) In the event of the post of President of the Republic falling vacant, the election of the new President of the Republic shall take place within ninety days of the date of the vacancy.

### **Article 62**

- (1) The President of the Republic shall be sworn in before the Supreme Court, on the last day of day term of office of the outgoing President.
- (2) In the event of an election owing to a vacancy, the swearing in shall take place within fifteen days of the publication of the election results.
- (3) At the swearing in ceremony the elected President of the Republic shall take the following oath:  
*"I swear on my honor to perform with full dedication the duties with which I have been invested, to fulfill and ensure fulfillment of the Constitution of the Republic of Angola, to defend the unity of the nation, the integrity of the national soil, to promote and consolidate peace, democracy and social progress."*

### **Article 63**

- (1) The President of the Republic may renounce the term of office in a message addressed to the National Assembly and on informing the Supreme Court.
- (2) Renunciation shall take effect when the National Assembly is acquainted with the message, without prejudice to its subsequent publication in the *Díario da República*.

### **Article 64**

- (1) In the event of a temporary disability or vacancy, the post of President of the Republic shall be filled in the interim by the President of the National Assembly or, if unable to do so, by the deputy thereof.
- (2) The President of the National Assembly's office as a member of parliament, and that of the deputy thereof, shall be automatically suspended for the duration of the interim powers of President of the Republic.

### **Article 65**

- (1) The President of the Republic shall not be responsible for acts carried out during the discharge of his duties, except in the case of bribery or treason.
- (2) Proceedings shall be initiated by the National Assembly, on the proposal of one-fifth and a decision approved by a two-thirds majority of Members present, and the trial shall be conducted by the Supreme Court.
- (3) Sentencing shall imply dismissal from the post and impossibility of standing as a candidate for another term of office.
- (4) The President of the Republic shall be answerable to the ordinary courts after the end of his term of office for offenses unrelated to the discharge of his duties.

## **Article 66**

The President of the Republic shall have the following powers:

- (a) To appoint the Prime Minister, after hearing the political parties represented in the National Assembly;
- (b) To appoint and dismiss the other members of the Government and the Governor of the National Bank of Angola, on the proposal of the Prime Minister;
- (c) To end the term of office of the Prime Minister and dismiss the Government, after consultation with the Council of the Republic;
- (d) To preside over the Council of Ministers;
- (e) To decree the dissolution of the National Assembly after consultation with the Prime Minister, the President of the National Assembly and the Council of the Republic;
- (f) To preside over the Council of the Republic;
- (g) To appoint and dismiss ambassadors and receive the credentials of foreign diplomatic representatives;
- (h) To appoint Supreme Court judges after hearing the High Council of the Judicial Bench;
- (i) To appoint and dismiss the Attorney General, the Deputy Attorney General and the Assistants to the Attorney General, on the proposal of the High Council of the Ministry of Justice Bench;
- (j) To appoint members of the High Council of the Judicial Bench, in accordance with Article 132 of the Constitutional Law;
- (k) To call elections of the President of the Republic and Members of the National Assembly, in accordance with the present Law and the Electoral Law;
- (l) To preside over the National Defense Council;
- (m) To appoint and dismiss the Chief of General Staff of the Angolan Armed Forces and the deputies thereof, where applicable, and the Chiefs of Staff of the different branches of the Armed Forces;
- (n) To appoint generals of the Angolan Armed Forces, after hearing the National Defense Council;
- (o) To call referendums, in accordance with Article 73 of the present Law;
- (p) To declare war and make peace, after hearing the Government and following authorization by the National Assembly;
- (q) To issue pardons and commute sentences;
- (r) To declare a state of siege or state of emergency, in accordance with the law;
- (s) To sign and promulgate laws approved by the National Assembly and executive laws approved by the Government;
- (t) To address messages to the National Assembly and convene it in special session;
- (u) To make statement on serious emergencies in national life and, in this event, to the measures provided for in the following article of the present Law;
- (v) To award decorations, in accordance with the law;
- (w) To ratify international treaties, when duly approved, and sign the instruments of approval of other treaties in simplified form;
- (x) To request of the Constitutional Court prior assessment or declaration of the unconstitutional nature of judicial rules and verify whether they are unconstitutional by omission.

## **Article 67**

- (1) The President of the Republic, after consultation with the Prime Minister and the President of the National Assembly, shall take appropriate measures whenever the institutions of the Republic, the independence of the nation, territorial integrity or the fulfillment of international commitments are seriously and immediately threatened and the regular activity of constitutional public office interrupted.
- (2) The President of the Republic shall inform the nation of all these factors through a message.
- (3) For the duration of the special powers, the Constitution shall not be amended and the National Assembly shall not be dissolved.

#### **Article 68**

- (1) In presiding over the Council of Ministers, the President of the Republic shall:
- (a) Convene the Council of Ministers and set its agenda, after hearing the Prime Minister;
  - (b) Direct and guide meetings and sessions of the Council of Ministers.
- (2) The President of the Republic may expressly delegate the Prime Minister to preside over the Council of Ministers.

#### **Article 69**

- (1) The President of the Republic shall promulgate laws thirty days after receiving them in the National Assembly.
- (2) Within this period, the President of the Republic may request the National Assembly to consider the law or any of its provisions.
- (3) If after reconsideration a two-thirds majority of the Members of the National Assembly are in favor of approving the law, the President of Republic shall promulgate the law within fifteen days of receiving it.

#### **Article 70**

After they have been signed by the Prime Minister, the President of the Republic shall sign Government decrees thirty days after receiving them and shall inform the Government of the reasons for refusing to sign them.

#### **Article 71**

The laws referred to in Article 66 (s) not promulgated by the President of the Republic, and Government decrees not signed by the President of the Republic, shall be null and void.

#### **Article 72**

The interim President of the Republic shall not dissolve the National Assembly or call referendums.

#### **Article 73**

- (1) The President of the Republic may, on the proposal of the Government or the National Assembly, submit to a referendum draft laws or the ratification of international treaties which, without being contrary to the Constitution, affect the organization of public department and the functioning of institutions.
- (2) The holding of constitutional referendums shall be prohibited.
- (3) The President of the Republic shall promulgate draft laws and ratify international treaties approved by referendum within fifteen days.

#### **Article 74**

In the exercise of his powers, the President of the Republic shall issue presidential decrees and dispatches that shall be published in the *Díario da República*.

### **Section II Council of the Republic**

#### **Article 75**

- (1) The Council of the Republic shall be the political consultative body of the President of the Republic, and shall:
- (a) State its views on the dissolution of the National Assembly;
  - (b) State its views on the resignation of the Government;
  - (c) State its views on the declaration of war and making of peace;
  - (d) State its views on acts of the interim President of the Republic in respect of the appointment of the Prime Minister, the resignation of the Government, the appointment and dismissal of the Attorney General, the Chief of General Staff of the Angolan Armed Forces and the deputies thereof, and the Chiefs

- of Staff of the different branches of the Armed Forces;
- (e) Advise the President of the Republic in the exercise of his powers when so requested by the President of the Republic;
  - (f) Approve the regulations of Council of the Republic.
- (2) In exercising its powers, the Council of the Republic shall issue reports that shall be made public at the appropriate ceremony.

#### **Article 76**

The Council of the Republic shall be presided over by the President of the Republic and shall be composed of the following members:

- (a) The President of the National Assembly;
- (b) The Prime Minister;
- (c) The President of the Constitutional Court;
- (d) The Attorney General;
- (e) Former President of the Republic;
- (f) The Presidents of Political Parties represented in the National Assembly;
- (g) Ten citizens appointed by the President of the Republic.

#### **Article 77**

- (1) The members of the Council of the Republic shall be sworn in by the President of the Republic.
- (2) The members of the Council of the Republic shall enjoy the privileges and immunities of Members of the National Assembly.

### **Chapter III The National Assembly**

#### **Article 78**

- (1) The National Assembly shall be the representative assembly of all Angolans and express the sovereign will of the Angolan people.
- (2) The National Assembly shall be regulated by the provisions of the present Law and by Regulations approved by itself.

#### **Article 79**

- (1) The National Assembly shall be composed of two hundred and twenty-three Members elected by universal, equal, direct, secret and periodic suffrage for a four-year term of office.
- (2) Members of the National Assembly shall be elected through the system of proportional representation, based on the following criteria:
  - (a) Each province shall by right be represented in the National Assembly by five Members, and each province shall for this purpose constitute an electoral college;
  - (b) The remaining one hundred and thirty Members shall be elected at national level, and the country shall for this purpose be considered a single electoral college;
  - (c) For Angolan communities abroad, there shall be constituted a single electoral college of three Members, two in the Africa region and one in the rest of the world.

#### **Article 80**

Candidates shall be presented by political parties individually or in coalition, and the list may include citizens who are not members of the parties concerned, in accordance with the Electoral Law.

#### **Article 81**

The term of office of a Member shall start at the first session of the National Assembly after the elections and end with the first session after subsequent elections, without prejudice to suspension or individual ending of term of office.

### **Article 82**

- (1) The term of office a Member shall be incompatible with:
  - (a) A ministerial post;
  - (b) Paid employment by foreign companies or international organizations;
  - (c) Being president and member of the administrative board of a limited company, a shareholding manager of a company, director general or deputy director general of a public enterprise;
- (2) The following may not be Members:
  - (a) Judicial or Ministry of Justice judges;
  - (b) Members of military or militarized forces on active service.
- (3) Citizens who have acquired Angolan nationality may be candidates seven years after the acquisition of nationality.

### **Article 83**

Members of the National Assembly shall have the right, in accordance with the Constitutional Law and the Regulations of the National Assembly, to question the Government or any of the members thereof, and to obtain from all public bodies and enterprises the cooperation needed to discharge their duties.

### **Article 84**

- (1) No Member of the National Assembly shall be detained or arrested without authorization by the National Assembly or the Standing Commission thereof, unless caught in *flagrante delicto* committing a felony punishable by imprisonment.
- (2) Members shall not be held responsible for views they express in the discharge of their duties.

### **Article 85**

A Member may lose his or her seat for any of the following reasons:

- (a) The incapacitates or incompatibilities provided for by law;
- (b) Not taking his or her seat in the National Assembly or exceeding the number of absences stipulated in the Regulations;
- (c) Joining a party other than the one from whose list or she was elected.

### **Article 86**

A Member may renounce his or her seat through a written statement with notarized signature personally handed to the President of the National Assembly.

### **Article 87**

- (1) The temporary substitution of a Member shall be accepted under the following circumstances:
  - (a) For holding a public post incompatible with the office of a Member under the present Law;
  - (b) Owing to an illness of more than forty-five days duration.
- (2) In the event of the temporary situation of a Member, the vacancy shall be filled in accordance with order of precedence by the following candidate on the list to which the office holder of the vacancy belonged and who is not unable to assume the seat.
- (3) In the event of a vacancy caused by a Member elected by a coalition, the seat shall be given to the next unelected candidate proposed by the political party to which the substituted Member belonged.
- (4) If the list to which the holder of the vacant seat belonged has no unelected candidates, the seat shall not be filled.

### **Article 88**

The National Assembly shall:

- (a) Amend the current Constitutional Law and approve the Constitution of the Republic of Angola;
- (b) Approve laws on all matters, except those reserved by the Constitutional Law for the Government;
- (c) Confer legislative authorizations on the Government;

- (d) Approve, on the proposal of the Government, the National Plan and the General State Budget;
- (e) Approve, on the proposal of the Government, the reports on the execution of the National Plan and the General State Budget;
- (f) Authorize the Government to contract and grant loans and perform other credit operations not involving a floating debt, setting out the general terms thereof and establishing the maximum limits of suretyships to be granted annually by the Government;
- (g) Establish and alter the political and administrative division of the country;
- (h) Grant amnesties and general pardons;
- (i) Authorize the President of the Republic to declare a state of siege or state of emergency, setting out the extension, suspension of constitutional guarantees and monitor the implementation thereof;
- (j) Authorize the President of the Republic to declare war and make peace;
- (k) Approve international treaties on matters within its absolute legislative powers, as well as treaties on peace, Angola's participation in international organizations, the rectification of borders, friendship, defense, military matters and any others submitted to it by the Government;
- (l) Ratify decrees;
- (m) Promote proceedings against the President of the Republic for the crimes of bribery or treason;
- (n) Vote motions of confidence or no confidence in the Government;
- (o) Draft and approve the Regulations of the National Assembly;
- (p) Elect the President and Vice-Presidents of the National Assembly and other members of the Standing Commission by an absolute majority of Members present;
- (q) Constitute the Working Commissions of the National Assembly in accordance with the representativity of parties in the Assembly;
- (r) Perform other duties assigned to it by the Constitution and the law.

#### **Article 89**

The National Assembly shall have full and sole legislative powers on the following matters:

- (a) Acquisition, loss and re-acquisition of nationality;
- (b) Rights, freedoms and basic guarantees of citizens;
- (c) Elections and the status of office holders in sovereign bodies, local government and other constitutional bodies;
- (d) Ways and means of organizing and running local government bodies;
- (e) System of referendum;
- (f) Organization, functioning and proceedings of the Constitutional Court;
- (g) Organization of national defense and general basis of organization, functioning and discipline of the Angolan Armed Forces;
- (h) System of state of siege and state of emergency;
- (l) Associations and political parties;
- (j) Judicial organization and status of judicial and Ministry of Justice judges;
- (k) Monetary system and system of weights and measures;
- (l) Definition of limits of territorial waters, exclusive economic area and Angola's rights to contiguous sea beds;
- (m) Definition of sectors reserved for the State in respect of the economy, and the basis for granting concessions for the exploitation of natural resources and alienation of State property;
- (n) Definition and system of national symbols;

#### **Article 90**

The National Assembly shall have relative sole legislative powers on the following matters except where authorization is granted to the Government:

- (a) Status and capacity of individuals;
- (b) General organization of the public administration;
- (c) Status of functionaries and civil responsibility in the public administration;

- (d) General system of requisition and expropriation in the public interest;
- (e) Ways and means of intervention and nationalization of means of production and establishment of criteria for setting compensation, as well as re-privatization of title or exploration rights of State property, in accordance with the basic legislation referred to in (m) of the foregoing article;
- (f) Definition of the taxation system and creation of taxes;
- (g) General basis of the education system, national health service and social security;
- (h) Basis of the system of protecting nature, ecological balance and the cultural heritage;
- (i) General system of rural and urban leasing;
- (j) System of land ownership and establishment of criteria for fixing the maximum limits of private agricultural units;
- (k) Participation of traditional authorities and citizens in local government;
- (l) Status of public enterprises;
- (m) Definition of the system of public property;
- (n) Definition of crimes, penalties and security measures, and of criminal proceedings.

### **Article 91**

- (1) The National Assembly shall, in respect of laws of legislative authorization, define the scope, sense, extension and duration of the authorization.
- (2) The authorization referred to in the foregoing paragraph shall be forfeited on the signal of the Government that granted it, the end of the legislature or the dissolution of the National Assembly.

### **Article 92**

- (1) The National Assembly shall, in the exercise of its powers, issue laws for the constitutional amendment of the Constitution of the Republic of Angola, organic laws, laws, motions and resolutions.
- (2) Acts provided for in Article 88 (a) shall take the form of a law on constitutional amendment or amendment of the Constitution of the Republic of Angola.
- (3) Acts provided for in Article 89 (c), (d), (e), (f), 4. (g), (h) and (i) shall take the form of organic laws.
- (4) Other acts provided for in Articles 89 and 90 and those provided for in Article 88 (d), (f) (g) and (h) shall take the form of laws.
- (5) Acts provided for in Article 88 (n) shall take the form of motions.
- (6) Other acts of the National Assembly, namely those provided for in Article 88 (c), (e), (i), (j), (k) (1), (m), (o) (p) and (q) and acts of the Standing Commission, shall take the form of resolutions.

### **Article 93**

- (1) Members, parliamentary groups and the Government shall have the right to propose legislation.
- (2) Members and parliamentary groups shall not in the course of the economic year present draft laws that involve an increase in the expenditure or decrease in the State revenue established in the Budget.
- (3) Draft laws that are definitively rejected shall not be assessed in the same legislative session unless there is a new election of the National Assembly.
- (4) Draft laws presented by the Government shall be forfeited on its resignation.

### **Article 94**

- (1) The National Assembly shall consider executive laws approved by the Council of Ministers for purposes of amendment or refusal to ratify, except those falling within the Government's sole competence, at the request of ten Members at the ten first plenary meetings of the National Assembly following its publication.
- (2) Following the consideration request and in the event that amendment proposals are made, the Assembly may wholly or partly suspend the executive law until the publication of the law that amends or even rejects all those proposals.
- (3) When ratification is refused, the executive law shall cease to be in force on the day when the resolution is published in the *Díario da República* and shall not be re-published in the course of that

legislative session.

(4) Executive laws that are not subject to a request for consideration by the National Assembly within the period and in accordance with the proceedings set out in this article shall be deemed to have been ratified.

#### **Article 95**

(1) The National Assembly may not be dissolved within the six months subsequent to its election, in the last quarter of the term of office of the President of the Republic, during the term of office of the interim President of the Republic or during a state of siege or state of emergency.

(2) Failure to observe provisions of the foregoing paragraph shall render the dissolution decree legally null and void.

(3) When the National Assembly is dissolved, the term of office of Members and the functions of the Standing Commission shall continue until the first meeting of the Assembly following subsequent elections.

#### **Article 96**

(1) The legislature shall comprise four legislative sessions.

(2) Each legislative session shall last one year and shall start on 15 October.

(3) The normal period in which the National Assembly shall function shall be eight months and shall start on 15 October, without prejudice to intervals provided for in the Regulations of the National Assembly and suspensions determined by a two-thirds majority of Members present.

(4) The National Assembly shall meet in ordinary session when convened by its President.

(5) The National Assembly may meet in special session whenever necessary on the decision of a plenary meeting or on the initiative of the Standing Commission or of more than half of its Members.

(6) The National Assembly may meet in special session outside its normal session on the decision of a plenary meeting, on the initiative of the Standing Commission or more than half of its Members or when convened by the President of the Republic

#### **Article 97**

(1) The National Assembly shall function with a simple majority of Members present.

(2) Decisions of the National Assembly shall be taken by a simple majority of Members present, except where the present law sets out other rules of decision.

#### **Article 98**

(1) The agenda of plenary meetings of the National Assembly shall be drafted by its President, without prejudice to the right of appeal of the Assembly plenary meeting.

(2) The Internal Regulations of the National Assembly shall set out the priority of items to be put on the day's agenda.

(3) Messages from the President of the Republic to the National Assembly shall have absolute priority over all other matters.

(4) The Government may request priority for matters the urgent solution of which is in the national interest.

#### **Article 99**

(1) Ministers and Secretaries of State shall be entitled to attend plenary meetings of the National Assembly, and may be assisted or substituted by Deputy Ministers and take the floor in accordance with the Regulations of the National Assembly.

(2) The Prime Minister and members of the Government shall appear before the Assembly plenum at meetings the regularity of which shall be set out in the Regulations of the National Assembly to reply to Members' questions and requests for clarification, made verbally or in writing.

(3) The Prime Minister and members of the Government shall attend a plenary meeting of the National Assembly whenever there is a debate on motions of censure or no confidence in the Government and



approval of the National Plan and General State Budget and the reports on the execution thereof.

(4) The working commissions of the National Assembly may request the participation of members of the Government in their proceedings.

#### **Article 100**

(1) The National Assembly shall constitute working commissions, in accordance with the Regulations, and may set up ad hoc commissions.

(2) The composition of the commissions shall reflect the representation of parties in the National Assembly and their presidency shall be shared by the parliamentary groups in proportion to the number of their Members.

(3) The commissions shall examine petitions addressed to the National Assembly and may request the testimony of any citizen.

#### **Article 101**

(1) Members of the National Assembly may constitute parliamentary commissions of inquiry to examine acts of the Government and administration.

(2) A commission of inquiry shall be requested by any Member and, on a mandatory basis, comprise one-fifth of Members present, and shall be limited to one per Member per legislative session.

(3) Parliamentary commissions of inquiry shall have the investigating powers of judicial bodies.

#### **Article 102**

(1) The National Assembly shall, outside the period when it is effectively functioning, during the provided when it is dissolved and in other cases provided for in the Constitutional Law, be substituted by a Standing Commission.

(2) The Standing Commission shall be composed as follows:

(a) The President of the National Assembly, who shall preside over it, appointed by the party or coalition of parties that obtains a majority in the elections;

(b) Two vice-presidents appointed by political parties or coalitions of parties in proportion to the number of seats they have in the National Assembly;

(c) Twelve Members appointed by parties and coalitions of parties in proportion to the number of seats they have in the National Assembly.

(3) The Standing Commission shall:

(a) Accompany the work of the Government and administration;

(b) Convene the National Assembly in special session;

(c) Discharge the Assembly's duties in respect of the office of Members;

(d) Authorize the President of the Republic to declare a state of siege or state of emergency;

(e) Exceptionally authorize the President of the Republic to declare war and make peace, when the National Assembly is not in normal session and in the event of the pressing urgency to convene a special meeting;

(f) Prepare the opening of the legislative session.

#### **Article 103**

(1) Members elected by each party or coalition of parties may form parliamentary groups.

(2) Without prejudice to the right of Members provided for in the present Law, parliamentary groups shall be entitled to do the following:

(a) Participate in the Assembly's working commissions in accordance with their respective members, nominating their representatives thereto;

(b) State their views on the establishment of the agenda;

(c) Propose through a formal demand to the Government for explanations, the opening of two debates in each legislative session on matters of general or sectorial policy;

(d) Request the Standing Commission to move the convening of the Assembly;

- (e) Propose legislation;
  - (f) Table motions of censure of the Government;
  - (g) Be informed by the Government. regularly and directly, of progress in respect of the principal matters of public interest;
  - (h) Request the constitution of parliamentary commissions of inquiry.
- (3) The right provided for in (b), (f), (g) and (h) shall be exercised through the President of the parliamentary group.
- (4) Each parliamentary group shall have the right to office space in the seat of the National Assembly, as well as expert and administrative staff of its choice, in accordance with the law.

#### **Article 104**

The National Assembly and the commissions thereof shall be assisted by a permanent body of technicians, administrative staff and specialists requisitioned or temporarily contracted, in accordance with the law.

### **Chapter IV The Government**

#### **Article 105**

- (1) The Government shall conduct the country's general policy and shall be the highest public administrative body.
- (2) The Government shall be politically responsible to the President of the Republic and the National Assembly, in accordance with the present Law.

#### **Article 106**

- (1) The composition of the Government shall be established by an executive law.
- (2) The numbers and designations of Ministers, Secretaries of State and Deputy Ministers shall be determined by the decrees nominating the respective office holders.
- (3) The powers of Ministries and State Secretariats shall be determined by an executive law.

#### **Article 107**

- 1, The office of Prime Minister, Minister, Secretary of State and Deputy Minister shall be incompatible with the office of Member of the National Assembly.
- (2) The incompatibilities set out in Article 82 (b) and (c) shall apply to the offices set out in the foregoing paragraph.

#### **Article 108**

- (1) The Council of Ministers shall be presided over by the President of the Republic and shall comprise the Prime Minister, Ministers and Secretaries of State.
- (2) The Council of Ministers shall meet at intervals established by law.
- (3) Deputy Ministers may be summoned to attend meetings of the Council of Ministers.
- (4) The Council of Ministers may constitute specialized commissions to prepare papers on specific matters to be considered by the Council of Ministers.

#### **Article 109**

The duties of the Prime Minister shall start with the swearing in thereof and cease with the swearing in of the new Prime Minister. The duties of other members of the Government shall start with the swearing in thereof and cease when they are dismissed or the Prime Minister is dismissed. In the event of the resignation of the Government, the Prime Minister of the outgoing Government shall be dismissed on the date of the appointment and swearing in of the new Prime Minister.

### **Article 110**

In the discharge of the political duties, the Government shall:

- (a) Attest to acts of the President of the Republic, in accordance with the provisions of Article 70;
- (b) Set out the general lines of Government policy and the implementation thereof;
- (c) Negotiate and conclude international treaties and approve treaties that do not fall within the sole competence of the National Assembly or have not been submitted thereto;
- (d) Present draft laws on the National Assembly;
- (e) Deliberate on motions of confidence presented to parliament;
- (f) State its views on the declaration of a state of siege or state of emergency;
- (g) Propose to the President of the Republic the declaration of war or the making of peace;
- (h) Perform other duties assigned to it by the Constitution or the law.

### **Article 111**

(1) In the discharge of its legislative duties, the Government shall:

- (a) Establish by an executive law the composition, organization and functioning of the Government;
  - (b) Draft and pass executive laws on legislative matters related to the National Assembly, in accordance with the appropriate legislative authorization;
- (2) The Government shall have full legislative power on matters related to its own composition, organization and functioning.
- (3) The execution laws provided for in (b) shall specifically cite the legal document conferring legislative authorization.

### **Article 112**

In the discharge of its administration duties, the Government shall:

- (a) Draft and promote implementation of the country's economic and social development plan;
- (b) Draft, approve and direct the execution of the State Budget;
- (c) Approve acts of the Government involving increased or decreased public revenue or expenditure;
- (d) Draft regulations needed for the proper application of laws;
- (e) Direct the services and activity of the State administration, superintend indirect administration and oversee autonomous local administration and other autonomous institutions;
- (f) Carry out action and take all necessary measures to promote economic and social development and satisfy collective needs.

### **Article 113**

The Government, meeting in the Council of Ministers, shall discharge its duties through executive laws, decrees and resolutions on general and sectorial policies and measures within the framework of Government activity.

### **Article 114**

- (1) The Prime Minister shall in general direct, conduct and coordinate the general activity of the Government.
- (2) The Prime Minister shall, in particular:
  - (a) Coordinate and guide the activity of all Ministries and State Secretariats;
  - (b) Represent the Government in the National Assembly and domestically and abroad;
  - (c) Direct the functioning of the Government and its general relations with other State bodies;
  - (d) Substitute the President of the Republic in presiding over the Council of Ministers, in accordance with Article 68 (2);
  - (e) Sign executive laws of the Council of Ministers and send them for promulgation by the President of the Republic;
  - (f) Sign executive laws of the Council of Ministers and send them for subsequent signature by the President of the Republic;

- (g) Sign resolutions of the Council of Ministers;
- (h) Discharge other duties assigned to him by the Constitution and the law.
- (3) In the discharge of their duties, the Prime Minister, Ministers and Secretaries of State shall issue executive decrees and dispatches that shall be published in the *Díario da República*.

#### **Article 115**

- (1) The Government shall draft its program which shall include the major political, economic and social guidelines and measures to be taken or proposed in the various spheres of Government activity.
- (2) Members of the Government shall be bound by the Government program and other decisions taken in the Council of Ministries.

#### **Article 116**

- (1) The Government shall start its duties immediately after being sworn in.
- (2) The Government may be subject to votes of censure by the National Assembly on the implementation of its program or other fundamental issues of Government policy, on the proposal of a parliamentary group or one quarter of Members present.
- (3) A vote of censure of the Government shall be passed by an absolute majority of members present.
- (4) If the vote of censure is not passed, its signatories shall not table another during the same legislative session.
- (5) The Government may ask the National Assembly for a vote of confidence that shall be passed by a majority of Members present.

#### **Article 117**

- (1) The Prime Minister shall be responsible to the President of the Republic, whom he shall regularly and directly inform of matters related to the conduct of the country's policy.
- (2) The Prime Minister shall represent the Government in the National Assembly and shall ensure the Government's political responsibility to the National Assembly.

#### **Article 118**

The following shall cause the resignation of the Government:

- (a) The end of the legislature;
- (b) The election of a new President of the Republic;
- (c) The resignation of the Prime Minister;
- (d) The acceptance by the President of the Republic of the Prime Minister's resignation;
- (e) The death or lasting disability of the Prime Minister;
- (f) A vote of censure against the Government;
- (g) Failure to pass a vote of confidence in the Government.

#### **Article 119**

The Prime Minister, Ministers, Secretaries of State and Deputy Ministers may be arrested only if charged for an offense punishable by imprisonment and following suspension of the office thereof by the President of the Republic.

## **Chapter V Justice**

### **Section I The Courts**

#### **Article 120**

- (1) Courts shall be Sovereign bodies with powers to administer justice on behalf of the people.
- (2) The Supreme Court and other courts instituted by law shall discharge jurisdictional duties.
- (3) In the discharge of their jurisdictional duties, the courts shall be independent and subject only to the law, and they shall be entitled to the assistance of other authorities.

#### **Article 121**

- (1) The courts shall guarantee and ensure compliance with the Constitutional Law, laws and other legal provisions in force, protection of the rights and legitimate interest of citizens and institutions, and shall decide on the legality of administrative acts.
- (2) It shall be mandatory for all citizens and other legal entities to comply with decisions of the courts and these shall prevail over those of other authorities.

#### **Article 122**

Courts shall as a rule be collegiate and shall include professional judges and citizen assistants who shall have the same rights and duties in respect of the trial concerned.

#### **Article 123**

It shall be the duty of all public and private entities to cooperate with the courts in the discharge of their duties.

#### **Article 124**

Court hearings shall be public, unless the court itself deems otherwise in a well-founded ruling, for reasons of the dignity of individuals or public morality, or to ensure the functioning thereof.

#### **Article 125**

- (1) Apart from the Constitutional Court, courts shall be structured, in accordance with the law, as follows:
  - (a) Municipal courts;
  - (b) Provincial courts; and
  - (c) The Supreme Court.
- (2) The organization and functioning of military justice shall be set out in an appropriate law.
- (3) Military, administrative, auditing, fiscal, maritime and arbitration courts may be constituted in accordance with the law.

#### **Article 126**

Without prejudice to the provisions of the foregoing article, the constitution of courts with sole powers to try determined offenses shall be prohibited.

#### **Article 127**

In the discharge of their duties, judges shall be independent and shall owe obedience only to the law.

#### **Article 128**

Judges shall not be removable from office and shall not be transferred, promoted, suspended, retired or dismissed except in accordance with the law.

#### **Article 129**

Judges shall be responsible for decisions they make in the discharge of their duties, except for restrictions imposed by law.

### **Article 130**

- (1) The Presiding Judge of the Supreme Court, Vice President of the Supreme Court and other judges of the Supreme Court and Constitutional Court may be arrested only if charged for an offense punishable by a prison sentence.
- (2) Trial court judges may not be arrested without being charged unless caught in *flagrante delicto* committing a felony punishable by imprisonment.

### **Article 131**

Judges shall not discharge any public or private duties other than teaching or scientific research.

## **Section II High Council of the Judicial Bench**

### **Article 132**

- (1) The High Council of the Judicial Bench shall be the highest body managing and disciplining the judicial bench, and shall, in general:
  - (a) Consider the professional ability of and take disciplinary action in respect of judges;
  - (b) Propose the appointment of judges to the Supreme Court in accordance with the present Law;
  - (c) Order investigations, inspections and inquires into the legal services and propose the measures needed to ensure the efficiency and improvement thereof;
  - (d) Appoint, place, transfer and promote judges, without prejudice to the provisions of the present Law.
- (2) The High Council of the Judicial Bench shall be presided over by the President of the Supreme Court and shall be composed of the following:
  - (a) Three lawyers nominated by the President of the Republic, at least one of whom shall be a judicial judge;
  - (b) Five lawyers nominated by the National Assembly;
  - (c) Ten judges elected by judicial judges from among their own numbers,
- (3) Members of the High Council of the Judicial Bench shall enjoy the same immunities as Supreme Court judges.

### **Article 133**

The manner of judges joining the bench shall be established by law.

## **Section III Constitutional Court**

### **Article 134**

- The Constitutional Court shall in general administer justice on legal and constitutional matters, and shall:
- (a) Prevent unconstitutionality, in accordance with the provisions of Article 154;
  - (b) Consider whether laws, executive laws, ratified international treaties and any rules are unconstitutional, in accordance with the provisions of Article 155;
  - (c) Verify and consider non-compliance with the Constitutional Law owing to failure to take the requisite measures to make constitutional rules executable;
  - (d) Consider appeals in respect of the constitutional nature of all decisions of other courts that refuse to apply any rule on the grounds that it is unconstitutional;
  - (e) Consider appeals in respect of the constitutional nature of all decisions of other courts that apply a rule the constitutional nature of which has been evoked during the trial.

### **Article 135**

- (1) The Constitutional Court shall be composed of seven judges, nominated from among lawyers and judges as follows:
  - (a) Three judges nominated by the President of the Republic, including the President of the Court;
  - (b) Three judges elected by the National Assembly by a two-thirds majority of Members present;
  - (c) One judge elected by a full session of the Supreme Court.

(2) Judges of the Constitutional Court shall be appointed for a non-renewable seven-year term and shall be guaranteed the same independence, irremovability from office, impartiality and nonliability as judges of other Courts.

(3) Other rules related to the powers, organization and functioning of the Constitutional Court shall be established by an appropriate law.

## **Section IV The Attorney General's Office**

### **Article 136**

1 The Attorney General's Office shall be represented in the courts by the Ministry of Justice Bench, in accordance with the respective Statutes.

(2) The Attorney General's Office shall defend Democratic legality and, especially, represent the State in taking penal action and defending the interests assigned to it by law.

### **Article 137**

(1) The Attorney General's Office shall be presided over by the Attorney General and shall comprise the High Council of the Ministry of Justice Bench, which shall be composed of members elected by the National Assembly and members elected by Ministry of Justice judges from among their own numbers, in a manner to be set out by law.

(2) The Attorney General's Office shall have its own statutes, enjoy autonomy in accordance with the law and be governed by the statutes of judicial and Ministry of Justice judges.

(3) The organization, structure and functioning of the Attorney General's Office and the manner of joining the Ministry of Justice Bench shall be established in an appropriate law.

### **Article 138**

Ministry of Justice judges shall be responsible to the law and shall follow hierarchical authority.

### **Article 139**

(1) The Attorney General, Deputy Attorney General and assistants of the Attorney General may be arrested only when charged for an offense punishable by imprisonment.

(2) Ministry of Justice trial court judges and the equivalent may not be arrested without being charged unless caught in *flagrant delicto* to committing a felony punishable by imprisonment.

### **Article 140**

Ministry of Justice judges shall not be transferred, suspended, promoted, dismissed or subject to any other change of position except in accordance with the appropriate statute.

### **Article 141**

The office of Ministry of Justice judge shall be incompatible with the discharge of public or private duties, except for teaching, scientific research or bench associations.

## **Chapter VI Judicial Proctorate**

### **Article 142**

(1) The Judicial Proctorate shall be an independent public body the purpose of which shall be to defend the rights, freedoms and guarantees of citizens ensuring by informal means the justice and legality of the public administration.

(2) Citizens may present the Judicial Proctorate with complaints concerning acts or omissions by the public authorities that it shall consider with no power of decision, submitting to the appropriate bodies its recommendations to prevent and remedy injustices.

(3) The activity of the Judicial Proctorate shall be independent of the means to rule on appeals or disputes provided for in the Constitutional Law and the law.

(4) The other duties and statutes of the Judicial Proctorate shall be established by law.

### **Article 143**

(1) The Judicial Proctorate shall be nominated by the National Assembly on the decision of two-thirds of Members present and shall be sworn in by the President of the National Assembly.

(2) The Judicial Proctorate shall be appointed for a four-year term of office and may be re-appointed for another four-year term.

### **Article 144**

It shall be the duty of public administration bodies and agents to cooperate with the Judicial Proctorate in the discharge of its duties.

## **Chapter VII Local Government**

### **Article 145**

State organization at local level shall comprise local government agencies and local administrative bodies.

### **Article 146**

(1) Local government agencies shall be territorial corporate bodies for the purpose of pursuing the interests of the population, and shall for this purpose have elected representative bodies and freedom to administer their communities.

(2) The constitution, organization, powers, functioning and regulatory powers of local government agencies shall be specified by an appropriate law.

### **Article 147**

(1) Local administrative bodies shall be local administrative units decentralized from central Government for the purpose of achieving the specific attributes of the State administration at local level, guide economic and social development and ensure the provision of communal services in the respective geographical area.

(2) The type of local administrative bodies, organization, powers and functioning shall be established by an appropriate law.

### **Article 148**

(1) The Provincial Governor shall be the Government representative in the respective province, shall in general direct the governance of the province, shall ensure the normal functioning of local administrative bodies, and shall be answerable to the Government and the President of the Republic.

(2) The Provincial Governor shall be appointed by the President of the Republic after hearing the Prime Minister.

## **Part IV National Defense**

### **Article 149**

(1) The State shall ensure national defense.

(2) The objectives of national defense shall be to guarantee national independence, territorial integrity and the freedom and security of the population against any aggression or external threat, within the framework of the instituted constitutional order and international law.

### **Article 150**

(1) The National Defense Council shall be presided over by the President of the Republic and shall be composed as follows:

(a) Prime Minister;

(b) Minister of Defense;

(c) Minister of the Interior;



- (d) Minister of External Relations;
  - (e) Minister of Finance;
  - (f) Chief of General Staff of the Angolan Armed Forces.
- (2) The President of the Republic may summon other entities, by virtue of their expertise, to attend meetings of the National Defense Council.
- (3) The National Defense Council shall be the consultative body for matters related to national defense and the organization, functioning and discipline of the Armed Forces, and shall have the administrative powers conferred on it by law.

#### **Article 151**

- (1) The Angolan Armed Forces, under the supreme authority of their Commander in Chief, shall owe obedience to the appropriate sovereign bodies, in accordance with the present Law and other statutory legislation, and shall defend the nation militarily.
- (2) The Angolan Armed Forces, as a State institution shall be permanent, regular and nonpartisan.
- (3) The Angolan Armed Forces shall be solely composed of national citizens and the general rules of organization and preparation thereof shall be established by law.

#### **Article 152**

- (1) The defense of the country shall be the right and the highest indeclinable duty of every citizen.
- (2) Military service shall be compulsory. The manner in which it is fulfilled shall be established by law.
- (3) Citizens shall not lose permanent employment or other social benefits by virtue of doing national service.

### **Part V Guarantee and Amendment of the Constitutional Law**

#### **Chapter I Monitoring of Unconstitutionality**

##### **Article 153**

- (1) Rules in breach of the Constitutional Law or the principles set out therein shall be unconstitutional.
- (2) The Constitutional Court shall declare the unconstitutional nature of acts of commission or omission.

##### **Article 154**

- (1) The President of the Republic and one-fifth of the Members of the National Assembly may request of the Constitutional Court prior consideration of the constitutional nature of any rule subject to promulgation, signature or ratification by the President of the Republic, namely statutory legal acts, executive laws, decrees or international treaties.
- (2) Rules in respects of which prior consideration has been requested of the Constitutional Court shall not be promulgated, signed or until the Constitutional Court has given its ruling.
- (3) Where rules referred to in the foregoing paragraph are declared to be unconstitutional, the rule shall be vetoed by the President of the Republic and returned to the body that approved it for removal of the part deemed unconstitutional.

##### **Article 155**

- (1) The President of the Republic, one-fifth of the Members of the National Assembly present, the Prime Minister and the Attorney General may request of the Constitutional Court prior consideration of any rules.
- (2) The declaration of the unconstitutional nature of rules referred to in the foregoing paragraph shall take effect with the entry into force of the rule declared unconstitutional and shall entail redrafting of the rules it may have revoked.
- (3) In the event of unconstitutional through a breach of the foregoing constitutional rule, the declaration shall take effect only on the entry into force thereof.

(4) Exceptions shall be tried cases, unless the Constitutional Court decides otherwise, where the rule complies with penal, disciplinary or mere infringement of company regulations charge, and where the content is unfavorable to the accused.

#### **Article 156**

1 The President of the Republic, one-fifth of Members present and the Attorney General may request the Constitutional Court to declare unconstitutionality by omission.

(2) If unconstitutionality by omission is verified, the Constitutional Court shall inform the appropriate legislative body accordingly, so that the omission may be remedied.

#### **Article 157**

The Constitutional Court shall state its views on the constitutionality of rules submitted to it for consideration within no more than forty-five days.

### **Chapter II Amendment of the Constitution**

#### **Article 158**

(1) The National Assembly may review the Constitutional Law and approve the Constitution of the Republic of Angola on the decision of two-thirds of Members present.

(2) No less than ten Members or the President of the Republic may propose amendment of the Constitution.

(3) The Constitutional Law may be amended at any time.

(4) The National Assembly shall determine the manner of proposing the drafting of the Constitution of the Republic of Angola.

(5) The President of the Republic shall not refuse to promulgate the Law Amending the Constitution of the Republic of Angola adopted in accordance with the first paragraph of the present article.

#### **Article 159**

Amendments to and approval of the Constitution of Angola shall comply with the following:

(a) Independence, territorial integrity and national unity;

(b) The fundamental rights and freedoms and guarantees of citizens;

(c) A State based on the rule of law and party political pluralism;

(d) Universal, direct, secret and periodic suffrage for the appointment of the elected office holders of sovereign bodies and local government;

(e) The secular nature of the State and the principle of separation between the State and churches;

(f) The separation and interdependence of the courts.

#### **Article 160**

During a state of siege or state of emergency, no amendment of the Constitution shall be made.

### **Part VI Symbols of the Republic of Angola**

#### **Article 161**

The symbols of the Republic of Angola shall be the Flag, the Insignia and the National Anthem.

#### **Article 162**

The National Flag shall consist of two colors in horizontal bands. The upper band shall be bright red and the lower one black and they shall represent:

Bright red - The blood shed by Angolans during colonial oppression, the national liberation struggle and the defense of the country.

Black - The African continent.

In the center there shall be a composition formed by a segment of a cog wheel, symbolizing the workers and industrial production, a machete, symbolizing the peasants, agricultural production and the armed struggle, and a star, symbolizing international solidarity and progress. The cog wheel, the machete and the star shall be yellow, symbolizing the country's wealth.

**Article 163**

The insignia of the Republic of Angola shall be formed by a segment of a cog wheel and sheaves of maize, coffee and cotton, representing respectively the workers and industrial production, the peasants and agricultural production. At the foot of the design, an open book shall represent education and culture, and the rising sun shall represent the new country. In the center shall be a machete and a hoe symbolizing work and the start of the armed struggle. At the top shall be a star symbolizing international solidarity and progress. In the lower part of the emblem shall be a golden band with the inscription 'Republic of Angola'.

**Article 164**

The National Anthem shall be "ANGOLA AVANTE" (Forward Angola).

**Part VII Final and Transitional Provisions**

**Article 165**

The laws and regulations in force in the Republic of Angola shall be applicable unless amended or repealed, provided they do not conflict with the letter and spirit of the present Law.

**Article 166**

All treaties, agreements and alliances to which Portugal committed Angola and which are contrary to the interests of the Angolan people shall be reviewed.



# APPENDIX B: 2004 LAND LAW



**2004 Land Law**  
**English Translation**  
*(Lei da Terrs de Angola, Lei 09/04, de 9 de Novembro)*

PREAMBLE

Considering the fact that the land problem in general, and in particular the judicial framework of the land problem has not yet been the object of the multidisciplinary treatment that it deserves.

Considering that the land problem in its judicial dimension must be treated in integrated form and in accordance with its multiple uses, to wit:

- support of shelter or habitation for the population residing in the territory, which implies an adequate urban regime;
- protection of natural riches whose use and exploitation involve law with respect to mining, agriculture, forests, and territorial organization;
- support for the exercise of economic, agrarian and industrial activities, and the provision of services.
- support in relation to all effects resulting from disorderly or degrading human actions which have negative impact on the ecological equilibrium and concern environmental law.

Taking into account, on one hand, that current law, especially Law 21-c/92, did not deal with the land problem in all those dimensions and, on the other hand, that an integrated and multidisciplinary vision was lacking on the part of the legislator of current Lands Law that could lead to an affirmation according to which the current Law is an Agrarian Law. The economic, social and urbanistic goals were not taken into account, and in general, the overlap between the land question and territorial organization.

Agreeing to approve the general bases of the judicial land regimes, as well as the rights that may obtain on the lands and the general regime of concession and establishment of land rights.

In these terms and under the contents of line b) of article 88 of the Constitutional Law, the National Assembly approves the following:

**CHAPTER I**  
**Provisions and General Principles**

**Section I**  
**General Provisions**

**Article 1.**  
**Definitions**

With respect to the present law, it is understood by:

- a) "Urban agglomerations": territorial zones with urban infra-structures, namely, networks for the supply of water electricity and basic hygiene, if their expansion is processed according to urban planning or, lacking it, under urban administrative instruments approved by the relevant authority.
- b) "City": the urban agglomeration thus classified by territorial organizational norms, to which legal administration has been designated, and with the minimum number of inhabitants as defined by law;
- c) "Rural Communities": communities of neighboring or cohabiting families that, in rural areas, have collective rights to possession, administration, use and fulfillment of the means of community production, namely, of the rural community lands occupied by them and worked in a useful and effective manner according to the principles of self administration and governance, whether for their habitation, for the exercise of their activities, or even for the effecting of other ends recognized by custom and by the present document or its regulations.
- d) "Public domain": a set of things that the State or local authorities use to effect their business, using powers of authority, that is, through the Public Law, including, namely, things destined to the use of all, things utilized by public services or over which the their authority extends, and things that satisfy the purposes of a collective public person.
- e) "Private domain": a set of things not comprising part of the public domain and which are not State or local authority property.
- f) "Title (*Foral*)": a title approved by Government document, under which the State delimits the area of integrated lands in the public domain pertaining to the State And by it conceded to local authorities for autonomous administration;
- g) "Land rights": rights that apply to land integrated into the private domain of the State and that are of which the titleholders are individual persons or collective persons under public or private law;
- h) "Soil": superficial layer of earth over which original state proprietorship obtains, destined for useful exploitation, rural or urban, by means of diverse types of land rights foreseen in the present law;



i) "Subsoil": layer of earth immediately under the soil.

j) "Land": same as lot.

k) "Lot": a delimited part of the soil, including the subsoil, and constructions existent on it that do not have economic autonomy, to which corresponds or could correspond its own number in the respective building matrix in the building registry.

l) "Passageways": lands or rural roads in the public domain of the State or of local authorities, whether in the private domain of the State or of individuals, are placed under a regime of service as passageways or integrated into community lands, according to customary right, for Access of cattle to pasture or sources of water and other utilities tra

(Translator's note: the text ends mid-word with the fragment "tra". This might be the beginning of the word "traditional", but it's hard to tell)

## **Article 2.**

### **Object**

The present law establishes the general bases of the judicial regime for lands integrated into property originating with the State, the land rights over which the general regime of transference, establishment, exercise, and extinction of these rights may fall.

## **Article 3.**

### **Area of application**

1. The present law applies to those rural and urban lands over which the State establishes some of the land rights contemplated in it for the benefit of individual persons or collective persons under public or private right, purposely designated with a view to the execution of purposes oriented toward agricultural production or animal husbandry, forest, mineral, industrial, commercial, or habitational uses, urban or rural edification, territorial organization, environmental protection and combat against soil erosion.

2. Excluded from the area of application of this law are lands that cannot be the object of private rights, such as lands in the public domain or those that, by their nature, are not susceptible to individual appropriation.

## **Section II**

### **Fundamental Principles**

#### **Subsection I**

#### **Land Structure**

## **Article 4.**

### **Fundamental Principles**

The transfer, establishment and exercise of land laws pertaining to concedable State lands are subject to the following fundamental principles:

- a) principle of original proprietorship of land by the State;
- b) principle of the transference of lands integrated into the private domain of the State;
- c) principle of useful and effective exploitation of the land;
- d) principle of ultimate authority.
- e) principle of respect for the land rights of rural communities;
- f) principle of natural resource proprietorship by the State;
- g) principle of the no reversibility of nationalizations and confiscations.

**Article 5.**  
**Property origin**

Land constitutes property originating in the State, integrated into its private domain or into its public domain.

**Article 6.**  
**Transmissibility**

1. Without detriment to the matter dealt with in article 35, the State can transfer or place onus on the ownership of lands integrated into its private domain.
2. Accords dealing with transfer or onus referred to in the preceding number, which violate norms of public order, are null and void.
3. The nullification mentioned in the preceding number are evocable in general terms.
4. No rights over lands integrated into the private domain of the State and in the domain of rural communities can be acquired through squattership.

**Article 7.**  
**Useful and effective usage**

1. The transfer of property rights and the establishment of limited land rights over lands integrated into the private property of the State can only take place with the objective of guaranteeing their useful and effective usage.
2. The indexes of useful and effective usage of lands will be fixed by means of territorial administrative instruments, clearly taking into account the objective to which the land is destined, the type of cultivation practiced there and the construction index.
3. The area of the lands to be conceded cannot exceed a third of the surface corresponding to the work capacity of the direct user and his family.

4. Land rights that are acquired, transferred or established under the terms of the present law are extinguished if not utilized or if the useful and effective usage indexes are not observed for three consecutive or six interpolated years, regardless of the reason.

**Article 8.**  
**Ultimate Authority**

1. Establishment on the integrated private domain lands of the State, of land rights different from those foreseen in the present law, is not permitted.
2. Accords by which land rights not foreseen in this law are established are null.
3. The nullification foreseen in the preceding number is evocable in general terms.

**Article 9.**  
**Rural Communities**

1. The State respects and protects the land rights of which rural communities are titleholders, including those founded in use or custom.
2. Lands belonging to rural communities may be expropriated by public utility or be the object of requisition by way of just indemnification.

**Article 10.**  
**Natural Resources**

1. Natural resources are property of the State, integrated with the public domain.
2. State property rights over natural resources are not transferable.
3. Without detriment to the matter dealt with in the previous number, the State may construct, to the advantage of individual or collective persons, rights to the exploitation of natural resources, under the terms of the respective legislation.
4. The transfer of property rights or the establishment of limited land rights on lands in the private domain of the State, or under the provision of the present law, do not imply the acquisition, by accession or other mode of acquisition, of any right over other natural resources.

**Article 11.**  
**Nationalizations and Confiscations**

Without detriment to specific legislative provisions regarding reprivatizations, all acquisitions of property rights by the State by dint of nationalization or of confiscations realized under the terms of the respective legislation, are considered valid and irreversible.

**Article 12.**  
**Expropriation by public utility**

1. No one can be deprived, all or in part, of his property rights or of his limited land rights, unless in cases established in the law.
2. The State and local authorities may expropriate lands if they are to be utilized for a specific purpose of public utility.
3. The expropriation eliminates land rights established on lands and determines its definitive transfer to

State patrimony or to the local authorities, it being the responsibility of the latter to pay the holder of the nullified rights a just indemnity.

**Article 13.**  
**Public domain**

The State may subject lands covered in the area of application of the present law to the judicial regime of goods in the public domain, in cases and in terms foreseen in it.

**Subsection II**  
**Land Intervention**

**Article 14.**  
**Objectives**

The state intervenes in the administration and in the concession of lands to which the present document applies, in harmony with the following objectives:

- a) adequate organization of territory and the correct formation, organizing and function of urban agglomerations;
- b) protection of the environment and economically efficient and sustainable utilization of the lands;
- c) priority of public interest and of economic and social development
- d) respect of the principles foreseen in the present law.

**Article 15.**  
**Territorial organization and  
urban planning**

The establishment or transfer of land rights over lands and their occupation, use and usufruct is governed by the norms of the instruments of territorial organization and of urban planning, namely in those provisions that touch on the objectives contemplated in them.

**Article 16.**  
**Environmental protection and land use**

1. The occupation, use and usufruct of lands are subject to the norms regarding environmental protection, namely to those that deal with the protection of the landscape and of the species of flora and fauna, to the preservation of ecological equilibrium and to the right of citizens to a healthy and unpolluted environment.

2. The occupation, use and usufruct of lands must be exercised in a manner that does not compromise the regenerative capacity of tillable lands and the maintenance of the respective productive capacity.

**Article 17.**  
**Public interest and economic and social development**

The establishment and transfer by the State of property rights on the land obey the priority of public interest and the economic and social development of the Country.

**Article 18.**  
**Limits on the exercise of property rights**

1. The exercise of property rights on lands by their titleholders is subordinate to the economic and social purpose that justified their establishment.
2. Material on the abuse of rights as treated in the Civil Code is applicable to the exercise of rights contemplated in the present law.

**CHAPTER II**  
**On Lands and Rights**

**Section I**  
**On Lands**

**Article 19.**  
**Land classification**

1. Lands are classified as a function of the objectives on which they are established and to which they are subject under the terms of the law.
2. State lands are classified as conferrable and not conferrable.
3. With regards to its usage by individual or collective persons, conferrable property is classified as urban land or rural land.
4. It is understood that urban land refers to the rustic building situated in an area delimited by a jurisdiction (foral) or in an area delimited by an urban agglomeration and that is destined to urban edification.
5. Rural land is that rustic building situated outside the area delimited by a jurisdiction (foral) of the area of an urban agglomeration and that is designated to purposes of agricultural, animal husbandry, forest and mining activity.
6. The classification of conferrable property, urban or rural, is made in the general plans of territorial organization or, in its lack or insufficiency, by decision of relevant authorities under the terms of the present document.
7. Properties integrated into the State's public domain and community property are unconferrable properties.

**Article 20.**  
**Conferrable properties**

1. Conferrable properties are properties of which the State is the original proprietor, if they have not definitely entered into the private ownership of others.
2. The domain of conferrable properties and the limited land rights established over these are subject to the judicial regime of the private domain of the State or of local authorities, to the rules appearing in the present document and to the matters contained in article 1304 of the Civil Code.

3. State land rights do not become obsolete.
4. Without detriment to the content of article 35, the State can transfer the right of property over conferrable lands or confer on them the land rights foreseen in the present law in benefit of individual or collective persons.
5. The state can also transfer their land rights over lands to be conceded to the local authorities through the concession of title or of an equivalent legal title.

**Article 21.**  
**Urban Lots**

1. Urban lots are classified as a function of the urban objective in urbanized lands, construction lots and lots that can be urbanized.
2. Lots for which concrete purpose is defined by urbanistic plans or as such classified by the decision of relevant authorities are urbanized, as long as urbanization infrastructure is implemented in them.
3. Urbanized lots are considered construction lots when they are included by a duly approved operation to divide land into lots, are destined for building construction, and as long as they have been licensed by the relevant local authority.
4. Lots are urbanizable which, in spite of being included in the area defended by title or in the equivalent urban perimeter, have been classified by urbanistic plan or equivalent plan as an urban reserve for expansion.

**Article 22.**  
**Rural Lands**

1. Rural lands are classified in function of the for purpose which they are destined and of the judicial regime to which they are subject, in rural community lands, agricultural lands, forest lands, installation lands and road lands.
2. Rural community lands are lands occupied by families from the local rural communities for inhabitation, exercising of activity or for other purposes recognized by custom or by the present document and respective regulations.
3. Considered as agricultural lands are lands appropriate for cultivation, designated for the exercise of agriculture and animal husbandry, under the terms of establishment or transfer of land rights of the judicial regime described in the current law.
4. Forest lands are lands which are appropriate for the exercise of forest activity, designated for the rational exploration and utilization of natural or artificial forests, under the terms of the rural organization plan and of the respective special legislation.
5. Installation lands are those destined for the introduction of industrial or agro-industrial mining installations, in the terms of the present law and of the respective legislation applicable to the exercise of mining and oil-producing activities and to industrial parks.
6. Considered as road lands are lands affected by the implantation of land communication lines, of water supply and electricity supply chains, and of pluvial drainage and sewers.

**Article 23.**  
**Rural community lands**

1. Rural community lands are lands utilized by a rural community according to the customs related to land use, including, depending on the case, the complementary areas for itinerant agriculture, the cattle passageways for cattle access to sources of water and pastures and crossings, subject or not to the regime of service, utilized for accessing water or roads or access paths to urban centers.

2. The delimitation of rural community lands is preceded by auditions with families that integrate rural communities and with the institutions of traditional power existing in the place of the situation of those lands.

**Article 24.**  
**Agricultural lands**

1. Agricultural lands are classified by the relevant entity, through proper regulation, in function of the type of predominant cultivation, in lands for irrigation, trees and plant cultivation, and dry lands.
2. The type of cultivation, referred to in the previous number, is that which is considered by the relevant entity as more adequate to the aptitude of the lands, to the conservation of these and to the preservation of its capacity for regeneration.
3. The transfer and establishment by the State of land rights over conferrable lands and the exploitation of these depend always on the observance of the criteria stated in the previous number.
4. The state promotes building remodeling operations destined to describe not only the fragmentation but also the dispersion of rustic buildings belonging to the same titleholder, with the intention for improving the technical and economic use of the agricultural, wild and animal husbandry exploration.
5. The parceling, that is referred to in the previous number, may imply a joining of lands over those which already belong to private property or the useful domain of the direct user.

**Article 25.**  
**Installation lands**

1. Without detriment to that which is determined in the instruments of territory organization, the classification of the lands as installation lands depends on the proximity of these to mines, raw material or road axis that recommend the implantation of a mining or industrial installation.
2. The classification of a lot as a mining and oil-producing installation lot, falls to the organ that protects territory organization and the environment, by means of proposal or appearance before the entities that superintend the respective area.
3. The classification of a lot as an industrial installation lot falls to the organ that protects territory organization and the environment, by means of proposal or appearance before the entity that protects the respective area.
4. The organ that protects territory organization and the environment should send copies of the lot classification dispatches to the registration services, containing the respective documentation.

**Article 26.**  
**Road lands**

1. Without detriment to the regime established in the Statute of National Roads and in the National Road Plan, the classification, by the relevant entity, of a lot as a road lot depends on previous consultation to the organisms that superintend public works areas for supplying water and electricity and to the Provincial Governments in whose territorial constituency the road network will be integrated.
2. The jurisdiction over the State's private domain road lands on the public domain, when destined for

public roads, falls to the organs which superintend the areas of public works and transportation.

3. That which is determined in number 4 of article 25 is applicable to road lands, with the necessary adaptations.

### **Article 27. Reserved lands**

1. Considered as reserved lands or reserves, are those lands excluded from the general occupation regime, use or fruition by individual persons or collectives, in function of their jurisdiction, total or partial, to the realization of special objectives that determine their establishment.

2. Without detriment to that which is determined in article 14, number 5, of the Basic Environmental Law, the establishment of the reserves is of the competency of the government, which in them will be able to include from the State's public or private domain or from the local authorities, as lands that have already entered definitively in the private property of others.

3. The reserves can be total or partial.

4. In total reserves no form of occupation or use is permitted, except that which is necessary for its own conservation or management, bearing in mind the effecting of the objectives of public interest described in the respective establishment document.

5. The establishment of total reserves aims, among other objectives, to the protection of the environment, national defense and security, the preservation of monuments of or historic sites and the promotion of population or repopulation.

6. In partial reserves all forms of occupation or use are permitted which do not contradict the objectives described in the respective establishment document

7. Partial reserves are comprised of, namely:

- a) interior waters, of the territorial sea and the exclusive economic zone;
- b) the continental platform;
- c) the strip seafloor and of island contour, bays and estuaries, measured from the maximum high tide level, maintaining a protection strip for the interior of the territory;
- d) the protection strip adjoining nascent waters;
- e) the strip of land protection around dams and lagoons;
- f) lands occupied by public interest iron lines and respective stations, maintaining a protection strip adjoining each axis of the line;
- g) lands occupied by auto-roads, by four lane roads and by electricity, water, telecommunications, petroleum and gas installations and conductors with an adjoining strip of thirty meters on each side;
- h) lands occupied by provincial roads with an adjoining strip of thirty meters and by secondary, municipal roads with a fifteen meter adjoining strip;
- i) the strip of land of two kilometers along the land frontier;
- j) lands occupied by airports and airfields with an adjoining strip of one hundred meters;
- k) the one hundred meter strip of land adjoining military installations and other State defense and security installations.

8. The authority that has established the reserve can determine the exclusion of one or more lands from its scope, as long as it is for a justifiable motive.



9. Buildings that don't belong to the state can be included in the reserves by means of expropriation by public utility or by the establishment of administrative services..

10. When expropriation by public utility or restrictions in the terms of this law takes place, just indemnification is always due to the proprietors and to the titleholders of other affected real rights, without detriment to the possibility of opting for the subscription of the social capital of the commercial societies that come to establish themselves for the exploration of activities related to the reserved land.

## **Section II Regarding Rights over Lands**

### **Subsection I State Domains**

#### **Article 28. State Domains**

The State and local authorities, by force of the fundamental principles consecrated in articles 4 and 12, can be titleholders of land rights, in harmony with the following regimes:

- a) public domain, being, in this case, namely applicable the norms described in articles 10 number 3, 9 numbers 1, 13 and 29;
- b) private domain, being, in this case, namely applicable that which was established in articles 5, 6, 7 numbers 1 and 2, 8, 20 and 25 and in the norms of subsection II of the present section.

#### **Article 29. The State's Public Domain**

1. Integrated in the State's public domain are:

- a) the interior waters, the territorial sea, a continental platform, an exclusive economic zone, the adjoining sea depths, including resources alive and not alive which exist in them;
- b) the national air space;
- c) the mineral resources;
- d) the public highways and roads, the bridges and public iron lines;
- e) the beaches and coastal seafront, in a strip fixed by title or by Government document, whether integrated or not in urban perimeters;
- f) the territorial zones reserved for the defense of the environment;
- g) the territorial zones reserved for the ports and airports;
- h) the territorial zones reserved for military defense objectives;
- i) the monuments and buildings of national interest, as long as they have been thus classified and have been integrated into the public domain;
- j) other items affected, by law or by administrative act, to the public domain.

2. The goods of the public domain are property of the State and, as such, are inalienable, perpetual, and not subject to seizure.

**Article 30.**  
**Public Domain Exploration Rights**

The concession of rights for research, exploration and production of mineral resources and other natural resources of the public domain is regulated by special legislation applicable to the type of natural resource in cause.

**Article 31.**  
**Classification and unaffectedness**

1. The classification or the unaffectedness of public domain goods is, according to each case, declared by Government document or by a document that approves general plans of territory organization.
2. The classification that is referred to in the previous number counts as a declaration of public utility for effecting the process of expropriation by public utility.

**Article 32.**  
**Sovereign regime of public domain**

1. The State can, by Government document or by title, transfer goods integrated in its public domain to local authorities, with the objective to decentralize management.
2. The regime of the public domain of the State is applicable, with the necessary adaptations, to the public domain of the local authorities, without detriment to the applicable regulatory provisions.

**Article 33.**  
**Reserved lands and rural communities' rights**

1. The State ensures the families that make up the rural communities residing in the perimeters of the reserved lands:
  - a) the well-timed execution of territory organization policies, with aim toward well being, toward their economic and social development and to the preservation of the areas in which traditional ways of using the land are adopted;
  - b) the concession of other lands or, that not being possible, adequate compensation that is due to them, in case of establishment of new reserves that have affected the lands possessed or utilized by them;
  - c) the right of preference of their members, in equal conditions, in the providing of charges and functions created in the reserved lands;
  - d) the jurisdiction to expenses, that are seen to promote the well-being of rural communities, of a certain percentage of taxes charged by the access to parks and by hunting, fishing or tourist activities developed there.
2. The percentage of the taxes, that are referred to in line d of the previous number, will be fixed in the General Regulation of Land Concession.

**Subsection II**  
**Land Rights**

**Article 34.**  
**Types and regime**

1. The following are the land rights that the State can transfer or establish over the conferrable lands integrated in the private domain for benefit of individual or collective persons:

- a) property rights;
- b) useful customary domain;
- c) useful civic domain;
- d) surface rights;
- e) precarious occupation rights;

2. The provisions of the present law and of its regulations are applied to the transfer and the establishment of the land rights determined in the previous number.

**Article 35.**  
**Private property Rights**

1. Besides special provisions contained in the present document and in its regulations, that which is established in articles 1302 to 1384 Civil Code is applied to property rights
2. The State can transfer to individual persons of Angolan nationality, property rights over conferrable urban lands integrated in its private domain.
3. The state cannot transfer to individual persons or collective persons of private right the property rights over rural lands integrated either in its public domain or in its private domain.

**Article 36.**  
**Property rights over urban lands**

1. The transfer of property rights over urban lands integrated in the State's private domain or the local authority's private domain is admissible as long as such lands are included in the scope of an urbanization plan or of legally equivalent instrument and the respective land division has been approved.
2. The right that is referred to in the previous number, can be acquired by contract, public auction or redemption of the title, according to the transfer process regulated by regulatory provisions of the present law.
3. The transference of property rights for urban lands that have already entered in the private property regime is allowed, providing, in this case, that what has been established in number two of the previous article is observed.
4. The exercise of the powers of use and transformation of urban lands integrated in private property of individual or collective persons is, namely, subject to the restrictions contained in the urbanistic plans and the restrictions that derive from the urbanistic objective to which such lands are destined.

**Article 37.**  
**Useful customary domain**

1. Recognized to the families that make up rural communities are, the occupation, the possession and the rights of use and fruition of rural community lands occupied by them and employed in a useful and effective way according to custom.
2. The recognition of the rights that are referred to in the previous number, is done in title emitted by the relevant authority in terms of the regulatory provisions of this document.
3. Rural community lands, while integrated in useful customary domain, cannot be the object of concession.
4. Traditional Power institutions having been heard, the unaffectedness of rural community lands and its concession can, however, be determined without detriment to the concession of other lands to the titleholders of the useful customary domain or, that not being possible, without detriment to the adequate compensation that is due to them.
5. Only rural community lands freely vacated by their titleholders in harmony with the customary laws of provisional ownership organization or, exceptionally, in terms of the regulatory provisions can be an object of unaffectedness.
6. The exercise of useful customary domain is free, their titleholders are exempt from the payment of title fees or installments of any kind.
7. The useful customary domain does not become obsolete, but can be extinguished by lack of use and by free vacating in the terms of the customary norms.
8. The useful customary domain can only be mortgaged in cases mentioned in number 4 of article 63 in order to guarantee the payment of bank loans.
9. If questions related to useful customary domain cannot be resolved by direct customs, they will be regulated by the norms included in articles 1491 to 1523 of the Civil Code, except regarding payment of title fees, the State being considered as a titleholder of the direct domain and the families as titleholders of the useful domain.

**Article 38.**  
**Useful civil domain**

1. The useful civil domain is integrated by the combination of powers that article 1501 of the Civil Code recognizes to the tenant.
2. Besides special provisions contained in the present document and in its regulations applied to the useful civil domain, that which is specified in articles 1491 to 1523 of the Civil Code also applies.
3. The lands over which the useful civil domain can regulate can be rural or urban.
4. The useful civil domain can be established by concession contract between the State or the local authorities and the concessionaire.
5. The amount of the title fee is fixed in the respective contract, being calculated in harmony with the criteria established by regulatory provision of the present document, namely, with the classification of the land and with a degree of development of each zone or region.
6. The title fee is paid in cash in the Treasury of Public Finance at the end of each year, counted from the date of establishment of the useful civil domain.
7. The right to redeem of the title fee is conferred to the tenant, when the period has twenty years of duration, not being legal to elevate this period.

8. The exercise of the right to redeem the title fee depends on the proof, by the tenant, that the effective use of the lands, object of the useful civil code, together with other eventually possessed in property or tenancy, is not inferior to two thirds of the total surface of those lands.
9. The price of redeeming, paid in cash, is equal to ten title fees
10. When the capacity of redeeming is exercised and tenancy has been abolished, that which is established in article 61 is applicable, with the necessary adaptations.
11. The useful civil domain can be mortgaged in the terms of line b of number 1 of article 688 of the Civil Code.

### **Article 39. Surface rights**

1. Establishment of surface rights over rural or urban lands integrated in their private domain is admissible by the State or by the local authorities, in favor of individual persons, nationals or foreigners or of collective persons with effective headquarters in the Country or abroad.
2. Besides special provisions contained in the present document and in its regulations, that which is determined in articles 1524 to 1542 of the Civil Code is applied to surface rights.
3. The person with surface rights pays only one installment or a certain annual installment in cash, fixed to title of price in the respective contract, the amount being calculated in harmony with the criteria established by regulatory provision of the present document, namely, with the classification of the land and with the degree of development of each territorial outline.
4. The surface right can be mortgaged in the terms of line c of number 1 of article 688 of the Civil Code.
5. The person with surface rights enjoys the right of preference, in last place, in the sale or granting in compliance of the soil.
6. That which is established in articles 416 to 418 and 1410 of the Civil Code is applicable to the preference right.

### **Article 40. Precarious occupation rights**

1. Establishment by the State or by the local authorities over rural and urban lands integrated in their private domain is admissible through lease contract celebrated by determined time, of a precarious occupation right for the construction of installations not definitely destined, namely, to support:
  - a) the construction of buildings of definitive character;
  - b) short duration mining prospect activities;
  - c) scientific investigation activities;
  - d) activities for the study of nature and its protection;
  - e) other activities listed in the regulations of authorities.
2. The lease contract referred to in the previous number will fix the area and location of the land subject to the precarious occupation right.

3. It is equally admissible to establish, by lease contract, the right of use and precarious occupation of land goods integrated in the public domain, as long as the nature of these permits it.

4. The construction of installations referred to in the present article is subject to the general regime of the useful improvements listed in article 1273 of the Civil Code, being, in consequence, recognized the following rights:

a) the right to raise the installations implanted in the land, as long as it can be done without detriment to it;

b) when, to avoid detriment to the land, the occupant cannot raise those installations, they will receive from the State or the local authorities, depending on the case, an indemnification calculated according to the rules of enrichment without cause;

c) in cases in which not raising the installations elevated by the occupant causes damage, namely of the environment's nature, to the occupied land, the occupant should restore the land to the situation in which it was found before the edification, not having in this case the right to any indemnification.

5. The occupant pays an installment, only one or periodic, in cash, as determined by the respective contract, its amount being calculated in harmony with the criteria established by regulatory provision of the present document, namely, with the area and the classification of the land and with the period through which the precarious occupation right has been established.

### **CHAPTER III**

#### **Concession of land rights**

#### **Section I**

##### **General provisions**

#### **Article 41.**

##### **Urban infrastructures**

1. The establishment of land rights over urbanizable lands depends on the observance of that which is determined in the urbanistic plans or in equivalent instruments and on the execution of the corresponding urbanization works.
2. The recipes that the State or local authorities receive, as compensation of the establishment of land rights over urbanizable or urbanized lands, can only be applied in the acquisition of property.

#### **Article 42.**

##### **Titleholders**

Without detriment to that which is determined in article 35, land rights over conferrable lands integrated in the private domain of the State or local authorities can be acquired:

a) the individual persons, of Angolan nationality;

b) the collective persons of public right with main headquarters in the Country, as long as they

- have capacity of acquisition of rights over real estate;
- c) the collective persons of private right with main headquarters in the Country, namely the institutions that follow the realization of cultural, religious and social solidarity objectives, as long as they have capacity of acquisition of rights over real estate;
  - d) the public Angolan enterprises and the commercial societies with main headquarters in the Country;
  - e) the individual persons of foreign nationality and the collective persons with their main headquarters in abroad, without detriment to the restrictions established in the Constitutional Law and in the present law;
  - t) the foreign entities of public right that have capacity for acquisition of rights over real estate, recognized in international accords, as long as, in the respective countries, equal treatment to equivalent Angolan entities is given;
- g) the collective international persons that, in the terms of the respective statutes, are endowed with capacity for acquisition of rights over real estate.

**Article 43.**  
**Area limits**

1. The area of the rural lands, object of the concession contract, cannot exceed:
  - a) in urban areas, two hectares;
  - b) in suburban areas, five hectares.
2. The area of the rural lands, object of the concession contract, cannot be smaller than two hectares or greater than ten thousand hectares
3. The counsel of Ministers can, however, authorize the transfer or an establishment of land rights over rural lands of area greater than the maximum limit indicated in the previous number.

**Article 44.**  
**Accumulation of rights**

The transfer or the establishment of land rights in favor of an individual or collective person, to whom the State or local authorities have previously attributed some of the land rights listed in this law, depends on the proof of useful employment of the conceded lands.

**Article 45.**  
**Principle of adequate capacity**

1. Singular and collective persons, that require the transfer or establishment of land rights listed in the present document, need to show proof of their capacity to guarantee the useful and effective employment of the lands to be conceded.
2. The area of the lands to be conceded to each direct user depends on their capacity to guarantee the useful and effective employment of the same.
3. Excepted from that which is established in the previous numbers, are projects relating to agriculture, animal husbandry, or forest use of agricultural or forest lands with an area that does not exceed ten percent of the minimum surface corresponding to the unit of cultivation fixed for each of the Country's zones, being that the case, there is no need for proof of adequate capacity

4. The area of unit of cultivation is fixed by regulatory document of the present law in function of the Country's zones and the type of land.
5. With respect to that which is outlined in the previous number, agricultural lands can be:
  - a) irrigation lands, tree or plant lands;
  - b) dry lands.

**Article 46.**  
**Judicial concession business**

1. The following are the judicial business by which any of the land rights outlined in this law can be transferred or established:
  - a) purchase and sale contract;
  - b) forced acquisition of the direct domain by the tenant, operating that coercive transference through the agreement of the parties or of judicial sale by way of the exercise of the authority right of the title (foro) integrated by judicial decision;
  - c) establishing title contract for the establishment of the useful civil domain;
  - d) special concession contract for the establishment of the surface rights;
  - e) special lease contract for the concession of precarious occupation rights.
2. Applicable to the judicial concession business are the special provisions of the present law and of its regulations and, secondarily, the provisions of the Civil Code.
3. Without detriment to that which is determined in the previous number, the local authorities, can, by proper document, discipline the content of the judicial concession business that deal with lands integrated in their private domain.

**Article 47.**  
**Onus of concessions**

1. The transfer or establishment of land rights included in the present law can only take place by onerous title.
2. Exempt from what is stated in the previous number:
  - a) the establishment of useful domain, that is not established through concession, but by simple recognition;
  - b) a establishment of land rights included in the present law to benefit persons who show proof of insufficient funds, within the terms established in regulatory provisions.
3. The title fees or other installments, unique or periodic, are paid in cash or its amount is halved in accordance to the criteria described in previous articles with respect to each type of land right described in them.
4. The price of urban lands in the private domain of local authorities is fixed by public tender, which will have a basic value determined by price indexes fixed by the rules of the market and by the municipal rules effective in the province or urban center in which those buildings are situated.
5. In the case described in the previous number, the result of the bid is documented, in which the highest bid of each bidder will be registered, the right being adjudicated to the highest bidder.



**Article 48.**  
**Purchase and sale**

1. The sale of lands, in accordance to that which is described in line a of number 1 of article 46 or of number 4 of the previous article, is made by way of public auction.
2. Once the price is deposited and the tax paid, if it is owed, the state or the local authority will give to the auctioneer the corresponding auction title which identifies the land, certifies the payment of the price and tax, and declares the date of the transfer which will coincide with that of the auction.
3. The purchase and sale contract can be resolved by the State or by they local authorities, if the indexes of useful and effective exploitation of the land are not observed during three consecutive years or six interpolated years, regardless of the reason.
4. When the contract under the terms of the previous number is resolved, the acquirer can demand the restitution of the price paid, without any actualization, but does not have the right to be indemnified from the improvements that were made, which will be reverted to the State or to the local authority, according to each case.
5. The property right referred to in line a of number 1 of article 34, can only be transferred by the acquirer by previous authorization of the conceding authority and after a period of five years of useful and effective exploitation of the land, counted from the date of its concession or the date of its last transfer.
6. Lands over which surface rights have been established or that have been contracted, and that have been the object of useful and effective exploitation during the legally fixed period, can be sold, without public auction, to the titleholders of those limited land rights.
7. The statements of the following article are applicable, with the necessary adaptations, to the purchase and sale contract.

**Article 49.**  
**Concession**

1. The concession contracts mentioned in article 46, number 1, lines c, d, and e, are only valid if they are celebrated by written document in which are present, besides the essential elements, the rights and duties of the concessionaires, the applicable sanctions in case of non-compliance of these, and the causes of extinguishment of land rights.
2. The concession contract celebrated in the terms of the previous article includes the concession title, in the terms of the regulatory provisions.

**Article 50.**  
**Free concessions**

The State and local authorities can transfer or establish land rights, to guaranteed title, over lands integrated in their private domain, for the benefit of:

- a) persons who show proof of insufficient financial means and that wish to integrate population projects in less developed areas of the country;
- b) recognized public utility institutions, that continue the realization of goals related to social solidarity, culture, religion or sports.

**Article 51.**  
**Limits on community lands**

1. The delimitation of areas of the rural communities and the definition of good use of community lands, by the relevant authority, must obey what is described in the corresponding instruments of land organization and in the regulatory provisions of the present law.
2. In accordance to what is described in the previous number, the relevant authority should hear the administrative authorities, the institutions of Traditional Power, and the affected families of the rural community.

**Article 52.**  
**Limits on urban lands**

The limits on urban lands are fixed by titles, by urbanistic plans, and by the land division operations that have been approved.

**Article 53.**  
**Title (Foral)**

1. The government, under the Governor's substantiated proposal of the respective province, can provide titles to the urban centers, as long as the following conditions are cumulatively verified:
  - a) the existence of a duly approved general urbanization plan;
  - b) the existence of official registry of municipalities;
  - c) the existence of supply networks for water and for providing electric energy, and of basic sanitation networks.
2. The titles delimit the area of the lands integrated in the public domain of the State and by the State conceded to the local authorities for autonomous administration.
3. The titles are approved by Government document.

**Article 54.**  
**Land division**

1. Constituting a land division operation is an action that has by objective or by effect the division of urbanizable lands in one or more destined lands, immediate or subsequently, to urban edification, in harmony with what is stated in the urbanization plans, or in its lack or insufficiency, with the decisions of the relevant authority organs.
2. A lot is understood as the autonomized unit of land resulting from the land division operation.
3. The land division operations of the lands integrated in the private domain of the authority takes place by initiative of the respective municipal district.
4. In cases not discussed in the previous number, the land division is approved by permit issued by the local authority, through previous formal petition by the interested parties.

**Article 55.**  
**Duration of the concessions**

1. The land rights mentioned in the present law are transferred or established:
  - a) perpetually, in the case of property rights, without detriment to the provision in article 48 regarding the resolution of the purchase and sale contract;
  - b) perpetually, in the case of customary useful domain without detriment to its extinguishment by non-use and by being freely vacated under the terms of the customary norms;
  - c) perpetually, in the case of civil useful domain, without detriment to the right of de redeeming;
  - d) by period not greater than seventy years, in the case of surface rights;
  - e) by period not greater than one year, in the case of precarious occupation.
  
2. In the cases described in lines d and e of the previous number, when the period is over, the contract is renewed in the succeeding periods, if none of the parties has denounced it during that time and by a manner agreed upon, or if no cause of extinguishment described in the law has occurred.

**Article 56.**  
**Duties of the acquirer**

These are the obligations of the acquirer of the land rights:

- a) pay in a timely matter the title fees and other installments to which, depending on the case, the acquirer is obligated;
- b) effect the useful and effective exploitation of the conceded land in accordance to the fixed indexes;
- d) not apply the land to a use different from that which it is destined for;
- e) not violate the rules of territory organization and of the urbanistic plans;
- f) utilize the land in order to protect the capacity of regeneration of the same and of the natural resources existing in it;
  - g) respect the norms of protection of the environment;
  - h) not exceed the limits imposed in article 1;
  - i) respect the land rights of the rural communities, namely, the passages that fall over the land;
  - j) afford to the relevant authorities all the information solicited by them about the useful and effective exploitation of the land;
  - k) observe that which is described in the present law and in its regulations.

**Article 57.**  
**Installments**

1. The titleholders of land rights are subject to the payment, according to price or rent, in one single installment or of a certain annual installment.
2. The annual installment can be progressive or regressive, according to the type and the amount of the investment that was realized.
3. The installments are paid in cash and are fixed in the respective contract, their amount being calculated based on the situation and classification of the land, on the area and on what it is destined for.

**Article 58.**  
**Concession process**

1. The process of concession is initiated with the presentation of the requirement by the interested party and consists of the phases of provisional demarcation, of appreciation, of approval and definite demarcation.
2. General Regulation of Land Concession will settle the legal regime applicable to the process of concession.

**Article 59.**  
**Concession Title**

(Translator's note: this could be something else because there is a typo in the Portuguese which makes it difficult to understand)

The relevant authority produces a concession title, according to the legally fixed model, in which are identified the nature of the conceded land, the type of land right transferred or established, the date of the transfer or establishment, the period of the concession contract, the identification of the conceding authority, and, if it is the case, the price and tax that have been paid.

**Article 60.**  
**Predial cadastral registry**

1. The Government will approve the norms that guarantee the harmonization of the acts practiced by the conceding authority with those which must be practiced by the services of the cadastral and predial register.
2. Subject to enrollment in the predial register are the legal facts that determine establishment or recognition, acquisition, modification and extinguishment of land rights described in this law.
3. The facts referred to in the previous number only produce effects against others after the date of the respective register, but, even not registered, they can be invoked among the parties or their heirs.
4. The preserver must refuse the petition of the register if the presenter does not exhibit the respective concession title and, being that the case, photocopy, authenticated by notary, of the dispatch of previous authorization of the transfer pronounced by the conceding authority.
5. That which is described in the current law, in its regulations and in the Predial Register Code is applied to the registration process.
6. The conceding authority should officiously remit certification of the contract, the corresponding documentation and the requirement of the definitive register to the conservatory of the relevant predial register, where they will be filed, and the acquirer should pre-pay the respective fees and expenses.
7. The conceding authority should file a copy of the documents relative to the transfer or establishment of the land rights over conferrable lands, in such a way as to guarantee the reform of any process of concession that is destroyed or disappears.

**Section II**  
**Transfer and extinguishment of land rights**

**Article 61.**  
**Transfer**

1. Without detriment to what is established in previous articles and the restrictions established in them, land rights are transferred in life and by death.
2. The transfer of land rights by statute among living persons is done by way of declaration of the parties in the concession title, with recognition done in the presence of the signing of the alienator, and is subject to register in general terms.
3. If the transfer is for an onerous title, its value must be indicated.
4. Transfer by death is subject to inscription in the concession title, and the signature of the successor must be recognized in person, after presentation to the notary, for filing, a certificate of proof.
5. Transfer of land rights implies the cessation of the rights and obligations of the respective titleholder in the view of the State or local authorities.
6. Transfer or rights in life, whether guaranteed or onerous title, can only be realized by its titleholder under penalty of nullification, via previous authorization from the conceding authority and after a period of five years of useful and effective exploitation of the land, counted from the date of its concession or the date of the last transfer.
7. The authority referred to in the previous number expires in the period of one year counted from the date of notification to the petitioner of the respective dispatch.
8. In the case of transfer of land rights by action among living persons, the notary cannot recognize the signature of the alienator if the authorization dispatch is not presented for filing.
9. The state enjoys the right of preference and has first place among the legal parties in the case of sale, granting in compliance or establishing title (foro) of the conceded lands.
10. That which is described in articles 416 to 418 and 1410 of the Civil Code is applicable to the right of preference described in the previous number.

**Article 62.**  
**Alteration of the concession**

1. The modifiable or extinguishable facts of the land rights, namely, the result of judicial execution, fragmentation or parceling of the conceded lands, are subject to inscription in the concession title and in the predial register.
2. The courts cannot pronounce sentences from which result the transfer of land rights over conceded lands, without its having been previously authorized by the conceding authority, being, in this case, applicable with the necessary adaptations, or stated in the previous article.

**Article 63.**  
**Incapacity to transfer free concessions**

1. Land rights that the State or local authorities have transferred or established, as free title, to benefit those persons and institutions referred to in lines a and b of article 50 cannot be transferred.
2. The conceding authority can, however, authorize the transfer, as long as it is realized in favor of the person or institution that meets the requirements enunciated in lines a and b of article 50.

3. Without detriment to the regime of unaffectedness that is referred to in article 37 and without detriment to customary rights, the titleholder of the customary useful domain cannot transfer the right in life or by death.

4. The customary useful domain is unseizable, except in cases in which it has been mortgaged to guarantee payment of bank loans acquired by its titleholder with intentions for useful and effective exploitation of the conceded land.

#### **Article 64. Causes of extinguishment**

Land rights are extinguished, namely:

a) by the end of the period, being established for a certain time, if the concession contract is not renewed;

b) by non-exercise of by inobservance of the indexes of useful and effective exploitation during three consecutive years or six interpolated years, regardless of the reason;

c) by using the land for a uses different from that for which it was destined;

d) by exercising land rights in infraction of that which is stated in article 18;

e) by expropriation by public utility;

f) by the disappearance or non-use of the land.

#### **Article 65. Sanctions**

Titleholders of land rights who violate the provisions of the present law, are subject to the application of sanctions established in the regulatory provisions.

**Section III**  
**Competency for concessions**

**Article 66.**  
**Council of ministers**

1. The following falls to the Council of Ministers:
  - a) authorize the concession of occupation, use and fruition of the territorial waters, of the continental platform and the exclusive economic zone;
  - b) authorize the concession of occupation, use and fruition of other land goods integrated in the public domain of the State;
  - c) authorize the transfer or establishment of land rights over rural lands larger than ten thousand hectares, under the terms of number 3 of article 43.
  - d) authorize the transfer of public domain lands to the State's private domain;
  - e) authorize the transfer of rights over lands integrated in the public and private domain of the State to local authorities;
  - f) authorize the concession of titles to urban centers.
2. The jurisdictions described in lines b, d, e, t, and g of the previous number can be delegated, according to the type of lands, in the entity charged with superintendency of the official register.
3. Authorization of transfer or establishment of land rights over rural lands larger than one thousand and equal or smaller than ten thousand hectares, is under the jurisdiction of the entity supervising the official register, through an appraisal linked to the entity responsible for the respective area.

**Article 67.**  
**Central organ for technical land management**

The following falls to the Central organ for technical land management:

- a) organize and conserve the archive in order to permit the identification of each parcel of land, not only regarding situation, but also regarding legal facts subject to records regarding it;
- b) organize and execute technical jobs relating to the demarcation of lands and reserves;
- c) organize, execute and maintain updated geometric records;
- d) prepare general programming of the Country's cartography, submit respective approval to the relevant authority and maintain it updated;
- e) execute the directives contained in territory organization plans, in rural areas.

**Article 68.**  
**Provincial governments**

1. The following falls to Provincial Governments, relative to the lands integrated within their territory's boundaries:
  - a) authorize the transfer or establishment of land rights over lands which are rural, agricultural, or forest, of an area equal to or smaller than one thousand hectares;

- b) authorize the transfer or establishment of land rights over urban lands, in accordance with the urbanistic plans and with approved land division;
- c) celebrate lease contracts through which precarious occupation rights are established for the State's public and private domain lands, under the terms to be defined by regulation;
- d) submit transfer proposals of public domain lands to the state's private domain to the Council of Ministers;
- e) submit proposals for concession of titles to urban centers, which fulfill legal requirements, to the Council of Ministers;
- t) administer the State's public and private land domain;
- g) supervise compliance of that which is stated in the present law and in its regulations.

2. The capacities of Municipal and communal administrators are described in regulation

## **CHAPTER IV**

### **Procedural dispositions**

#### **Section I**

#### **Nullification action**

#### **Article 69.**

#### **Declaration of nullification**

The decisions of the conceding authority contrary to the law are null.

#### **Article 70.**

#### **Active legitimacy**

1. Without detriment to that which is stated in article 286 of the Civil Code, the nullification action can be effected:

- a) by associations of representing environmental protection agencies, within the scope described in the respective legislation;
- b) by associations of legally established economic interests, acting within the scope of its attributes.
- c) by rural communities, to defend their collective rights.

2. The entities referred to in the previous number act responsibly in their own name, though they may act in favor of a collective right of persons who may be affected by the nullified decisions.

3. The judicial personhood and capacity of rural communities is recognized.



**Article 71.**  
**Passive legitimacy**

1. The action referred to in the previous article may be effected against the conceding authority that has pronounced the decision contrary to the law or its regulations.
2. The conceding authority is represented by the Public Ministry.

**Article 72.**  
**Relevant tribunal**

1. Nullification action falls to the Provincial Tribunal Civil and Administrative Hall of the place in which the conceding authority has its headquarters
2. Individual or collective foreign persons should, at the moment of the establishment of land rights in the litigation referring to it, expressly declare that they are subject to the jurisdiction of the national tribunals.

**Article 73.**  
**Format of the process**

1. Nullification action follows the terms of the summary legal declaration and is exempted from preparations and costs
2. The action referred to in the previous number always admits recourse for the Civil and Administrative Chamber of the Supreme Tribunal, independent of the value of the cause.
3. The interposed appeal of the sentence that decrees nullification does not suspend the execution of the same.

**Article 74.**  
**Nature of the process**

The processes to which the present section refers, as well as those independent to it, do not have an urgent character, without detriment to acts relative to adjudication of property, of a limited land right or of the possessions and its notification to the interested having to be practiced even during judicial holidays.

**Article 75.**  
**Communication of judicial decisions via registry**

The tribunals should forward, within the thirty day period from the beginning of the judgment, to the respective Conservatory of Predial Registry, a copy of the decision that decrees the extinguishment of any of the land rights described in this law or that have decreed the nullification or voiding of a registry or of its cancellation.

**Article 76.**  
**Scope of this section**

The norms of the present section apply, with necessary adaptations, to the remaining nullities described in this document or in its regulations.

**Section II**  
**Mediation and conciliation**

**Article 77.**  
**Mediation and conciliation attempt**

1. The litigations relative to land rights are compulsorily submitted to an attempt at mediation and conciliation before the legal proposal of the action in the relevant tribunal.
2. Excepted from that which is stated in the previous number the nullification action, to which the previous section refers, that can be immediately proposed by the interested party in the relevant Provincial Tribunal Civil and Administrative Hall.

**Article 78.**  
**Organ for mediation and conciliation and procedure administration**

1. The composition of the organ for mediation and conciliation and procedure administration described in this section will be settled in the General Regulation of Land Concession.
2. The procedure for mediation and conciliation should obey the principles of impartiality, celerity and gratuitousness.
3. When the litigation pertains to individual interests, homogeneous or collective, the entities referred to in article 70, number 1, can take the initiative of the procedure for mediation and conciliation and participate in it, as principals or accessories.
4. The mediation organ can attempt conciliation or propose to the parties the solution that seems most appropriate.
5. The mediation's resulting accord will be registered and have the nature of extrajudicial transaction.

**Section III**  
**Arbitration**

**Article 79.**  
**Resolution of litigation**

Without detriment to that which is stated in the previous sections, the eventual litigations that can emerge over the transfer or establishment of land rights must be submitted to arbitration.

**Article 80.**  
**Arbitration tribunal and designation of arbiters**

1. The arbitration tribunal will be comprised of three members, two being nominated by each of the parties, and the third, which will perform the functions of president-arbiter, chosen by common accord by the arbiters that the parties have designated.
2. The arbitration tribunal is considered established on the date on which the third arbiter accepts

nomination and communicates this to the parties.

3. The arbitration tribunal will function in the headquarters of the Provincial Government to which the lands or of most of their extension belong, and will utilize the Portuguese language.

4. The arbitration tribunal will judge in accordance with Angolan law.

5. The decisions of the arbitration tribunal must be pronounced during a period of a maximum of six months after the date of its establishment.

6. An arbitration decision will establish those who must bear the costs of the arbitration and in what proportion

### **Article 81. Applicable norms**

The arbitration regulates itself by the present document and, on that which is not in opposition with this, by the general regime of voluntary arbitration in accordance with Law number 16/03, of the 25<sup>th</sup> of July.

### **Section IV Community justice**

#### **Article 82. Litigations in the interior of rural communities**

1. Those litigations relative to collective rights of possessions, of management, of use and fruition, and of common useful domain of rural community lands will be decided in the interior of rural communities, in harmony with the respective community's effective customs.

2. If one of the parties does not agree with the resolution of the litigation under the terms stated in the previous number, the same will be decided by the tribunals, being applicable, in this case, that which is stated in section II of the present chapter.

### **CHAPTER V Final and transitory provisions**

#### **Article 83. Transitory situations**

1. The surface rights established under Law number 21-C/92 and 28 of August, of its Regulation of Concessions approved by Decree number 32/95 of the 8<sup>th</sup> of December, and 46-A/92, 9th of September, and of the remaining local or special regulations, are subject to the regime of surface rights stated in the present law.

2. To the land rights established under the terms of the effective legislation before the appearance in force of the documents referred to in the previous number, the regime of surface rights stated in the present law are applied, as long as:

- a) the lands under jurisdiction of those rights have not been nationalized or confiscated;
- b) the respective titleholders have proceeded to the respective regularization under the terms and

periods stated in Law il 21C/92 of August, and in number 2 of article 66 of the Regulation of Concessions approved by Decree number 32/95, 8<sup>th</sup> of December, and 46/92, 9<sup>th</sup> of September.

3. Under the terms of the corresponding legislation, the lands to which the previous number refers will be confiscated if the situation of unjustifiable abandonment or non-regularization persists.
4. Relative to concession processes are found to be pending, the petitioners should, by the period of one year counted from the publication of the applicable general or special regulation, alter the concession petition, in harmony with the provisions in the present law, namely in what applies to the types of land rights described in it.
5. While local authorities are not established, their attributions and capacities will be exercised by the State's local organs.

#### **Article 84. Occupation titles**

1. Without detriment to that which is stated in article 6 numbers 5 and 6, individual and collective persons that occupy lands belonging to the States or the local authorities without a title, must, within a period of three years counting from the publication of applicable general or special regulation require a concession title.
2. The non-observance of that which is stated in the previous number implies no acquisition of any land right by the occupant, by virtue of inexistence of title.
3. The state and local authorities can use against the occupant the means conceded to the possessor in articles 1276 and following of the Civil Code.
4. In the cases referred to in the previous numbers, the furnishing of a concession title depends on the fulfillment of requirements stated in the present law, in its regulations, in urbanistic plans, or in its lack or insufficiency, in the instruments of urbanistic administration approved by the relevant authority.

#### **Article 85. Regulation**

The Government will approve the General Regulation of Land Concessions, in a period of six months counting from the date of present law's entrance in force.

#### **Article 86. Alterations to the Civil Code**

Articles 1524 and 1525, number 2 of the Civil Code have the following composition:

#### **Article 1524. Notion**

Surface rights consist of the capacity to construct or maintain, perpetually or temporarily, a project in buildings owned by others, or on it to make or maintain plantations. "

**Article 1525.**

**Object**

1. [...]
2. Surface rights may have the object of construction or maintenance of a building project on soil belonging to others."

**Article 87.**

**Revocatory Norm**

All legislation that contradicts that which is stated in the present law and in its respective regulations, namely Law number 21-C/92, of 28<sup>th</sup> of August, and the Regulation of Concessions approved by decree number 32/95, 8<sup>th</sup> of December and 46/92, 9<sup>th</sup> of September, is revoked.

**Article 88.**

**Entrance in force**

The present law enters in force ninety days from the date of its publication.

THE PRESIDENT OF THE NATIONAL ASSEMBLY

ROBERTO ANTÓNIO VICTOR FRANCISCO DE ALMEIDA

Proclaimed on ..... of ..... of 2004

To publish

THE PRESIDENT OF THE REPUBLIC

JOSÉ EDUARDO DOS SANTOS



# APPENDIX C: REPUBLIC OF ANGOLA GENERAL REGULATIONS OF LAND CONCESSION





## Appendix C



**REPUBLIC OF ANGOLA**

### **GENERAL REGULATIONS OF LAND CONCESSION (PROJECT)<sup>117</sup>**

**(English Translation)**

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<sup>117</sup> The reference to "Project" will be removed when the regulations are adopted.

**COUNCIL OF MINISTERS**  
**Decree Number --/06**  
**Of \_\_\_\_ of \_\_\_\_\_**

Taking into account that Law number 9/04, of 9 November (Lands Law), which seeks to resolve problems existent in this field, defined the general bases of the judicial land regime integrated within property originating with the State, agricultural rights that may obtain, and the general regime of transmission, establishment, exercise and extinction of these rights;

It becomes necessary, however, to realize the principles and fundamental judicial norms established in the Lands Law in obedience to the determination of its article 85.

It becomes necessary to define a set of regulatory norms that guarantee the celerity, transparency, impartiality, rigor and objectivity of the process of concession of property rights.

Thus, following the combined determinations of paragraph d) of articles 112 and 113, both found in the Constitutional Law, the Government decrees the following:

**Article 1**  
**(Approval)**

The General Regulations on Lands Concession, which form an integral part of the present decree, are approved.

**Article 2**  
**(Subsidiary rights)**

The following are applicable, in subsidiary fashion, insofar as they conform to the determinations of the Lands Law and of the present Regulations:

- a) That which pertains to property rights and their founding, transmission, exercise and extinction, the dispositions of the Civil Code and complementary legislation;
- b) That which pertains to registration in the property registry of facts related to acquisition, modification, transfer and extinction of property rights, the determinations of the Property Registry Code and complementary legislation.

**Article 3**  
**(Remissions)**

Remissions made to the retracted rules are considered in effect for the corresponding rules in the Regulations.

**Article 4.**  
**(Complementary documents)**

The Urban and Environmental Ministry will publish, as soon as possible, the executive decrees necessary to the execution of these Regulations.

**Article 5**  
**(Remission of former law)**

All legislation contrary to that established in the present Regulations is revoked.

**Article 6**  
**(Doubts and omissions)**

Doubts and omissions that arise in the interpretation and application of the present Regulations will be resolved by decree of the Council of Ministers.

**Article 7**  
**(Becoming effective)**

The present Regulations will become effective on the date of their publication.

Seen and approved in the Council of Ministers, in Luanda, on the \_ of \_\_\_\_\_ of 2006.

Published.

Prime Minister, *Fernando da Piedade Dias dos Santos*.

Promulgated on the \_ of \_\_\_\_\_ of 2006.

JOSÉ EDUARDO DOS SANTOS, President of the Republic.

# **GENERAL REGULATIONS ON LANDS CONCESSION**

## **CHAPTER I GENERAL DISPOSITIONS**

### **Article 1 (Objective and aim)**

1. The General Regulations on Lands Concession establish the general bases of the judicial regime defined in Law Number 9/04, of 9 November.
2. The Regulations define the judicial discipline of the concession of free lands, but the lands that constitute private property are regulated by civil law.
3. The Regulations contemplate, namely, the concretization of the general bases of the judicial regime of lands integrated in property originally owned by the State, in order to define the process of concession, recognition, transmission, exercise and extinction of agricultural rights over these lands, guarantees the necessary diffusion of the judicial facts that determine the founding, recognition, acquisition or modification of these rights and the judicial situation of the respective titleholders, and guarantees the security of judicial commerce.

### **Article 2 (Applicable territorial ambit)**

1. Without detracting from the disposition in the following number, the Regulations apply uniformly in all of the national territory.
2. Practices resulting from the uses and customs obtaining in circumscribed geographic zones are permitted if such practices are not contrary to legislation in effect, specifically Law Number 9/04, of 9 November, and the Regulations.

### **Article 3 (Applicable personal ambit)**

1. The judicial regime defined by the Regulations is applicable to every person, singular or collective, under public law or private law in benefit of whom the Regulations establishes, in the terms of Law Number 9/04, of 9 November, any or some of the property laws contemplated in it.
2. In addition to the conditions or restrictions established in Law Number 9/04, of 9 November and in special legislation, the entities that do not possess Angolan nationality should expressly declare that they submit themselves to Angolan laws, authorities and tribunals, and that they renounce, in any litigations related to the concession, any foreign judicial forum or process.

### **Article 4 (Excluded properties)**

Excluded from the ambit of application of the Regulations are properties that cannot be the object of private rights, namely properties integrated within the public domain of the State and those that, by their nature, are not susceptible to individual appropriation.

**Article 5**  
**(Right of interested persons to information)**

1. Private individuals have the right to be informed by the competent services, if they so solicit, on the stages of development of processes in which they are directly interested, and to the definitive decisions that may be taken with regard to them.
2. Information referred to in the above item include, namely, indication as to the service [t.n.: agency] in which the case may be found, the acts and judicial services undertaken, and the deficiencies to be overcome by the interested parties.
3. Pertinent agencies should notify the interested parties, in writing, of the decisions they proffer regarding the petitions presented, and furthermore should give the reasons for a contrary decision on the aforementioned petitions, and other decision that may cause adverse consequences to the petitioners.
4. Without detracting from the disposition in the preceding item, the petitioners may, under the general terms of law, enter complaints and enter an administrative appeal of the aforementioned decisions.

**Article 6**  
**(General rules on time periods)**

1. In lieu of a special disposition, the time period is ten days for interested parties to challenge any act or diligence, enter complaints, introduce legal procedures or exercise any other right or legal resource.
2. Time periods for the impugnation of administrative acts by means of complaints, of raw hierarchical appeal [t.n.: meaning of Portuguese original *recurso hierárquico cru* is unclear] of contentious appeals are contemplated in Law number 2/94, of 14 January, and in Decree-Law number 16-A/95, of 15 December.
3. The time period for any reply is always counted from the notification of the act being responded to.
4. The time periods established in the present document are continuous.
5. When the time period for the execution of a specific act ends on a day in which the pertinent services are closed, its end will be transferred to the next work day.

**Article 7**  
**(Extension of time limits)**

1. Time limits set in the Regulations are extendable in the cases foreseen in it.
2. Except in cases of disposition to the contrary, the time period is extendable once, and for an equal period.

**CHAPTER II  
ON PROPERTIES IN GENERAL  
SECTION I**

**GENERAL DISPOSITIONS**

**Article 8  
(Lands distinction according to judicial regime)**

8.06

Lands may be distinguished as lands in State public domain and local authority, lands of its private domain, community lands and private property lands.

**Article 9  
(Prohibition of usucaption and real estate broker accession)**

1. No rights over lands in the public and the private domain of the State may be acquired through usucaption or real estate broker accession.
2. No rights over lands integrated into the domain of rural communities may be acquired through usucaption.

**Article 10  
(State rights over lands of which it is the owner)**

1. Except in cases in which another solution is especially designated by law, it is permitted to no one to occupy and exploit State lands, unless the necessary authorization or concession has been previously obtained.
2. In relation to the lands that it owns, the State may specifically:
  - a) Dispose of them, under the terms of the applicable legislation;
  - b) Use them in the construction of buildings for the installation of public services and habitation for the respective personnel;
  - c) Destine them to participation in mixed economy associations;
  - d) Avail itself of their products, with the norms that discipline the various forms of utilization duly observed.

**SECTION II  
Public Domain**

**Article 11  
(Lands integrated in the public domain of the State)**

1. Lands considered by law to pertain to State public domain are owned by the State and subject to the respective judicial regime.
2. Lands integrated into the public domain are property of the State and, as such, are inalienable, imprescriptible, and may not be used as collateral. [translator's note: *impenhoráveis* may be translated "unpawnable"]
3. Lands referred to in the previous item are unconcessionable lands.
4. The establishment, however, of a rental contract for the right of temporary occupation of property goods integrated into the public domain of the State, is permissible if its nature so permits.

5. Lands integrated into the public domain of the State, if their nature so permits, may be conceded by it to local authorities for autonomous administration.
6. Public domain lands may, however, by Council of Ministers document, come to be integrated into State private property, though subject to the special regime established by this document.

**Article 12**  
**(Lands integrated into autonomous public domain)**

The regime of lands integrated into State public domain [t.n.: here the original contains a typo, "ljuínio" instead of the Portuguese *domínio*, suggested by the context] is applicable, with the necessary adaptations, to the autonomous public domains, without detracting, however, from the norms set in the Regulations to apply to this domain.

**SECTION III**  
**PRIVATE DOMAIN**

**Article 13**  
**(Lands integrated into private State domain or local autonomous administrations)**

1. Lands not included in public domain, and over which State proprietorship applies, belong to State private domain.
2. The Council of Ministers may authorize the transmission, to local autonomous authorities, of rights over lands integrated into the State private domain.
3. The State may not authorize the transmission to individual or collective persons of rights over lands integrated into the private domain of the State.

**Article 14**  
**(Acquisition by the State of lands subject to private property regime)**

Lands subject to the private property regime may be acquired for certain objectives by the State, and become integrated into its public or private domain, depending on the objective to which they were intended [t.n. *afectado*, also, "to which they were affected"].

**SECTION IV**  
**COMMUNITY LANDS**

**Article 15**  
**(Ambit)**

1. Rural community lands are lands occupied by local rural community families and used by them according to the custom relative to land use, for their habitation, exercise of their activity or for other objectives recognized by custom or by law.
2. Rural community lands include areas complementary to itinerant agriculture, the seasonal access corridors [t.n.: *corredores de transumância*] for the access by cattle to sources of water and pasture, and the passages, whether or not subject to a regime of occupation [t.n: the Portuguese word, *servidão* may be translated as "charge", "obligation", occupation, "tax", or "onus"], utilized to access water or roads or highways to urban agglomerations.

**Article 16**  
**(Area delimitation of rural community lands)**

Delimitation of areas pertaining to rural community lands should be preceded by audition, on the part of the administrative authorities, of the families that integrate the rural communities and the Traditional Power institutions existent on the site of those lands.

**Article 17**  
**(Utilization of rural community lands)**

The utilization of rural community lands should be done according to the regime of consuetudinary use domain.

**Article 18**  
**(Recognition title)**

1. The recognition of occupation, possession and of use and usufruct of rural community lands is effected in a title emitted by competent authority, and through previous hearing of the institutions of Traditional Power existent at the site of these lands.
2. The model or form of the referred title in the previous item is that which appears in Annex II of the Regulations.
3. The institutions of Traditional Power that represent each local rural community are designated in conformity with customs prevailing in the community.

**Article 19**  
**(Indisposibility)**

Without detracting from the norms relative to its simplicity and concession, the rural community lands, while subject to the regime of consuetudinary use domain may not be the object of concession.

**SECTION V**  
**PRIVATE PROPERTY**

**Article 20**  
**(Private property)**

1. Lands over which a property right of others, and not the public right of collective persons, has been definitely constituted, are considered subject to the private property regime.
2. The government will proceed with the delimitation of lands that, constituting the object of private property, border public domain.

**Article 21**  
**(Expropriations and requisitions)**

1. Lands over which a private property right has been constituted may, in cases contemplated in law, be the object of expropriation for public use or for temporary requisition. Considered subject to the regime of private property are lands of which a right of property by others, and not the collective persons of public right, has been definitely established.
2. Where there is expropriation for public use or requisition of lands referred to in the present section, fair and adequate indemnity to the owner and to affected holders of other property rights is always owed.



## **CHAPTER III RESERVES**

### **Article 22 (Definition)**

Denominated as reserves are lands that, excluded from the general use and occupation regime, are destined for special objectives in accordance with the objectives that determine their establishment.

### **Article 23 (Object)**

1. Reserves characterize, as a rule, private domain or State public domain lands, or local authorities, but may equally include lands that have definitely become private property of others.
2. The inclusion of State public property land on reserves will be undertaken without detracting from the special regime to which they must be subject.

### **Article 24 (Manner of establishment of reserves)**

Reserves are established by decree-law, which will respect plans regarding urbanization or of forest, agricultural and ecological use.

### **Article 25 (Delimitation of reserves)**

1. It is the responsibility of the Geographic and Registry Institute of Angola to undertake the organization and execution of technical work relative to the delimitation of reserves.
2. Reserves are delimited geographically, chorographically and topographically, and should furthermore be distinguished by markers that permit perfect identification and recognition of the respective areas.
3. For the execution of operations of delimitation of reserves, demarcation and inspection brigades established by that institute may include, among others, when necessary and in accordance with cases:
  - a) A technician from the National Institute of Territorial Ordering and Urban Development;
  - b) A technician from the Ministry that oversees Agriculture and Rural Development;
  - c) A technician from the Ministry that oversees Geology and Mines;
  - d) A technician from the Ministry that oversees Culture;
  - c) A technician from the entity that oversees the area of Environment.

### **Article 26 (Total and partial reserves)**

1. Reserves may be total or partial.
2. Total reserves have as principal objective the protection of nature, national defense and security, monuments and historical site preservations and the promotion of populating and repopulating, no use or occupation whatever being permitted in them, except that which refers to their conservation or utilization for scientific purposes or other objectives of public interest foreseen in the respective constitutive document.
3. Referred to as partial are the reserves in which forms of use or occupation are permitted that do not collide with the public use objectives that determined their constitution.

**Article 27**  
**(Exemplary enumeration of partial reserves)**

Partial reserves may be constituted specifically for:

- a) The construction of economical houses;
- b) The capture, transport and distribution of water to populations and the protection of the respective installations;
- c) The installation of official or private health establishments and other public health objectives.
- d) The installation of public services;
- e) Hydroelectric or hydro-agricultural utilization, including adjacent areas, continuous or not, economically destined to the respective utilization;
- f) The creation or conservation of green zones;
- g) The construction and utilization of ports, airports, aerodromes, railroads, including the respective stations and shops, roads, including the respective protection and expansion zones;
- h) The implementation and utilization of tourism-related projects;
- i) The development of industrial projects;
- j) Forest defense;
- k) Prospecting and utilization of strategic mineral resources.

**Article 28**  
**(Inclusion of lands subject to private property regimes on reserves)**

1. Inclusion, total or partial, in the reserves, of lands subject to the private property regime or of lands over which the State has constituted property rights in favor of private parties may only be effected through expropriation by a public utility or through the establishment of administrative authority.
2. A document that decrees the establishment of a reserve must set the expropriations and effectuate the restrictions to be established.

**Article 29**  
**(Coexistence of reserves)**

When objectives are compatible, reserves may coexist according to the forms of conjugation indicated in the founding documents.

**Article 30**  
**(Effects of the establishment of reserves)**

1. The establishment of a reserve does not detract from property rights constituted previously through provisional or definite concession or full ownership, but cause the right to temporary occupation to expire.
2. Private parties affected by expropriations for public use or by the establishment of administrative authorities referred to in article 28.0 have the expedient of opting for the corresponding fair indemnity or to participation, as stockholders, in any mixed economy associations that may be established for the utilization of activities related to the respective reserve.
3. Participation in mixed economy societies will not be inferior to 30% of the value of the indemnity, the affected expropriated party or holder of property rights retaining the right to receive the remaining sum in cash.

4. The fair indemnity referred to in item two contemplates compensation for damage incurred by the holder of property rights due to the establishment of a reserve, corresponding to the real and current value in accordance to its effective or possible aim in a normal market situation at the date of publication of the corresponding decree-law, taking into consideration the circumstances and de facto conditions existent on that date.

5. In the calculation of the land value in question appreciation that may result cannot be taken into consideration:

- a) From the declaration of the establishment of the reserve itself;
- b) From works or public projects concluded less than five years previously, in the case of the appreciation charge not having been liquidated in proportion to it.
- c) From luxurious [t.n.: from *benfeitorias voluptuosos*: "voluptuous improvements"] or useful improvements posterior to the publication of the document that decrees the establishment of the reserve.
- d) From information as to the viability, licenses or administrative authorizations solicited after publication of the document decreeing the establishment of the reserve.

6. When fixing fair indemnity no factors, circumstances or situations created with the aim of augmenting the value of the indemnity are considered.

### **Article 31 (Termination of reserves)**

1. Reserves must be terminated when: maintenance is unjustifiable; or time limits set in the respective documents that created them have expired, when they have not been definitely constituted [t.n.: possibly "permanently established].
2. The termination of the reserves based on the motive enunciated in paragraph a) of item number 1 is determined by decree-law.

## **CHAPTER IV LANDS DISPOSITION**

### **SECTION I GENERAL DISPOSITIONS SUBSECTION I: GENERAL CONDITIONS**

#### **Article 32 (Conditions of occupation of urban properties)**

1. The conditions of occupation of urban properties will be set in the urban plans or, lacking them, in instruments of ordering of territory to be established for each case by the appropriate services.
2. In suburban areas without conditions specified in the plans or instruments referred to in the previous item, commercial and industrial installations may be permitted that, by their nature, should not be integrated into urban nuclei.
3. For the effects contemplated in item 2, only the installations indicated by the National Institute of Territorial Ordering, and Urban Development, will be permitted.

**Article 33**  
**(Conditions of occupation of rural lands)**

Rural lands must be destined to uses adequate to their use and aptness characteristics.

**Article 34**  
**(Lands that cannot be objects of concession)**

1. The following cannot be objects of concession:
  - a) Lands integrated into the public domain;
  - b) Lands included in a total reserve;
  - c) Rural community lands, when integrated into consuetudinary use domain, without detracting from the content of numbers 4 and 5 of article 37.0 of Law Number 9/04 of 9 November;
  - d) Lands that may only be occupied through special license.
2. Lands on partial reserves are only capable of concession for the special ends for which they have been established.

**SUBSECTION II:**  
**FORMS OF DISPOSITION**

**Article 35**  
**(Concession contracts and forced acquisition)**

1. Lands subject to concession may be the object of:
  - a) Contract of purchase and sale;
  - b) Forced acquisition of direct dominion by the lessee [t.n. under emphyteusis], operating this co-active transmission by means of an accord by the parties or through "judicial sale by exercise of the legal authority [t.n.: or power] on the part of a lessee sanctioned [t.n.: or: integrated] by judicial decision;
  - c) Lease for the establishment of civil use domain;
  - d) Special contract of concession for the establishment of surface rights;
  - e) Lease contract celebrated for a specific time period for the concession of the right to temporary occupation.
2. Lands destined to be used in annexation with others that have already been the object of disposition will be attributed by title of the same nature and subject to the same conditions.

**Article 36**  
**(Lands that may be object of sale)**

1. The following may only be the object of sale:
  - a) Concessionable urban lands integrated into State or local authority domain;
  - b) Small plots of land insufficient for regular construction bordering land belonging to the petitioner under perfect property regime and that cannot be utilized by any other bordering owner or concession holder;
  - c) Parcels conceded through leasing or rent forming a continuous property with privately owned property , in which [...] an already constituted, duly approved, edifice.
2. The right of ownership over integrated rural lands, whether in State public domain or in private domain may not be transmitted to singular persons or to private right collective person.

**Article 37**  
**(Properties that may be the object of leasing)**

Rural and urban State or local authority properties are subject to concession by means of leasing.

**Article 38**  
**(Properties that may be the object of a contract establishing surface rights)**

The concession contract by means of which a surface right is constituted may have as its object rural or urban properties integrated into State or local authority private domain.

**Article 39**  
**(Properties that may be the object of renting)**

1. Rural or urban properties integrated into State or local authority private domain, and public domain properties whose nature so permits, may be conceded by means of renting.
2. The following may be used or occupied under precarious title, by means of a rental contract celebrated with the legally competent entity, namely:
  - a) Properties destined to usage by quarries [t.n.: quarry companies].
  - b) Properties adjacent to mineral deposits necessary to their prospecting survey and utilization, the occupation not being subject to occupation by an entity different from the mine concession holder, nor for a time period superior to that of the mining utilization;
  - c) Any other properties necessary for the achieving of specific ends, providing that the duration of the planned occupation does not justify another type of disposition.

**Article 40**  
**(Occupation for public interest objectives)**

1. Properties occupied or to be occupied with the objective of public interest will be reserved to the State and can, by determination of the Government, be delivered to the interested public services, including those endowed with judicial personhood, so that they may utilize them in accordance with their special objective.
2. Occupation by third parties, under free or onerous title, of properties referred to in the previous number, is always precarious and depends upon special authorization on the part of the Government.

**SUBSECTION III:**  
**CONCESSIONABLE AND OCCUPIABLE AREAS**

**Article 41**  
**(Limit of urban land areas to be conceded)**

1. The maximum limit of the urban land areas that any collective or singular person may have by contract of concession is two hectares in urban areas and five hectares in suburban areas.
2. It is within the competence of the Council of Ministers to concede areas superior to those foreseen in the previous item.

**Article 42**  
**(Limit of rural areas to be conceded)**

1. The area of rural lands that any singular or collective person may have by contract of concession may not be inferior to two hectares or superior to ten thousand hectares.
2. The Council of Ministers may, however, authorize the transmission or establishment of land rights on rural lands superior to the maximum limit indicated in the previous item.

**Article 43**  
**(Computation of areas)**

1. For the effects of articles 41 and 42 are added the areas of properties conceded to spouses, irrespective of the property regime, and to incapacitated children.
2. The disposition in the previous item is applicable, with due adaptations, to companions who live in de facto union and to their incapacitated children.
3. Partners whose capital participation is superior to fifty percent are not considered persons different from the society in the collective name or from quota based societies of limited responsibility.

**Article 44**  
**(Limit of lands that may be occupied)**

1. The area susceptible to occupation by temporary title, through leasing, may not exceed, for each contract established with the same singular or collective person, one hectare for quarry utilization or half a hectare for other purposes.
2. The limits fixed in the previous item may be exceeded when the interest of the State so justifies.

**Article 45**  
**(Enlargement of area limits)**

In the cases mentioned in number 2 of article 41, and number 2 of article 42, only in cases considered of interest to the State may the establishment or transmission of property rights over land areas superior to the legally fixed limit, through special contract and in conditions judged convenient for each case, be exceptionally authorized.

**Article 46**  
**(Successive concessions)**

1. Successive concessions, to the limits foreseen in previous articles, of new parcels of land in favor of singular or collective persons, to whom the State or local authorities may have previously attributed some of the legally foreseen property rights, is always conditioned on proof of useful and effective usage of the conceded lands.
2. This restriction is not applicable in the cases foreseen in article 45, nor to concessions in favor of collective persons of public right, public companies and personalized public institutes.

**Article 47**  
**(Free concessions)**

1. Free concessions may only be granted:
  - a) To local authorities;

b) To families that are part of rural communities, insofar as touches upon customary useful dominion of rural community lands occupied by them and exploited in useful and effective form according to custom;

c) To persons that, desiring to form part of populating projects in less developed zones of the Country, show proof of insufficiency of economic means;

d) To institutions of recognized public utility involved with projects related to social, cultural, religious or sports solidarity.

2. Legally recognized religious confessions, namely, are considered as included in paragraph d) of the previous item, when the lands are dedicated to the construction of temples, places of worship or to the realization of their assistance-related and educational activities.

## **SECTION II OF CONTRACTS IN ESPECIAL**

### **SUBSECTION I Sale**

#### **Article 48 (Modality)**

1. With a view to incrementing competition among candidates to acquisition and with a view to achieving appreciation, the sale of lands is done by means of sale at public auction.

2. The realization of the sale of lands may, furthermore, be allocated to firms with experience in this type of activity, the respective services contracted by means of opening [them to] public competition.

#### **Article 49 (Sale publicity)**

1. The conceding authority should write an announcement and post it, ten days prior, on the door of its headquarters and of the offices of the respective municipal and community administrations.

2. The announcement is published, with the same anticipation, in two adjacent editions of one of the most widely read newspapers in the Country.

3. The announcement and the notices should contain, namely:

a) Indication of the day, time and locale of the sale;

b) Summary identification of the property;

c) An indication of the base value of the sale;

d) Indication as to the title, number and date of the journal in which the announcements were published.

#### **Article 50 (Place of realization of sale)**

Sale of properties should be realized at the office of the competent granting authority of the place where the lots are located.

**Article 51**  
**(Who realizes the sale)**

Without detracting from the text of article 48, the sale of lands should be realized by the granting authority.

**Article 52**  
**(Persons who preside over the auctions)**

1. The auctions are presided over by a functionary designated by the granting authority.
2. The functionary designated under the terms of the former item is confirmed, in the act of property sale, by a notary of the Provincial Tribunal from the area where the object of sale is situated.
3. The person who presides over the auction should designate a person of probity to exercise the function of auctioneer.

**Article 53**  
**(Value of properties that go on sale)**

1. In lieu of a special disposition, lands go on sale for a value determined by the indexes of prices fixed by the rules of the market.
2. When lands submitted to public sale have not obtained in the first place a bid that covers the value stipulated in the previous item, they should be put on sale a second time in another auction, for a value corresponding to two thirds of this value.
3. If the properties have not obtained in the second sale a bid that covers the value referred to in item number 2, they may be put on sale by means of closed envelope bids.

**Article 54**  
**(Obligation to show the properties)**

During the time period of the text writing and notices, the granting authority is obliged to show the properties to whomever wishes to examine them; but may set the times in which, during the day, it will offer the inspection, making them publicly known by any means.

**Article 55**  
**(Presentation at auction)**

On the day and hour set for the sale, the functionary who presides over the auction must declare the auction open.

**Article 56**  
**(Notation of auction results)**

1. As properties are being submitted to auction, the respective result should be mentioned by the president and by the secretary in a dedicated book.
2. In the case of auction, its date, the name and the address of the auctioneer, the property in question and its price, should be indicated, in addition to the other occurrences.
3. The land is identified through the effectuation of a topographic sketch and, whenever possible, by the inscription number in the property registry.



**Article 57**  
**(Legal documentation for sale or lack of sale)**

1. After the result is recorded with reference to the previous article, the secretary should draw up an article of sale or lack of sale.
2. The sale document must be signed by the president, by the secretary and by the buyer.
3. The lack of sale document must contain the signature of the president and of the secretary.

**Article 58**  
**(Irregularities in the sale)**

Irregularities relative to the opening of the auction, tendering, appreciation and acceptance of the proposals may only be examined in the act itself.

**Article 59**  
**(Payment or price deposit)**

1. When the property has been auctioned, the secretary, after having drawn up the respective legal paper, must make the pertinent invoices for the payment or deposit on the price.
2. In the act of sale, the buyer is notified to, within the period of ten days, pay or deposit the price of the sale.

**Article 60**  
**(Form of payment or deposit of price)**

1. Payment of auction price may be effectuated:
  - a) In automatic payment terminals existent in the office of the respective agencies of the granting authority;
  - b) In any Multicaixa, from the first day after the invoice has been drawn up until hour 24 of the last day of the time limit;
  - c) At any bank counter in which the granting authority has a deposit account to the order of which it is the titleholder.
2. For the effects foreseen in number 1, the bills respecting the sale price should:
  - a) Contain the respective sequential number, the amount to be paid and the codes of the granting authority;
  - b) Be emitted in duplicate.
3. The sequential number of the invoices, date of emission and the time limit for payment, the amount to be paid, and the reference numbers of the granting authority, are communicated to the Multicaixa operator.
4. Daily, the granting authority must make entry of all payment related operations

**Article 61**  
**(Sanctions)**

1. If the buyer does not pay or deposit the price, in the terms foreseen in the previous articles, the granting authority must:
  - Solicit the confiscation of the remiss buyer's goods sufficient to guarantee the value of the payment or deposit and of accrued expenses; or
  - Determine that the sale be without effect and that the lot again be placed on sale in a manner [t.n.: or, perhaps, public place or forum] identical to that in which the unliquidated sale took place.

2. In the case foreseen in paragraph a) of the previous item, the remiss buyer is subjected to judicial proceedings for the payment of that value and its additions, the confiscation being lifted as soon as the payment or deposit has been made with the addition to the deposit of the expenses amount, which will be immediately calculated.

3. In the case referred to in paragraph b) of number 1, the remiss buyer is not allowed to acquire property again, and is responsible for the difference in the price and for the expenses which he/she may cause.

**Article 62**  
**(Delivery of property)**

1. The lot is delivered to the buyer after it is shown to be wholly paid or the price amount has been deposited and the fiscal obligations inherent to the transaction have been satisfied.

2. After legal requirements for the lot have been dispatched, a bill of sale is given to the buyer in which the lot is identified, the price payment and the compliance with fiscal obligations are certified, and the date in which the lot was adjudicated is declared.

**Article 63**  
**(Destination of the liquid revenue collected)**

1. The liquid revenue collected with the sale of lands is deposited in the Treasury Single Account titled by the Ministry of Finances.

2. The deposit is to be registered with indication of the number of the respective case.

**SUBSECTION II**  
**Leasing [t.n.: or tenancy]**

**Division I**  
**General dispositions**

**Article 64.**  
**(Judicial regime)**

Leasing is regulated by the dispositions of Law number 9/04, of 9 November, of these Regulations and complementary documents, as well as by the clauses of the respective contracts, the precepts contained in the Civil Code relative to leasing being observed in cases of omission.

**Article 65**  
**(Prohibition of dismembering the useful civil domain and of consuetudinary useful dominion)**

Dismembering of the useful civil domain and the consuetudinary useful domain is not permitted, transactions tending to its establishment being null.

**Division II**  
**Useful civil domain**

**Article 66**  
**(Constitution of the useful civil domain)**

Useful civil domain is constituted by a leasing contract.

**Article 67**  
**(Price of useful civil dominion and tenancy)**

1. By the concession of tenancy the titleholder of useful civil dominion is obliged to pay:
  - a) The price of useful civil dominion.
  - b) The rent.
2. The price of useful civil dominion and the rent are calculated according to tables provided by joint [translator's note: this interprets a typo - *colliunto* - in the Portuguese, probably intending *conjunto*, or joint] executive decree of the Ministries of finances and Urbanism and Environment, bearing in mind the classification and localization of the lot, the objective of the concession and the degree of development of each zone or province.
3. The price of useful civil dominion is paid one time only, before the granting of the title of concession and, in case of public auction, the adjudicator must provide security in money or irrevocable bank guarantee for the payment of the total price of the useful civil dominion.
4. The rent is owed from the moment of the concession and payment in money in the treasuries of public finances at the end of each year, counting from the date of the establishment of the useful civil dominion.

**Article 68**  
**(Public auction)**

1. Whenever possible, the concession of useful civil domain is made by means of sale at public auction.
2. The determinations referred to in number 1, with necessary adaptations, treated in subsection I of the present section, are applicable to public auction.
3. The granting authority may [t.n. decide to] not make the adjudication, if this is thought convenient to the interests of the State or local authority.
4. The entity that has paid the expenses of provisional demarcation has the right to the respective reimbursement, if the concession of useful civil domain over the demarcated terrain is not attributed to it.

**Article 69**  
**(Exemption from public auction)**

1. Public auction referred to in the previous article is exempted:
  - a) In the conversion of a free concession to an onerous one;
  - b) In the transmission of situations resultant from previous provisional concession,
  - c) In the concession of small parcels of land insufficient to regular construction, that border leased land and that may not be utilized by any other bordering concession holder.
2. Lands that are in the conditions encountered in paragraph c) of the previous number may only be granted through leasing.

**Article 70**  
**(Special clauses)**

1. In concession contracts through leasing special clauses may be introduced with the objective of safeguarding the interests of the State or the rights of third parties, namely by setting a premium.
2. The method of determining the amount of the premium, as well as its processing and liquidation, are objects of the respective contract of concession.
3. To be considered in fixing the value of the premium are the classification and locale of the property, the aim of the concession, the profits, as well as the costs borne, or to be borne, namely those

following the acquisition of real estate, the realization of land fills and of other works of infrastructure or social equipment that may revert to the State or to the local authority, or whose social usefulness are recognized.

### **Division III Customary useful domain**

#### **Article 71 (Recognition)**

1. Customary useful domain is the object of recognition on the part of the competent authority.
2. The recognition referred to in the previous number is made in the title of model appearing in Annex II of this document.

#### **Article 72 (Content of customary useful domain)**

The titleholders of customary useful domain enjoy the rights of occupation, possession, use and usufruct of the rural community properties occupied by them and exploited in useful and effective manner according to custom, within the limits of the law and in observance of restriction imposed by it.

#### **Article 73 (Free bestowal)**

The recognition and exercise of customary useful domain are gratis, its titleholders free of payment of rents or quotas of any kind.

#### **Article 74 (Perpetuity)**

Consuetudinary use domain is recognized in perpetuity, without detracting from its extinction for non use and by the free disoccupation of the terms of customary norms.

#### **Article 75 (Intransmissibility)**

Without detracting from customary right and without detracting from the regime of simplicity referred to in article 37 of Law Number 9/04 of 9 November, the titleholders of customary useful domain may not transmit their right either in life or through death.

#### **Article 76 (Insecurability)**

Customary use domain is insecurable, except in cases in which it has been mortgaged to guarantee the payment of bank loans contracted by the titleholders with a view to useful and effective utilization of the granted land.

**SUBSECTION III**  
**CONTRACT CONSTITUTIVE OF SURFACE RIGHT**  
**Article 77**  
**(Establishment of surface right)**

Surface right is established by special contract of concession, and may result from the transfer of ownership of the work or of already existent trees, separately from the proprietorship over the ground

**Article 78**  
**(Provisional and definite concession)**

Concession of surface right is initially given in provisional character, for a period of time to be set as a function of the characteristics of the concession, as a rule not superior to five years, and may only be converted into definite if, in the course of a fixed time period, the indexes of useful and effective development previously established are met and the lot is definitely demarcated.

**Article 79**  
**(Annual or sole payment)**

1. By concession the surface holder pays a certain annual quota in money, set as the price, in the respective contract.
2. The amount of the payment referred to in number 1 is calculated according to a table approved by joint executive decree of the Ministries of Finances and of Urbanism and Environment, paying attention to classification and locality of the property, with a view to the concession and degree of development of each zone or province.
3. The surface holder may opt to pay a one-time quota corresponding to the product of the multiplication of the number of years of duration of the concession by the constant value of the table referred to in number 2.
4. In case of public auction, the adjudicator should provide security in money or irrevocable bank guarantee of the payment of the totality of the payment owed.
5. The quota is owed from the moment of the provisional concession and paid in money to the treasuries of public finances:
  - a) In the time period of five days counting from the date of celebration of the contract of concession, in the case of one-time payment;
  - b) At the end of each year, counted from the date of establishment of surface rights, in the case of annual payment.

**Article 80**  
**(Public auction)**

The dispositions of articles 68, 69 and 70 are applicable to surface rights, with the necessary adaptations.

**SUBSECTION IV**  
**LEASE CONTRACT**

**Article 81**  
**(Objective)**

The establishment of the right to temporary occupation is made by lease contract celebrated for an indeterminate time period and is destined to lands to be used temporarily and to those in relation to which the inconvenience of creating long term land rights becomes evident.

**Article 82**  
**(Judicial regime)**

Leasing is governed by the dispositions of Law number 9/04 of 9 November, and complementary documents, by the clauses of the respective contracts and, in subsidiary form, by the applicable civil law.

**Article 83**  
**(time duration)**

1. The time duration of the concession through leasing should be fixed in the respective contract as a function of the characteristics of the concession, but may not exceed one year.
2. The time duration of the successive renovations must not exceed, for each one, one year.

**Article 84**  
**(Renunciation)**

The leasing contract may be renounced at any time by either of the parts, through prior notice effected with a minimum prior notice of sixty days in relation to the end of the time period of its renovation.

**Article 85**  
**(Area and locality)**

The leasing contract referred to in the present subsection sets the area and locality of the property upon which the right of temporary occupation falls.

**Article 86**  
**(Sub-leasing)**

Sub-leasing is only permitted:

In cases of recognized interest for the celerity of utilization of the conceded lands;

In favor of the credit institutions that, in order to promote and accelerate the utilization of the conceded lands, may have made loans at on or medium terms to the grantees when they default on obligations assumed with the loan company.

**Article 87**  
**(Prohibition of conversion in leasing)**

The conversion into leasing [t.n.: *aforamento*] of concessions through rental agreement [t.n.: *arrendamento*] is not permitted.

**Article 88**  
**(Revenue)**

1. The occupier pays a quota, one-time or periodic, in money, set under title of revenue in the respective contract.
2. The value of the revenue is calculated according to a table approved by joint executive decree of the Ministries of Finance and of Urbanism and Environment, with attention, namely, on the area and the classification of the land, the time period for which it has been established, and the right of temporary occupation, the economic circumstances of the zones in which the land is localized, and in this manner the type of utilization projected.

3. The revenue is annual, the payment capable [translator's note: reiteration typo reflects original] to be made in duodecimals or by anticipation.

### **Article 89 (Updating of revenue)**

Revenue may be updated in any of the following cases:

- a) When each of the periods set in the contract ends;
- b) When sub-renting is undertaken;
- c) When the previous index of land occupation is modified or the total area of the floors built is altered.

### **Article 90 (Complaint and recourse to arbitration)**

1. The concession holder who is not satisfied with the updating of revenue may complain to the entity that set it, within the time period of thirty days counted from the notification.
2. Divergence should be resolved, in the first and last instance, by an arbitration tribunal composed of three arbiters, each one being designated by the conceding entity, another by the concession holder, and the third, who will exercise the functions of arbitration president, by common accord of the arbitrators whom the parties have designated.
3. The revenue [t.n. alternatively: rent] will correspond to the unanimous finding of the arbiters or, in the absence of unanimity, to the arithmetical mean of the two nearest findings.
4. The revenue, the updating of which has been made in the terms of this article, is owed from the moment in which it would have been in the absence of complaint.

### **Article 91 (Public auction)**

1. Whenever possible, the concession of the right of temporary occupation is made by means of public auction.
2. Applicable to public auction is that which number 1 refers to, with the necessary adaptations, described in subsection I of the present section.
3. The conceding authority may refrain from making a judgment, if he/she thinks this convenient to the interests of the State or of the local authority.

### **Article 92 (Cases of exemption from public auction)**

1. The public auction to which the previous article refers is exempted:
  - a) In renovations;
  - b) In the conversion of a free concession to an onerous one;
  - c) In the concession of small parcels of land insufficient to regular construction, which borders a lot leased to the petitioner and from which any other proprietor or bordering concession holder may not benefit;
  - d) When the concession is destined to projects of recognized interest to the development of the Country;
  - e) When the concession is destined to the construction of indefinite installations destined to support the construction of private habitation promoted by the respective members by associations which undertake objectives of social interest or by habitat cooperatives.

2. Properties found in the conditions of paragraph c) of the previous number may only be conceded by means of rental agreement.

**Article 93**  
(Special clauses)

1. Into the contracts of concession by rental agreement may be introduced special clauses with the objective of safeguarding the interests of the State or the rights of third parties, namely the setting of a premium.
2. The determinations of numbers 2 and 3 of article 70 apply to the setting of a premium.

**SECTION III**  
**OF FREE CONCESSIONS**

**Article 94**  
(Notion)

In free concessions, the concession holder is exempt from quotas of any kind.

**Article 95**  
(Universality)

Free concessions may only be admitted in the cases and terms contemplated in the law.

**Article 96**  
(Judicial regime)

1. Free concessions are governed by the special precepts regarding them and by the clauses of the respective contracts.
2. Without detracting from legal disposition to the contrary, the rights of concession holders may not be encumbered or transferred without authorization of the conceding authority.

**Article 97**  
(Conversion)

1. Free concessions may be object of conversion to encumbered status.
2. The concession holder must pay, from the conversion, the quotas, one-time or periodic, that are set by the conceding authority in harmony with tables approved by executive decree jointly by the Ministries of Finance and of Urbanism and Environment in force at the moment of conversion.

**Article 98**  
(Limit of area)

The areas of lands conceded freely should be circumscribed to the strictly indispensable for the realization of the foreseen objectives, and may not exceed the limits established by law.

**Article 99**  
(Expiration)

Free concessions expire:

- a) When the utilization of the properties diverges from the objectives for which they were conceded or they are not, at any moment, to be taken up.



b) When the utilization does not begin in the time frame fixed, except if this fact does not result from a motive imputable to negligence on the part of the concession holder and the conceding authority considers it justified.

## **CHAPTER V DEMARCATIION**

### **SECTION I GENERAL DISPOSITIONS**

#### **Article 100 (Delimitation of the lot that is the object of concession)**

The lot that is the object of concession is delimited in the process by the registering office and rendered concrete at the demarcation site.

#### **Article 101 (Demarcation phases)**

Demarcation is comprehended by a provisional phase and a definitive phase.

#### **Article 102 (Organ of execution)**

1. The central organ for the technical administration of lands referred to in article 67.0 of Law number 9/04 of 9 November, is the Institute of Geography and Cadastre of Angola.
2. Provisional and definitive operations of demarcation may be executed solely by the Geography and Cadastre of Angola.
3. For the execution of the provisional and definitive operations of demarcation, demarcation and inspection brigades are to be constituted by that institute.
4. The demarcation and inspection brigades may be constituted by, among others, when necessary and consonant with the cases:
  - a) A technician from the National Institute of Territorial Ordering and Urban Development;
  - b) A technician from the Ministry that supervises Agriculture and Rural Development;
  - c) A technician from the entity that supervises Geology and Mines;
  - d) A technician from the entity that supervises the Environment.
5. Whenever necessary, in order to guarantee compliance with the disposition of the land legislation, the Ministry of Urbanism and Environment may authorize the Institute of Geography and Cadastre of Angola to contract the services of specialized firms accredited by this institute or external experts, namely sworn surveyors, for the rendering of services that the institute cannot undertake or that require the application of knowledge or the use of technologies which the institute does not have.

#### **Article 103 (Responsibility of the conceding authority)**

The conceding authority is not responsible for the violation of the rights of third parties resulting from the realization of operations of demarcation of lands that it comes to concede, when the injured parties have not entered, into the process of concession, the necessary complaints, or these have been judged without merit in a ruling of which it is not possible to interpose an appeal.

#### **Article 104**

### **(Demarcation expenses)**

1. Expenses resulting from the execution of operations of provisional and definitive demarcation must be borne by the concession holders, who must pay, namely, the cost of the markers supplied by the State and the costs of transport and expenses [translator's note: *ajudas de custo* = aid with expenses]
2. The expenses referenced in the previous number are calculated as a function of the area of the locality of the property to be conceded, according to a table approved by joint executive decree of the Ministries of Finances and Urbanism and Environment.

### **Article 105 (Free concessions)**

The execution of operation of provisional and definitive demarcation of properties that are object of free concession is gratis.

## **SECTION 11 PROVISIONAL DEMARCATION**

### **Article 106 (Operations of provisional demarcation)**

Provisional demarcation is operated through the opening of perimetral trails and through the implantation of normalized markers on the angle points, at the alignments of the sides of the polygon that defines the object of concession.

### **Article 107 (Elements to be attended to)**

Provisional demarcation is based on indications of the petitioner and must be subordinated to the territorial ordering plans, to the urban plans and to the parceling into lots of the respective zone.

### **Article 108 (Land configuration)**

1. Land which is object of provisional demarcation will have, as much as possible, a polygonal configuration with few sides, preferably quadrilateral.
2. It may have another form or extension of demarcated land when third party rights, the existent and geographical conditions or economic circumstances regarding the proposed use impose this.

### **Article 109 (Memory of free passage)**

Provisional demarcation must mark the free passages, designed for passing through, which must be constituted on the lot to be conceded.

### **Article 110 (Who may be present at the provisional demarcation)**

1. The petitioner, persons who have petitioned for the concession of neighboring lots and all parties interested in the proof of land rights or of improvements [t.n.: this word is a translation of the probable

intention in the original, which seems to contain a typo in that *benfeitorias* signifies "improvements", the "b", however, being omitted] in the respective zone.

2. Interested persons are invited to attend the provisional demarcation by means of public announcement in one of the principal national newspapers, by text affixed on the conceding authority office, and in the headquarters of the respective municipal and community administrations, with a minimum antecedence of five days.

### **Article 111 (Petitioner's declaration)**

1. When the provisional demarcation has been effectuated, the petitioner will be notified to declare, within five days and in writing, if he/she accepts the demarcation realized.

2. Once the notification is realized, the silence of the petitioner for a time period superior to that in which he/she would have had to manifest, stands for acceptance of the provisional demarcation.

### **Article 112 (Publicity of the request for concession)**

1. Together with the case, the declaration of the petitioners, or if the time period referred to in number 1 of article 111 has expired without the petitioner having made the declaration contemplated there, the petition for concession will be made public through an announcement published in one of the principal national newspapers and by means of a text affixed to the headquarters of the conceding authority and in the headquarters of the respective municipal and community administrations.

2. The announcement and the text must identify the petitioner and mention the locality, the confrontations [i.e.: Michaelis' definition of Portuguese *confrontações* includes "outlines of a building"] and the area of the intended lot, the type of land right to be conceded, the objective of the concession and, furthermore, the time period for presenting complaints, which will not be superior to thirty days counted from the publication of the announcement.

### **Article 113 (Complaint incident)**

1. Complaints must be directed to the competent concession authority in the secretariat of the respective services that have as their responsibility the organization and instruction of the process of lands concession.

2. The complaint must contain:

- a) Documents that serve as bases for the facts or rights invoked;
- b) The witnesses roll and other means of proof;
- c) The document attesting to the deposit of the amount corresponding to the probable costs of the incident, according to a table approved by joint executive decree of the Ministries of Finances and of Urbanism and Environment.

3. The amount deposited will be repaid, if the complaint succeeds, and lost in favor of the State, if it fails.

### **Article 114 (Processing of the incident)**

1. After the expiration of the time limit set in number 2 of article 112, the concession petitioner will be notified to, within ten days counting from the notification, respond to the complaint.

2. With the reply all documentary and witness based proof must be offered.

**Article 115**  
**(Complaints appreciation)**

1. The services to which number 1 of article 113 refer should give their information on all complaints deduced, submitting, then, the case to the evaluation of the conceding authority who, in a well founded ruling, will decide the incident.
2. There may be an appeal under the terms of the general law, with regard to the decision regarding the complaint.

**Article 116**  
**(Expiration of the provisional demarcation)**

Provisional demarcation expires as soon as the case ends for any cause or when definitive demarcation is realized.

**SECTION III**  
**DEFINITIVE DEMARCATION**

**Article 117**  
**(Definitive demarcation operations)**

1. The definitive demarcation consists of the execution of topographical operations that permit the complete identification and localization of the conceded property and of the realization of the perimetral contour by means of definitive concrete or stone markers.
2. The determination in article 110 is applicable to definitive demarcation, with the necessary adaptations.

**Article 118**  
**(Elements to be attended to)**

Definitive demarcation is based on provisional demarcation and on the subsequent corrections resulting from the concession process.

**Article 119**  
**(Conditions for the execution of definitive demarcation)**

Definitive demarcation will only be realized after proof is made:

- a) Of the payment deposit for the preparations regarding the instruction of the process, demarcation, publications, title, registration and inspections;
- b) Of the work capacity of the direct developer and of his/her family;
- c) Of the financial and technical capacity for the realization of a development plan; and, if it be the case,
- d) Of the useful and effective development of the lot previously conceded in accord with the indexes set.

**SECTION IV**  
**RIGHTS AND DUTIES OF CONCESSION HOLDERS**

**Article 120**  
**(Rights of the concession holder resulting from provisional demarcation)**

Provisional demarcation does not grant to the demarking party any right over the lot, but impedes new demarcation that includes, totally or partially, the same area.

**Article 121**  
**(Duty to comply with the conditions imposed and the plans)**

The concession holder is obliged to comply with, under pain of devolution of the concession, the conditions that were imposed on him/her for the rational utilization of the natural resources of the conceded land, and to submit him/her self to norms in any plan or program that is in force or that comes to be established in the zone where the conceded lot is situated.

**Article 122**  
**(Duty to conserve the markers)**

1. The concession holder should maintain in good visible form the border of the land that has been conceded and is obliged to conserve in good state the perimetral markers of the lot and the respective numeration and, further, the triangulation or leveling markers that may be found there.
2. The concession holder may not cut, fell or destroy any trees that serve as demarcation points on his/her land without the intervention of the surveying services.

**Article 123**  
**(Contiguous lands)**

The concession holder must permit the opening of perimetral trails necessary to the demarcation of contiguous lots and consent, within the limits of the concession area, to the execution of acts done with a view to supporting the indispensable topographical survey of neighboring lands or cartographic works included in his/her concession.

**Article 124**  
**(Public access)**

1. The concession holder is obliged to conserve the public accesses that may exist on the lot that is object of concession and that figure in the respective map or process.
2. The concession holder is furthermore obliged to grant passage to the proprietors of contiguous properties that may not have communication with the public way, nor conditions that permit their establishment without excessive trouble or expense and to the neighbors for any population center or nearby communication routes, when they do not have easier or comfortable access.

**Article 125**  
**(Duty of useful and effective development of the conceded lot)**

During the concession period, the concession holder must comply with the legal and contractual prescriptions relative to the indexes of useful and effective development of the conceded property.

**Article 126**  
**(Definition of useful and effective development)**

1. Useful and effective development consists of the execution of the plan of development or construction that figures in the concession contract or, if it does not exist, in the utilization of all of the conceded property for the objectives of the concession.

2. For effects of the determination of the present document, only the development that has been realized by the concession holder is considered relevant.

**Article 127**  
**(Process of development of urban construction lots)**

1. The process of development of urban construction lots is what is defined in the respective concession contract.
2. If there is omission in the contract of concession, the following maximum time limits must be observed:
  - a) for the presentation of the architectural project, three months, counted from the date of granting of the concession title.
  - b) for the presentation of structural project, six months counted from the notification to the concession holder of approval of the architectural project;
  - c) for the beginning of work, thirty days after the notification of the concession holder of approval of the definitive project;
  - d) for the conclusion of the work, the time limit established in the construction license.
3. Failure to observe the time limits subjects the concession holder to the penalty clauses in the respective contract of concession and to the payment of a pecuniary amount for each day of delay in compliance.
4. The compulsory pecuniary sanction foreseen in the previous number will be set according to reasonable criterion.
5. The rejection of the architectural project or of structures does not interrupt the countdown of the time limit for effects of the determination in the previous number.
6. The determination in numbers 3 and 5 of this article will not apply if the justification presented by the concession holder merits the acceptance of the conceding authority.

**Article 128**  
**(Conclusion of useful and effective development)**

1. The properties conceded for the construction of buildings destined for habitational, commercial or industrial development are only considered developed with the complete exterior and interior finishing of the buildings that form the approved project and with the compliance with special charges to which the concession may be subject.
2. Rural community lands are only considered developed when the families from the local rural communities inhabit them, exercise their activity and proceed to the realization of other objectives recognized by custom or by law.
3. Agrarian lands are only considered developed when they are cultivated in the totality of the conceded area or with the complete execution of the pecuary use foreseen.
4. Forested lands are only considered developed when they have complied with the plan of sylvan development foreseen.
5. Lands for installation are only considered developed when the mining, industrial or agro-industrial installations to which they are destined have been constructed.
6. Lands for roads are only considered developed when the land communication roads, the networks, transformation and water and electricity supply, the pluvial drainage networks and the sewer networks that have been projected in accordance with the cases, are completed.

**Article 129**  
**(Alteration of the objective of development)**

1. Alteration in the objective of development of conceded property is subject to the authorization of the conceding authority.
2. Request for alteration will be evaluated with discretion, taking into consideration:
  - a) Whether the objective solicited is or is not part of the same type of branch of activity or initial objective;
  - b) Whether the objective solicited contributes or does not contribute to the development of the country.
  - c) Charges already satisfied by the soliciting concession holder.
  - d) The possible existence of speculative intentions in the request for alteration of the objective of development;
  - e) Whether the new proposed development does not collide with the regulations in force or with any plan of territorial ordering, urban plan or equivalent plan existent for the zone.
3. In case of approval, the alteration of the contract of concession will proceed, with the obligatory revision of the quotas that the concession holder should pay, it being possible to introduce special clauses under the terms of articles 70 and 93.

**Article 130**  
**(Renunciation)**

1. Renunciation of any property concession or request for concession is permitted.
2. The renouncing party loses deposits on account in the process and the improvements introduced on the property, both of them reverting to the State.

**Article 131**  
**(Reduction of the concession area)**

1. The concession holder has the right to petition, within the time limit of one year counting from the date of the granting of the title of concession, for the reduction of the conceded area.
2. The petition must be informed with a topographic sketch representative of the property on which the concession will be reduced [t.n.: i.e. in which the concession is delimited].
3. If the petition is granted, definitive marking in accordance with the topographic sketch presented should be realized on the property.
4. No reduction that involves alteration to the objective of the concession will be permitted.

**Article 132**  
**(Expropriation for public use)**

1. The state or local authorities may, at any moment, expropriate, all or in part, the conceded lands, when so determined by of public utility objectives.
2. The concession holder should be notified of the expropriation of conceded lands with a minimum antecedence of six months.
3. The expropriating entity is obliged to pay the value of the improvements that the concession holder has made on the conceded property.
4. Without detracting from the indemnity referred to in the previous number, the expropriating entity may furthermore concede to the expropriated party, with no burden on him/her and with his/her consent, a parcel of land in the same judicial situation, susceptible to similar use.

5. Lacking an accord on the value of the improvements, the expropriating entity is administratively invested in the possession of the lands to be expropriated.
6. Administrative investiture in the possession foreseen in the previous number may not become effective unless, previously, there has been:
  - a) A deposit made, in a banking institution from the place where the expropriating entity is located, to the order of the expropriated concession holder, of the quantity that it understands to be owed;
  - b) An inspection realized ad perpetuum rei memoriam destined to fix the elements in fact susceptible of disappearance and whose knowledge is of interest to the judgment of the case.
7. After the administrative investiture in the possession, the rest of the properties of right [t.n.: or: rightful property] for the fixation of indemnity follow. [t.n.: Another version might be, " After the administrative establishment of possession, the other rightful properties follow for the fixation of indemnity."]
8. The withdrawal on the part of the concession holder of the amount deposited is interpreted as tacit acceptance of the indemnity amount estimated by the expropriating entity.

**Article 133**  
**(Rights reservation)**

1. In all of the concessions, rights to quarries and water springs are always considered to be reserved for the conceding authority.
2. The concession holder may, however, utilize the running waters that pass through the conceded land, without detracting from the rights of the conceding authority.
3. It is prohibited to the concession holder to obstruct or detour the normal course of water streams that pass through the conceded property.

**CHAPTER VI**  
**CONCESSION PROCESS**

**SECTION I**  
**GENERAL DISPOSITIONS**

**Article 134**  
**(Competence for the organization and instruction of the process of concession)**

The process of concession of lands is organized and informed by the competent services of the Institute of Geography and Cadastre of Angola, which afterwards submits it to the decision of the conceding authority.

**Article 135**  
**(Case forms)**

1. The process of lands concession may be common or special.
2. The common process is applicable to all the cases to which the special process does not apply.
3. Special process applies to free concessions, to the concession of the right to temporary occupation and to the other cases expressly foreseen in these Regulations.



## **SECTION II COMMON PROCESS**

### **Article 136 (Phases)**

The following phases are integrated into the common process:

- a) Presentation of the petition by the interested party;
- b) Information and decisions [t.n.: or: opinions] from the services and other entities that must be consulted about the request.
- c) Provisional demarcation of the land, followed or not by public auction;
- d) Evaluation of the petition and approval or disapproval;
- e) Definitive demarcation;
- f) Celebration of the concession contract;
- g) Granting of the concession title;
- h) Registry of the right, in favor of the concession holder, in the property registry.

### **Article 137 (Initial petition)**

1. The process begins with the petition of the interested party directed to the conceding authority.
2. The petition must be posted at the conceding authority headquarters and at the headquarters of the respective municipal and community administrations.
3. In addition to the identification of the petitioner, the petition should contain the following:
  - a) Mention of the locality, area, buildings, description number or declaration of omission in the property registry, as well as any circumstances pertinent to the identification of the property;
  - b) Specification of the objective contemplated by the concession;
  - c) Indication, in accordance with cases, of the price offered for the property right, of the price offered for the useful civil domain, for the one-time quota or for the annual quota offered for surface rights or for the annual revenue offered per square meter of land, never inferior to the tables in force;
  - d) Mention of the concessions of which he/she is titleholder, in his/her name or that of the spouse, of incapacitated children, of associations in collective name or societies based on quotas in which he/she possesses more than half of the social capital.

### **Article 138 (Instruction)**

1. With the concession petition the following documents will be included:
  - a) Photocopy of the identity card and birth certificate of the petitioner, if he/she is a national citizen, or authenticated photocopy of the resident's passport and card, if a foreign citizen;
  - b) Certificate of commercial registry and of the constitutive instrument, if the petitioner is a collective person, and a photocopy of the identification documents of the partners or majority stockholders, managers or administrators;
  - c) Certificate of Registry of Private Investment (CRIP), emitted by the National Agency of Private Investment in the approval sequence, under auspices [t.n.: or, the support] of the applicable legislation, of a private investment project;
  - d) Plan of utilization of the lot, with indication of its locality;
  - e) Declaration of subjection to Angolan laws, authorities and tribunals and of renunciation, in matters having to do with the State, to any foreign judicial forum or process, when the petitioner does not have Angolan nationality;

f) Certificate of the wording of the description of the lot and the inscriptions in force or proving the omission in the registry, emitted with antecedence not superior to three months.

2. If the national citizen does not possess or does not exhibit an identity card or birth certificate, identification is made by means of:

a) Any other document with an updated photograph and fingerprint or signature that supplies the data relative to the complete name, sex, parentage, date and locality of birth, complete address with indication of the place and, where it exists, of the neighborhood, street, number and floor of the building;

b) Of witness from two national citizens of recognized capacity, who possess an identity card and who attest, under oath of honor, to the identity of the citizen in question.

In matters of projects of recognized interest to the development of the Country, the petition will furthermore include [t.n.: or, inform] with the indication, in written and drawn pieces, in well identified scale, of the work plans and phases of realization and, as well, of the minimum value of the investment to be effectuated.

### **Article 139**

#### **(Capacity to contract and nomination of the proxy)**

1. In order to obtain a land concession from the State it is necessary to have the capacity to contract.

2. Minors are represented by parents and, in their absence, by the tutor.

3. If the petitioner is a society, it must be legally constituted.

4. The petitioner who does not reside in the Country or who absents himself, should establish a proxy resident here, who receives the notices and other notifications relative to the process of concession.

5. No justification based on the lack of representative or of negligence on his/her part will be admitted.

6. If the petitioner leaves the Country without having established a proxy, the notices and other notifications with respect to the process of concession must be made by proclamation in the principal national newspapers, and at his/her cost, the process to be archived if, within the time limit set, the petitioner or his/her representative has not come forward [t.n. variant: come forward to the legal office.]

### **Article 140**

#### **(Information and opinions)**

1. When the petition has been written up and eventual deficiencies or irregularities remedied, the information is put forward and the opinions rendered that must express, namely:

a) The adequacy of the land to the utilization intended to be realized on it;

b) The existence of rights of third parties;

c) The time frames and the phases of the process of utilization, maintaining in view the nature and the volume of the projected works;

d) The accessory clauses the inclusion of which in the contract is necessary or convenient in the interest of the concession and the defense of the interests of the State and the rights of third parties.

2. After the opinions and information have been gathered, the competent services of the conceding authority pronounce as to the granting or denial of the request, specifying in each case the conditions which the concession must obey.

**Article 141**  
**(Preliminary finding)**

1. The process is submitted to the preliminary finding of the conceding authority.
2. In the absence of motive for denial, the conceding authority must order:
  - a) The provisional demarcation of the lot;
  - b) The realization of a public auction, when it understands that it must not be dispensed with.

**Article 142**  
**(Concession decision)**

1. After the provisional demarcation of the land, but before the realization of public auction, when it has not been dispensed with, the case will be submitted to the evaluation of the conceding authority, which will decide the concession and the clauses to which it is subject, fixing, furthermore, if such be the case, the time frame during which the concession will be considered granted under provisional title.
2. The conceding authority may deny the concession whenever it judges it inconvenient to the interests of the State or prejudicial to third parties.

**Article 143**  
**(Acceptance of the concession)**

1. If the conceding authority decides to realize a public auction, the terms foreseen in articles 48 and 53 follow:
2. The public auction having been waived, a decision referred to in number 1 of the previous article is made known to the petitioner so that, in the span of ten days counted from the date of notification, he/she may declare if he/she accepts the concession.
3. Once the concession is adjudicated or accepted, as the case may be, a statement is published in the *Diário da República*, with express reference to the adjudication or to the acceptance, to the eventual acts of disposition that accompany it, and to the elements foreseen in the registry, without detracting from its provision [t.n., alternativel: supplement] by complementary declaration.
4. The disposition in the previous numbers is applicable to concession revision.

**Article 144**  
**(Payment of price or security deposit)**

1. In the case of realization of a public auction, the adjudicator must observe the disposition of articles 59 and 60.
2. The realization of a public auction having been dispensed with, the petitioner must, in the course of five days counting from the date of publication of the decision, obtain from the competent services of the conceding authority the corresponding forms for payment of the quota owed.
3. The petitioner must effect the payment of the price in the span of five days counting from the date of delivery of the forms, in cash, bank transfer, check or through other means of payment acceptable under the terms of the legal dispositions in force.
4. In rental concessions, the interested party extends a security deposit equivalent to the revenues corresponding to half of the period of duration of the contract, in the time frame foreseen and in the forms defined in the previous number.
5. The conceding authority may authorize the substitution of payment in cash, bank transfer or check for an irrevocable bank guarantee or another that offers an acceptable liquidity coefficient.

**Article 145**  
**(Title)**

Concession contracts and the eventual acts of disposition related to it are titled through the resolution referred to in number 3 of article 143.

**Article 146**  
**(t.n.: Validity as proof [t.n.: from *Força probatória*])**

The resolution referred to in the previous article constitutes proof, in or out of court, of the identification of the lot and of the situations described in it.

**Article 147**  
**(Property registry)**

1. The conceding authority must promote, officially, registry of the constitutive fact of the property right conceded in the Conservatory of the Property Registry of the property, at the expense of the holder of the right to title in the case.
2. The holder of the conceded property right has equal legitimacy to solicit the registry....[n.t.: ellipses present in original]

**Article 148**  
**(Official communication)**

The Conservatories of the Property Registry must send, by the last day of the following month, a list of all registrations effectuated on the previous month based on resolutions referred to in article 143, to the pertinent services of the conceding authority.

**Article 149**  
**(Renovation registry)**

1. Renovation of the concession is registered upon the solicitation of any of the titleholders, co-titleholders, creditors or other interested parties, defined as such under the terms of this Regulations.
2. The solicitation is accompanied by the duplicate of the declaration of renovation emitted by the conceding authority.

**SECTION III**  
**SPECIAL PROCESSES**

**Article 150**  
**(Regulatory dispositions)**

Special processes are regulated by their own dispositions and, in subsidiary fashion, by the common process.

**Article 151**  
**(Right to provisional occupation)**

The petition for the establishment of the right to provisional occupation is directed to the conceding authority and delivered to the pertinent services within it, the plan of utilization of the property contained, obligatorily, within it, or, when its importance or nature does not justify this, including indication of the objective to which the property is destined, its description, and the respective topographic sketch.

**Article 152**  
**(Information)**

The petition referred to in the previous article will be the object of information that will include, especially:

The property's appropriateness for the intended usage;

The eventual existence of third party rights;

Accessory clauses the inclusion of which in the contract is necessary or convenient, with respect to the objective of the concession and the defense of the interests of the State and the rights of third parties.

**Article 153**  
**(Decision on provisional occupation)**

The process will be submitted to the deliberation of the conceding authority, which must decide with regard to provisional occupation and the clauses to which it is subject.

**Article 154**  
**(Title of occupation)**

The right of temporary occupation is entitled by rental contract.

**Article 155**  
**(Free concessions)**

1. The petition of free concession is directed to the conceding authority and delivered to the competent services within it.
2. When the petitioner is a local authority or an institution of recognized public utility, the petition mentioned in the previous number must be accompanied by an authenticated copy of the act of the session in which the request has been deliberated upon, and of an exemplar of the Regulations, when dealing with an institution which should possess them.
3. In the free concession processes, the properties will be conceded without previous public auction.

**SECTION IV  
EXPENSES AND STAMP DUTY**

**SUBSECTION I  
GENERAL DISPOSITIONS**

**Article 156  
(Expenses)**

The process of concession and its incidents [t.n.: incidentals] are subject to the payment of expenses, according to a table approved by joint executive decree of the Ministries of Finances and of Urbanism and the Environment.

**Article 157  
(Stamp duty)**

The process of concession and its incidents are subject to the payment of the stamp tax, except if they have been exempted by law.

Subject, namely, to the stamp tax, are:

- a) Petitions and complaints of any interested parties that are not official entities;
- b) Documents that inform [t.n.: instruct] the petitions and the complaints referred to in the previous paragraph;
- c) Contracts and titles of concession;
- d) Registrations in the Conservatory of Property Registration.

**Article 158  
(Regime applicable to the stamp tax)**

In everything not specifically foreseen in the present State, the stamp tax is applicable, the disposition in Legislative Diploma number 3841 of 6 August, 1968, with the alterations that were introduced by Decree number 7/89 of 15 April, and by Executive decree number 71/04 of 9 July, in the respective General Table of the Stamp Tax.

**Article 159  
(Counting of stamps)**

The counting of stamps in the concession process and its incidentals will be undertaken through the legal tax of stamped paper, each half sheet.

**SUBSECTION II  
EXEMPTIONS**

**Article 160  
(Exemption of expenses and stamp tax)**

1. Exempt from expenses, stamp tax and any charges are entities which are legally exempt.
2. The special process of free concession is exempt from expenses payment, stamp tax and any charges, with the exception of the expenses resulting from the execution of the operations of provisional and definitive demarcation, which should be borne by the concession holders, who should pay, namely, the cost of the markers supplied by the State and the transport and cost aid expenses.

**SUBSECTION III**  
**COERCIVE PAYMENT OF EXPENSES AND OF STAMP TAX**

**Article 161**  
**(Executive action for expenses debt and stamp tax)**

1. If the payment of expenses and stamps is not paid within the legal time frame, the pertinent certificate will be extracted.
2. The extracted certificate of the process of concession in the terms of the previous number has the force of executive title.
3. The Public Ministry should begin execution if the debtor's attachable goods are known.
4. No debt execution is begun or will proceed if the debt amount is so minimal as to not justify the activity or the expenses which the process would incur.

**Article 162**  
**(Terms of execution)**

Without detracting from the determination of the following article, the executions foreseen in the present subsection will observe the terms of summary process.

**Article 163**  
**(Accumulation of executions)**

1. Only one execution should be initiated against the same responsible person, even if various expense and stamp accounts are in arrears.
2. If there are various liable parties, an execution is begun against each one of them.

**Article 164**  
**(Deposit)**

Without detracting from the autonomous accounting registry, the amounts in arrears under the title of expenses and stamp tax are the object of deposit in the Sole Treasury Account [t.n.: *Conta Única do Tesouro*] designated by the Ministry of Finances.

**Article 165**  
**(Active account insufficiency and conditional archiving of execution)**

1. When it is verified that the executed party does not dispose of attachable goods and that the attached goods are insufficient for the payment of the stamp tax expenses, if over the goods real rights of registered guarantee do not exist, the judge, on petition of the Public Ministry, will dispense with the creditor adjudication and will order the immediate initiation of liquidation of goods so that, from their product, the debt amounts may be paid.
2. If it is verified that the executed party does not possess goods, the execution is archived, without detracting from the power to continue upon his/her goods becoming known.

**Article 166**  
**(Voiding of expenses credit and stamp tax)**

1. The expenses credit and the stamp tax become void in the time limit of five years.
2. Once the execution under terms of number 2 of the previous article is archived, the time limit is counted from the date of the resolution to archive.

**CHAPTER VII**  
**SUBSTITUTION IN THE PROCESS OF CONCESSION AND TRANSMISSION OF**  
**CONCEDED PROPERTY RIGHTS**

**SECTION I**  
**GENERAL DISPOSITIONS**

**Article 167**  
**(Determinant facts)**

The substitution of a party [t.n.: or: of a part] in the process of concession and transmission of conceded property rights may become operative for the effect of:

- a) Association;
- b) Act of voluntary substitution or transmission between live persons, freely or encumbered [t.n.: or: onerous];
- c) Judicial execution;
- d) Succession by reason of death.

**Article 168**  
**(Authorization necessity)**

1. The substitution of a party in the concession process and in voluntary transmission between living persons of conceded property rights depends on previous authorization on the part of the competent concession granting entity. [t.n.: the original contains a typo in this item: *dependem dê prévia autorização* should read *dependem de prévia autorização*.]
2. The substitution and transmission referred to in previous numbers are null and of no effect if they are not authorized by the conceding authority.

**Article 169**  
**(Regime of precarious occupation right)**

1. The substitution of the petitioner in the process of establishment of the right to precarious occupation by rental contract is prohibited.
2. The occupier may renounce the right to precarious occupation in favor of third parties, but the acceptance of them is evaluated with discretion and the situation of the new titleholder will be considered original for all effects.

**Article 170**  
**(Regime in free concessions)**

In free concessions substitutions are not permitted in the process, but transmission may be authorized of the conceded property rights, if the precondition set in number 2 of article 63 of Law number 9/04 of 9 November is verified.



**Article 171**  
**(Regime in the concession of rural lands)**

In the concession of rural lands, substitution of a party in the process, by an act among living persons, is prohibited.

**Article 172**  
**(Prohibition of substitution or transmission)**

Substitution or transmission will not be authorized while quotas, rents, revenues, taxes or duties related to the process or to the concession in question are in doubt, or when there are indications that one or another are requested for speculative ends.

**Article 173**  
**(Restrictions on substitution and transmission)**

1. The substitution and transmission of concessions is conditioned to the determinations of this Regulations on the area limits that a singular or collective person may have in concession and to legitimacy to acquire rights over lands.
2. Excepted are the cases of judicial execution or succession by reason of death.

**SECTION II**  
**SUBSTITUTION**

**Article 174**  
**(Substitution by act between living parties)**

1. Substitution of a party in the process of concession by act between living parties must be petitioned by all interested parties.
2. The services referred to in article 134.0 must draw up information on the request, this being, thereafter, evaluated in discretionary form by the competent entity for the granting of a concession.
3. The substitution is considered effectuated after the communication of a finding authorizes it.

**Article 175**  
**(Substitution by reason of death)**

1. The substitution of a party by his/her heirs must be petitioned by any of these entities, within ninety days counted from the date of death, under pain of the respective process being archived.
2. The petition will be instructed with a death certificate for the party in the process, a document proving that a judicial inventory was initiated or the notary certification solicited and, if there is a will, an authentic copy of it.
3. In “duly justified cases, the documents referred to in the previous number may be added to the process afterwards. [t.n.: quotation mark remains open in the original]

**Article 176**  
**(Moment of substitution)**

The substitution of a party in the process may only be authorized after the provisional demarcation has been effectuated and until the celebration of a provisional concession.

## **SECTION III TRANSMISSION**

### **Article 177 (Transmission by act between living parties)**

1. The transmission by act between living parties, whether under free or encumbered title, of conceded property rights must be petitioned by the transmitter and the receiver of the transmission.
2. Except in justified cases, the transmission will not be authorized:
  - a) When the time limits for utilization of the property have not been respected;
  - b) When the execution of the projects are not processed in accordance with the approved works plan;
  - c) When the utilization of the property is not developed or does not become concrete under the terms and in the form established in the respective contract.
3. Prohibited is the transmission of situations rising from the concession when there are indications that it was requested for speculative ends.

### **Article 178 (Transmission of provisional concession by reason of death)**

1. The transmission by reason of death of property rights that are the object of provisional concession must be petitioned for by any of the heirs, in the time period and in the form established in article 175.
2. The conceding authority may deny the authorization on the grounds that the heirs do not offer guarantees for compliance with the concession conditions.
3. If transmission is not authorized, the heirs of the concession holder have the right to remove all of the improvements introduced on the property if they can do this without causing economic damage to it, unless it is indemnified by them.
4. In provisional concessions, if the judicial or extrajudicial division is not realized in the term of one year counting from the death of the concession holder, for a reason imputable to the heirs, the property conceded and all of the improvements introduced on it will revert to the conceding authority, without right to any indemnity or compensation.

### **Article 179 (Authorization decision)**

The authorization decision for the transmission of conceded rights must contain the specification of the conditions to which the new concession holder is subject, namely with regard to time limits for utilization of the land.

### **Article 180 (Expiration of authorization)**

The authorization for the transmission of conceded land rights expires ninety days after the notification of the respective decision.

### **Article 181 (Transmission of definitive concession by reason of death)**

1. The transmission, by reason of death, of property rights [that are] the object of definitive concession does not lack authorization of the conceding authority.

2. The transmission must be communicated by any of the heirs to the services referred to in article 134 and to the public finances services, within ninety days counted from the date of death of the concession holder, under pain of a fine equivalent to UCF 500. [t.n.: formatting anomaly present in original]

**Article 182**  
**(Transmission Registry)**

The initiative for registry in the Conservatory of the Property Registry of the situation of the conceded property, of transmission by act among living parties or in the case of succession by reason of death, is the responsibility of the interested parties.

**SECTION IV**

**SUBSTITUTION AND TRANSMISSION IN JUDICIAL PROCESS**

**Article 183**  
**(General rule)**

1. In the judicial processes resulting in the substitution of a party in the process of concession or transmission by reason of death or by an act among living persons of conceded property rights, the decision will not be proffered before the finding of authorization proffered by the conceding authority has been obtained officiously [t.n. the author of the Portuguese original may have meant "officially", but that word is spelled *oficialmente* rather than *oficiosamente*, used here; another possible meaning is "unofficially"] or the petition of the interested party.

2. The authorization referred to in the previous number expires if the sentence judges without merit the judicial report from which the substitution or transmission referred to there would result.

**SECTION V**  
**NOTARIES**

**Article 184**  
**(Obligation of notaries)**

1. In the case of transmission of conceded land rights, notaries must make mention in the concession title of the concession contract and of the acceptance of the various clauses by the transmitters or by the successors.

2. By the final day of each month, notaries should submit to the services alluded to in article 134 a report on the recognitions witnessed of the signatures referred to in numbers 2 and 4 of article 61 of Law number 9/04 of 9 November that have been realized in the prior month, referencing the identity of the granters, the nature of the acts practiced and the respective concession contracts.

**SECTION VI**  
**DIVISION OF CONCEDED PROPERTY**

**Article 185**  
**(Division by heirs or co-titleholders)**

When the conceded property has to be divided by the heirs or concession holders, or when any of the co-titleholders is intent on division, the following must be observed:

a) If the interested parties are in agreement and the division can be undertaken in substance, it will be required of the conceding authority;

b) The division will not be authorized if the parcels resulting from it are not adequate to the objective of the concession; lacking agreement, the terms of the process, whether or not the division in substance is possible, will be those of the Civil Process Code.

## **SECTION VI ASSOCIATION**

### **Article 186 (Notion and regime)**

1. An association is verified when a co-titleholdership is created from the existent situation, the petitioner or concession holder being part of it.
2. In free concessions association is not permitted.
3. The association is subject to the formal exigencies of substitution or transmission among living persons.

## **CHAPTER VIII TERM OF THE PROCESS AND OF THE CONCESSION**

### **Article 187 (Denial of the request)**

1. The concession request will be denied, archiving the respective process:
  - a) When the petitioner or his/her representative has not complied with the dispositions of Law number 9/04 of 9 November, of this Regulations and other complementary legislation the violation of which must have this effect or has not satisfied, within the established time limits, obligations of which he/she has been notified with regard to compliance;
  - b) When complaints that totally damage the solicitation have been judged meritorious.
2. Whenever the subject matter of the complaints presented should be decided in the civil forum, the conceding authority appropriate to the cases should attempt competent actions or rule that the parties should have recourse to that forum, the concession process remaining suspended until the final decision.
3. In the case foreseen in paragraph a) of number 1 of this article, the balances of the existent deposits revert to the State; in the case foreseen in paragraph b) of the same number, the balances referred to are restored to the petitioner, deducting the costs of the process, if it has been proven that on his/her part there was no fraud in the demarcation judged without merit [t.n.: Portuguese *insubsistente*: unable to subsist] in which case losses on the part of the State will be declared.

### **Article 188 (Archiving of the case)**

1. The concession process is archived:
  - a) In case of a party in the process not authorized by the conceding authority;
  - b) In case of desistence of the concession request.
2. Desistence from the request is considered:
  - a) Non-participation of the petitioner in the public auction realized with a view to adjudication of the property;
  - b) Failure to comply, on the part of the adjudicated party or petitioner, with the determination in article 144.

**Article 189**  
**(Expiration of concessions)**

1. Property concessions expire:
  - a) By the expiration of the term, if the concession contract was not renewed;
  - b) When the conceded property has been given an objective different from that authorized, without the consent of the conceding authority;
  - c) When the property right conceded is not exercised or has not been utilized in the time frame and terms contracted or, if the contract is remiss, during three consecutive or six interpolated years, whatever the motive;
  - d) When the property right conceded is exercised in violation of the determination in article 18 of Law number 9/04 of 9 November;
  - e) If expropriation by a public utility occurs;
  - f) In case of disappearance or the property becoming useless;
2. The concession of rural properties expires in the cases mentioned in number 1 and also when:
  - a) Utilization of the property has not been initiated within six months after the concession or in the contractually-set time limit;
  - b) Utilization has been interrupted for three consecutive or six interpolated years, whatever the motive;
  - c) The objective of the concession has been altered or the contractual clauses regarding the utilization plan have not been complied with;
  - d) A sub-letting has been celebrated without previous authorization on the part of the conceding authority or in cases in which it is prohibited.

**Article 190**  
**(Declaration of expiration)**

1. Expiration is declared by a ruling on the part of the conceding authority.
2. The referenced ruling in the previous number must be published in one of the principal national newspapers and must be posted at the headquarters of the conceding authority.

**Article 191**  
**(Effects of expiration)**

Expiration declared, possession of the following reverts to the conceding authority:

- a) The conceded property;
- b) Improvements incorporated on the conceded property.
- c) As many twentieths of the respective price or quota as the years in which the property was in the possession of the concession holder without being utilized, excess price being restored to him/her.

**Article 192**  
**(Cases of resolution and of devolution)**

1. Concessions by rental may be resolved by the conceding authority when any of the following cases are verified:
  - a) Lack of revenue payment in the contractual or legal limits;
  - b) Unauthorized alteration of the objective of the concession or of the utilization of the property;
  - c) Violation of other obligations for which such a sanction has been established in the contract;

2. Once the contract is resolved, the concession holder will not have the right to any indemnity nor may he/she remove the improvements incorporated on the property in any form.
3. Once the resolution determined in paragraph a) of number 1 is effected, rents owed must be collected at the cost of the deposited security and, if this is revealed to be insufficient, the remaining amount must be collected in fiscal executions.
4. The State may demand the immediate devolution of the properties, conceded when alteration without authorization of the respective purpose or utilization occurs, by means of the payment of the indemnity to be set by the competent services taking into account the improvements incorporated on the property.

**Article 193**  
**(Declaration of the resolution and of devolution)**

1. The resolution and the devolution are decided by ruling of the conceding authority.
2. The ruling referred to in the previous number must be published in one of the principal national newspapers and must be published in one of the principal national newspapers and must be posted at the headquarters of the conceding authority.

**Article 194**  
**(Renunciation of rental contract)**

The rental contract by which a right of precarious occupation has been established may be renounced, for the term of the initial time limit or that of any of its renovations, by the conceding authority or by the concession holder, through notification or written notice effected with three months' antecedence.

**Article 195**  
**(Improvements)**

The rights established in this Regulations dealing with indemnity and removal of improvements have to do only with those that were introduced to the conceded property during the effective period of the same contract or of any of its renewals, independently, however, of this having been done by the present or former concession holder.

**Article 196**  
**(Eviction)**

1. Eviction of the concession holder must be ordered when any of the following facts are verified:
  - a) Declaration of the expiration of the concession;
  - b) Declaration of the resolution of the rental contract;
  - c) Non-evacuation of the property at the moment in which the effects of the renunciation or the non-renewal of the contract should become operative.
2. For the effects of the determination of number 1, the conceding authority may have recourse to interpolation in writing directed to the concession holder or undertake, when necessary, an eviction action.
3. The eviction notice is destined to cause the cessation of the judicial situation of concession, whenever the law imposes recourse to the judicial expedient for promoting such a cessation, this being, furthermore, the proper procedural means to effect the end of the concession when the concession holder does not accept or does not execute the cessation of the concession.

## CHAPTER IX

### CADASTRE, REAL ESTATE REGISTRY<sup>118</sup> AND ORGANS OF EXECUTION AND OF MEDIATION AND RECONCILIATION

#### SECTION I CADASTRE

##### Article 197 (Delimitation of properties)

Delimitation of properties is realized by means of the cadastre, which is regulated by special legislation.

##### Article 198 (Duty of private party collaboration)

Proprietors, concession holders and occupants must, upon solicitation on the part of personnel responsible for the work of organization and revision of the cadastres:

- a) Present documents that prove their property rights.
- b) Indicate the local borders of the properties;
- c) Collaborate in the definition of such limits when these are not defined.

##### Article 199 (Litigation)

If in the course of execution of the cadastre complaints are presented that become insoluble between litigants and an agreement proposed by experts is not accepted by them, all of the case to which the complaints gave cause, accompanied by the respective writ regarding the occurrence, will be remitted to the Geographic and Cadastral Institute of Angola for study and resolution.

#### SECTION II REAL ESTATE REGISTRY<sup>119</sup>

##### Article 200 (Facts subject to registry)

1. Subject to registry are:
  - a) The concession of property rights and the renovation of the concession;
  - b) The transmission of property rights resulting from concessions;
  - c) The revision of concessions, determined by authorization of alteration to its objective, end or modification of its use.
2. The corroborative document of declaration of renovation referred to in article 149 establishes sufficient title for the registry of concession renewal.

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<sup>118</sup> The reference is to house construction (unclear how to translate accurately).

<sup>119</sup> See footnote 2.

**Article 201**  
**(Registry of concessions)**

1. In the extract of the concession inscriptions should be included, aside from the concession and utilization time periods, the respective purpose, a summary indication of the usage and price, quota, tenancy [t.n.: from *foro*: ground rent, tenancy, prerogative]
2. Revision and renewal of definitive concessions are registered by legal registration at the respective registries.
3. When successive transmissions or insufficient elements for registry of the concession detract from the clarity of registration of the revision of a concession, it should be effectuated by inscription, with mention of the respective tile holders and of all of the elements referred to in number 1.
4. In the case of the previous number, reference is made to the number of the originating inscriptions, in which the quota of remission to the new inscription is registered.

**Article 202**  
**(Informatic treatment)**

The concession registry is submitted to informatic treatment, under coordination of the Justice Ministry.

**Article 203**  
**(Third party oppsability)**

No fact subject to registry produces effects in relation to third parties, unless effected after the respective registry.

**SECTION III**  
**ORGANS OF EXECUTION**

**Article 204**  
**(Demarcation and inspection brigades)**

1. In the Services referred to in article 134, the demarcation and inspection brigades will function, the responsibility of which will be:
  - a) To executed provisional and definitive demarcations;
  - b) Inspect the properties for which concession has been requested, with a view to attesting to and informing with regard to the questions that are formulated for them;
  - c) Verify the usage of the concessions and occupations;
  - d) Detect and inform on illegal occupations and other infractions foreseen in this Regulations.
2. For effects of paragraph d) of number 1 of this article the entry of brigade personnel may not be impeded on any property, whatever the judicial regime may be.

**Article 205**  
**(Public entities collaboration duty)**

In the execution of the attributions that have to do with the cadastre and concession processes, public entities must offer to the Services referred to in article 134 the clarifications and support that is requested of the them.



**Article 206**  
**(Notice documents)**

1. Brigade personnel referred to in article 204 have, in the exercise of their functions, authority to remit notice documents to those who disobey their legitimate orders or commit any of the infractions foreseen in these Regulations.
2. The notice documents will contain the elements and will have the intent and value referred to in the Penal Process Code.

**Article 207**  
**(Notice of auction)**

The auction of concession holder land rights must be notified to the magistrate of the Public Ministry together with the competent Provincial Tribunal, with a view to safeguarding the interests of the State.

**Article 208**  
**(Safeguarding the Public Interest)**

When concession rights are placed in public auction, in a process of fiscal execution by quotas, leasing [t.n.: Portuguese *foro*: "tenancy"], rents, taxes and levies owed to the State, the Public Ministry court must offer, at least, the amount set for the opening of a first public tender, the base price cannot be inferior to the debt or other limit that the conceding authority has established.

**SECTION IV**  
**MEDIATION AND RECONCILIATION ORGAN**

**Article 209**  
**(Choice of mediator)**

1. Without detracting from the determination in number 2 of article 77 of Law number 9/04 of 9 November, before proposing action in the competent tribunal, interested parties must submit the relative property-related suits to an attempt at mediation and reconciliation.
2. The organ of mediation and reconciliation is composed of two mediators designated by the Justice Provider [t.n.: *Provedor de Justiça*], the choice necessarily falling on personalities of recognized aptitude and competence.

**Article 210**  
**(Principles)**

The mediation and conciliation procedure must obey principles of impartiality, celerity, and free bestowal.

**Article 211**  
**(Confidentiality)**

The mediation and conciliation procedure is confidential, the mediators being subject to secrecy in relation to all the information that they obtain in the course of the mediation.

**Article 212**  
**(Legal procedure of mediation and conciliation)**

1. The Justice Provider [t.n.: from *provedor de justiça* ,alternatively "purveyor of justice"] must designate the mediators within five days counting from the date in which one of the interested parties has solicited, in writing, the intervention of the organ of mediation and conciliation.
2. The mediators must proceed to the audition of the litigating parties within five days counting from the date of their designation.
3. It is the responsibility of the mediators to define the time and place conditions in which the hearing referred to in the previous number is held.
4. Within 10 days counting from the date of the hearing, the mediators send their proposal by registered mail to the litigants.
5. For the elaboration of the proposal, the mediators may solicit of the litigants and the competent authorities the data -and necessary information.
6. The proposal of the mediators will be considered refused if there is no written communication from both parties accepting it within five days counting from its reception.
7. Once the time limit set in the previous number expires, the mediators must communicate, simultaneously, to each of the parties, within five days, the acceptance or refusal on the part of the litigants.
8. Until the end of the period referred to in the previous number, the mediators may realize all contacts with each one of the litigants separately, which they consider convenient and viable in the sense of obtaining an agreement.

**CHAPTER X**  
**FINAL AND TRANSITORY DISPOSITIONS**

**Article 213**  
**(Application of the Regulations to already-initiated situations and State or local authority property that has been illegally occupied)**

The application of the present Regulations to situations initiated before its entrance into force and to the State or local authority properties that have been illegally occupied will be subordinated to the determinations of the following articles.

**Article 214**  
**(Pending cases) [t.n.: or: Pending processes]**

1. In pending concession processes, the determination in these Regulations will apply to all acts to be undertaken after it enters into force.
2. Within one year counting from the date of publication of the present Regulations, the petitioners whose concession cases are pending must alter the concession request of [t.n.: or: in] harmony with the determinations of Law number 9/04 of 9 November, and of these Regulations.
3. If the application of the present Regulations to later acts requires the alteration of those already practiced in the process, the competent services must see to it that these alterations are limited to the strictly indispensable and that they be done with a minimum of damage to the interested parties.
4. The pending processes will remain without effect if the interested parties do not promote the respective terms in accordance with the determination of the present article, the determination of numbers 3 and 4 of the following article, with necessary adaptations being, in this case, applicable.

**Article 215**  
**(Illegal occupations of State or local authority properties)**

1. Singular or collective persons who occupy, without any title, properties of the State or local authorities must, within three years counting from the date of publication of the present Regulations, solicit the concession of the properties that they occupy illegally.
2. The concession processes to which the present article refers are subject to the determinations of this Regulations, namely, with regard to the deduction [t.n.: or: reasoning, from Portuguese *dedução*] of the concession petition, to the respective instruction and legal procedure, and to the requirements on which the granting of a title of concession depends.
3. Failure to observe the determinations of the previous numbers establishes the non-acquisition of any property right whatever on the part of the occupier and constitutes on him/her an obligation to immediately restore the property to the State or to the local authority.
4. If the restitution obligation referred to in the previous number is not complied with voluntarily, the State and local authorities may have recourse to the means of defense of property foreseen in articles 1276 and following, of the Civil Code.

**Article 216**  
**(Transfer of attributions and jurisdiction) [t.n.: from *competências*: also, legal scope or sphere of action, i.e. jurisdiction]**

The attributions and spheres of action attributed to other entities by the previous revoked legislation are transferred to the competent entities of the present Regulations.



# APPENDIX D: FAMILY LAW CODE



**(English Translation)**

**Family Law Code**

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# FAMILY CODE

## TITLE I FUNDAMENTAL PRINCIPLES

### ARTICLE 1 (Protection of the family)

1. The family, as the fundamental nucleus of organization of society, is the object of State protection, whether established in marriage or in de facto union.
2. Marriage and de facto union only produce juridical effects when celebrated or recognized under the terms of the present law.

### ARTICLE 2 (Harmony and responsibility at the heart of the family)

1. The family should contribute to the education of all of its members in the spirit of love for work, of respect for cultural values and the combating of obsolete conceptions in the heart of the People, of the fight against exploitation and oppression, and of fidelity to the Country and to the Revolution.
2. The family should contribute to the harmonious and balanced development of all of its members, in the form in which each one can wholly realize his/her personality and aptitudes in the interest of all society.

### ARTICLE 3 (Equality between man and woman)

1. Man and woman are equal in the heart of the family, enjoying the same rights and responsible for the same duties.
2. The State and the family ensure the equality and reciprocity to which the previous number refers, specifically promoting the right to instruction and the right to work, repose, and social securities.

### ARTICLE 4 (Protection and equality of children)

Children deserve special attention in the heart of the family, which has the responsibility, in collaboration with the State, to guarantee to them the widest protection and equality so that they reach their integral [t.n.: here and below *integral* connotes: sound, wholesome] physical and psychological development and, in the efforts regarding their education, bonds between family and society are reinforced.

## ARTICLE 5

### **(Education of the youth)**

The family has, with special collaboration from the State as well as social and mass organizations, the duty to promote in a balanced and integral way the education of the young in the interests of their fulfillment and integration into society.

## ARTICLE 6

### **(New social morality)**

Family members will contribute to the creation of a new morality in the heart of the family and of society, based on equal rights and duties, in respect for each person's personality and especially protection of the child in the spirit of collaboration and mutual assistance.

## TITLE II

### **ESTABLISHMENT OF THE FAMILY**

#### CHAPTER I

##### **General Dispositions**

## ARTICLE 7

### **(Establishment of the family)**

Origins of familial relations are kinship, marriage, de facto union and affinity.

## ARTICLE 8

### **(Kinship)**

Kinship is established through bonds of blood or through adoption.

#### CHAPTER II

##### **Kinship through blood ties or adoption.**

## ARTICLE 9

### **(Notion)**

Kinship through blood ties is the connection that binds two people by virtue of one descending from the other or both issuing from a common progenitor

## ARTICLE 10

### **(Elements of kinship)**

The kinship line is formed by diverse degrees, each generation constituting a degree.

## ARTICLE 11

### **(Kinship lines)**

1. A line is termed straight [t.n.: connoting "direct"] when one of the relatives descends from the other; it is termed collateral when neither of the relatives descends from the other, but both proceed from a common progenitor.

2. A straight line is descendant or ascendant only if considered as leaving [t.n. also departing from] the ascendant, insofar as what proceeds from it, or departing from the descendant for [t.n.: also, in the direction of] the progenitor.

**ARTICLE 12**  
**(Computation of degrees)**

1. Among relatives of the direct line there are as many degrees as there are generations.
2. Among relatives of the collateral line there are as many degrees as there are generations that originate in one of them proceeding to the common progenitor, and from him/her to the other relative being considered.
3. In the counting of degrees of direct line relationship the last progenitor will be excluded and in the collateral line the common progenitor [t.n.: seems to connote exclusion of the latter also].

**ARTICLE 13**  
**(Limits of kinship)**

Kinship effects are produced in any direct line degree and up to the sixth in the collateral, except in case of legal disposition to the contrary.

**CHAPTER III**  
**Affinity**

**ARTICLE 14**  
**(Notion)**

The kinspersons of one of the spouses are in the same relationship with the other spouse.

**ARTICLE 15**  
**(Elements of affinity)**

1. Affinity is determined along the same lines and degrees that define relationship through blood ties.
2. Affinity does not cease through marriage dissolution.

**CHAPTER IV**  
**Family Council**

**ARTICLE 16**  
**(Family Council)**

1. The Family Council is the Court consultative organ for cases of a family nature foreseen in this law.
2. Aside from cases of obligatory intervention, the Court may, upon request of the parties involved and insofar as such action is justified, impose the intervention of the Family Council in any of the actions foreseen in this law.

ARTICLE 17  
**(Establishment of the Family Council)**

1. The Family Council is composed of four persons who are not parties in the case, chosen among relatives, with preference given to those of nearest degree, the spouse, and similar persons and, if these are lacking, persons who have social relationships with the parties.

2. In the establishment of the Family Council the Court should, whenever possible, guarantee equitable representation of kinsfolk of each of the companions of the de facto union and of the maternal and paternal lines of kinship.

ARTICLE 18  
**(Indication)**

The members of the Family Council will be indicated by the respective parties and, in the lack of indication, the Court should nominate them, as the necessary information is gathered, and may substitute them when necessary.

ARTICLE 19  
**(Deliberations)**

1. The Family Council may meet with at least one member representative of each party, and deliberations are to be taken by majority.

2. When it is not possible to obtain a deliberation, the Court should succinctly make registry of the content of the opinions expressed.

**TITLE III  
MARRIAGE**

CHAPTER I  
**General Dispositions**

ARTICLE 20  
**(Concept)**

Marriage is the voluntary union between a man and a woman, formalized under the terms of the law, with the objective of establishing a full life communion.

ARTICLE 21  
**(Equality of rights and duties)**

Marriage is founded on the equality and reciprocity of rights and duties of the spouses.

ARTICLE 22  
**(Inefficiency [t.n.: or, "inapplicability"] of the marriage promise)**

1. The promise of marriage, whether or not accompanied by the delivery of property or valuables to the other betrothed party or to his/her family, does not produce any juridical effects and does not give the right to demand the celebration of the marriage.

2. The betrothed party who unjustifiably gives cause to the rupture must indemnify the

other betrothed party for expenses and for obligations contracted in the contemplation of marriage to which he/she has given his/her consent.

ARTICLE 23  
**(Capacity to contract marriage)**

All parties, against whom no matrimonial impediment foreseen in the following articles or in special law is verified, have the capacity to contract marriage.

ARTICLE 24  
**(Nubile age)**

1. Only those older than 18 years may marry.
2. The marriage of a 16 year old man as well as a 15 year old woman may be exceptionally authorized when the circumstances of the case have been pondered, and bearing in mind the interests of the minor parties, when marriage is the best solution.
3. The authorization referred to in the previous number will be conceded by the parents, tutors, or whoever has the minor in his/her charge, with the Court able to supply [t.n.: this entity] once the Family council is heard, when non-authorization turns out to be unjustified.

ARTICLE 25  
**(Absolute impediments)**

The following are absolute impediments to the marriage of a person referred to with respect to any other:

- a) Dementia, when this is notorious, even during the lucid intervals, and the interdiction or inability due to psychic anomaly.
- b) Marriage or de facto union legally recognized, while the marriage or prior union has not been dissolved.

ARTICLE 26  
**(Relative impediments)**

The following are relative impediments, in opposition to the celebration of marriage between the persons in question:

- a) Kinship and affinity in the direct line;
- b) Kinship in the second degree of the collateral line;
- c) The finding that the intended spouse is the author or accomplice in homicide against the spouse of another, as long as there is no counter-sentence or absolution.

CHAPTER II  
**Celebration of marriage**

SECTION I  
**General disposition**

ARTICLE 27  
**(Validity of marriage)**

Marriage is only valid when celebrated before organs of the Civil Registry or recognized in accordance with the rules of the present law.

**SECTION II**  
**Preliminary process**

ARTICLE 28  
**(Preliminary process)**

The matrimonial capacity of intending spouses is proven by means of a preliminary processed organized before the competent organ of the Civil Registry

ARTICLE 29  
**(Initial Declaration)**

1. The preliminary process is initiated upon petition of the intending spouse, who will be expressly informed as to the impediments to matrimony.
2. The marriage declaration is given under oath and a false declaration incurs criminal and civil responsibility upon the betrothed party.
3. The betrothed parties who wish to opt for the regime of separation of property should expressly declare that this is so.

ARTICLE 30  
**(Declaration of the existence of impediments)**

1. Any citizen who has knowledge of the existence of impediments to the realization of the marriage should so declare before the moment of its celebration.
2. The declaration is obligatory on the part of Civil Registry functionaries.

ARTICLE 31  
**(Marriage ruling)**

1. Once legal proceedings are verified, it is the duty of the Civil Registry functionary to authorize, through a ruling, the celebration of the marriage.
2. When the marriage celebration is authorized, it must be realized within 180 days.

### SECTION III

#### **Marriage celebration**

##### ARTICLE 32 **(Act of marriage)**

1. Marriage is public and solemn and will be celebrated in Portuguese or in any of the national languages.
2. The couple must be informed of the reciprocal rights and duties of married persons and of duties with regard to children.

##### ARTICLE 33 **(Celebration site)**

1. Marriages are celebrated in appropriate rooms belonging to organs of the Civil Registry, of the Commissary offices, or of legally recognized institutions of cultural or recreational character.
2. Upon request of the couple the marriage may be celebrated in residences, when authorized by Civil Registry organ.
3. In rural settings forms of celebration will be adopted in accordance with local conditions.

##### ARTICLE 34 **(Participants in the act of marriage)**

The following are essential participants in the celebration of marriage:

- a) The couple, one of whom may be represented by proxy;
- b) The Civil Registry functionary;
- c) Two witnesses.

##### ARTICLE 35 **(Mutual consent)**

1. It is essential to the validation of the marriage that both parties manifest, in express form, desire to contract marriage with the other party.
2. In the case of one of the couple being represented by proxy, the legal document must contain special powers for the act and specify the person of the other marriage partner.

##### ARTICLE 36 **(Adoption of surnames or family name)**

1. In the marriage act, one member of the couple may declare that he/she adopts the surname of the other, or both may opt for the adoption of one in common, beginning with the surname of the two.



2. This right ceases in case of dissolution of the marriage through divorce.
3. In case of dissolution of marriage through death, the surviving spouse maintains the right to use of the name, as long as she/he does not contract a new marriage.

ARTICLE 37  
**(Urgent marriage)**

1. In cases of established fear of imminent death of one of the couple, even if derived from external circumstances, or imminent birth, the celebration of marriage is permitted without undertaking the preliminary process and without the presence of the Civil Registry functionary.
2. Urgent marriage only becomes valid after proving that the couple was in full enjoyment of their mental faculties and after ratification on the part of the Civil Registry functionary.

SECTION IV

**REGISTRATION OF MARRIAGE**

ARTICLE 38  
**(Obligatory nature of the registry)**

1. Registry of the act of marriage is obligatory.
2. Registration has effects retroactive to the date of the marriage celebration.

ARTICLE 39  
**(Registry through inscription or transcription)**

The marriage agreement is written by inscription or through transcription, in accordance with Civil Registry norms.

ARTICLE 40  
**(Registry by transcription)**

The marriage agreement is registered in writing in Angola and, in the case of those celebrated in foreign countries, before a diplomatic or consular Angolan agent, and signed immediately after celebration of the solemn act.

ARTICLE 41  
**(Registry by transcription)**

The following are registered by transcription:

- a) Urgent marriage agreement;
- b) Marriage of Angolans in foreign countries, celebrated according to the law of the place of celebration and before a foreign diplomatic agent or consular official.
- c) Marriage agreement effectuated through judicial order;

d) The canonic marriage agreement celebrated in conformity to the norms of the Civil Registry, before Law number 11/85 of 28 October came into effect;

e) The marriage agreement that must be transcribed by a different Civil Registry agency or diplomatic or consular legation.

ARTICLE 42  
**(Lack and disappearance of the Registry)**

1. The lack of registry will be remedied by judicial decision, when the existence of the marriage is proven.

2. Disappearance of the registry will be remedied under terms of the Civil Registry norms.

CHAPTER III  
**Effects of marriage**

SECTION I  
**Personal effects of marriage**

ARTICLE 43  
**(Reciprocal spousal duties)**

Spouses are reciprocally linked by the duties of respect, fidelity, cohabitation, cooperation and assistance.

ARTICLE 44  
**(Cohabitation and residence of the spouses)**

Spouses should live together and in mutual accord choose the family residence, [while] pondering the demands of their personal life and the interests of their children

ARTICLE 45  
**(Duty of cooperation and assistance)**

The duty of cooperation and assistance signifies the participation of the spouses, in solidarity, in the duties of family life and the shared participation in domestic tasks.

ARTICLE 46  
**(Contribution to the duties of family life)**

1. Spouses should jointly contribute in the duties of family life, in harmony with the possibilities of each.

2. Should due contribution not be forthcoming, either of the spouses can demand that the portion of income or supplies fixed by the Court be directly delivered to him/her.

ARTICLE 47  
**(Exercise of profession or activity)**

Both spouses have the right to exercise a profession or activities of their choosing, incurring the duty, however, to organize home life in a form in which this profession or activity does not detract from compliance with their family duties.

ARTICLE 48  
**(Mutual decision and representation)**

Spouses mutually decide essential family matters, either of them having the power to represent it before third parties.

**SECTION II**  
**Patrimonial effects of marriage**

**SUBSECTION I**  
**Economic regime**

ARTICLE 49  
**(Economic regime)**

1. Betrothed couples may contract marriage, whether under the regime of acquired property held in common, or according to the regime of separation of property, under terms regulated by the present law.

2. The option for the regime of separation of property should be made in the initial declaration and confirmed by the betrothed couple in the act of marriage.

ARTICLE 50  
**(Duration of economic regime)**

The economic regime of the marriage is considered existent from the moment of its celebration and lasts until the extinction of the conjugal link, except in cases foreseen in the law.

**SUBSECTION II**  
**Communion of acquisitions**

ARTICLE 51  
**(Mutual patrimony)**

1. In the regime of communion of acquisitions the following constitutes mutual patrimony of the spouses:

- a) Property and rights acquired under onerous title, during the existence of the marriage.
- b) Salaries, pension or any other regular fruits or earnings, received by either of the spouses, during the marriage.

2. Spousal property are presumed mutual if it is not proven that they belong to each of them. [t.n.: translator understands "to either of them"].

ARTICLE 52  
**(Personal property)**

The following are personal property [t.n.: also, "goods"] of each of the spouses:

- a) The moveable and immovable property and rights that belonged to each before the marriage;
- b) The property and rights acquired by each of the spouses, during the marriage, under free title or inherited [t.n.: or, possibly, leased or sub-letted].
- c) Authorial rights, prizes and compensations received resultant from personal activity of each of the spouses.
- d) Property acquired by virtue of personal right of each of the spouses.
- e) Personal use property and work property exclusive to each of the spouses.

**SUBSECTION III**

ARTICLE 43  
**(Separation of property)**

1. If the property regime adopted by the betrothed couple is one of separation, each of them preserves domain and usage of his/her present and future property, the ability to dispose of them freely, with restrictions of the present law.
2. In case of doubt, the movable property will be co-owned by both spouses.

**SUBSECTION IV**  
**General dispositions**

ARTICLE 54  
**(Administration of property )**

1. Each of the spouses has the administration of his/her own property .
2. Each spouse also administers:
  - a) Movable property, property of the other spouse or mutually held, used by him [t.n.: possibly gender neutral, as Port. *conjuge* is masculine] exclusively as an instrument of work;
  - b) His/her own property or those of the other spouse if he/she is absent or for any motive impeded in their administration, if power has not been conferred on another person for administration of this property .

**ARTICLE 55**  
**(Exercise of Administration)**

The spouse who administers mutually held property or his/her own under terms of number 2 of article 54 is not obliged to display accounts for his/her administration, but may be held responsible for acts that, intentionally or with grave negligence, cause damage to the other spouse or to the couple.

**ARTICLE 56**  
**(Alienation or placing of onus on property )**

1. Either of the spouses may legitimately alienate or place under onus, by act among living persons, on his/her own property or those held in common that he/she administers, with the exception of those referred to in number 2 of article 54

2. The following may only be alienated or placed under onus with the consent of both spouses, no matter which the property regime:

a) Property owned by one of the spouses exclusively utilized by the other as an instrument of work.

b) Movable property singly owned or owned in common used jointly by the spouses in household life, such as a mutual work instrument.

3. Immovable property, owned singly or in common, and a commercial establishment may only be alienated or placed under onus by act among living parties, in accordance with both spouses, except if a separate property regime is in effect.

**ARTICLE 57**  
**(Disposition on the right to lend/lease)**

Relative to the family residence, whatever the property regime, the following requires agreement of both spouses:

a) Alteration by mutual consent and the resolution or renunciation of a leasing contract by the lessee;

b) Cessation of the position of lessee;

c) Sub-letting or total or partial loan.

**ARTICLE 58**  
**(Acceptance of donations, successions, repudiation of inheritance or legacy)**

1. Spouses do not need the consent, one of the other, for the acceptance of donations, inheritances or legacies.

2. Repudiation of an inheritance or legacy may only be effected by accord of both spouses, unless a separation of property regime is in effect.

ARTICLE 59  
**(Judicial application of agreement)**

Agreement may be judicially applied in the case of unjustified opposition or impossibility of obtention on the part of the other spouse.

ARTICLE 60  
**(Sanctions)**

1. Acts practiced against the disposition in numbers 2 and 3 of article 56 and articles 57 and 58, are annulable upon petition of the spouse who did not give his/her agreement or that of his/her heirs.

2. The right to annulment should be exercised in the time limit of one year from the date in which the petitioner became aware of the act, but never after three years posterior to its celebration.

3. If there is alienation or onus on a movable good that is not subject to registry, effected only by one of the spouses when agreement of both is required, annulability may not be denied to the acquirer who acted in good faith.

4. In case of the alienation or placing of onus on property belonging to the other spouse, done without legitimacy, the rules relative to the alienation of the other's property apply.

ARTICLE 61  
**(Debts for which both spouses are responsible)**

1. Spouses are responsible in solidarity for debts contracted by both or by one of them in order to satisfy the general duties of family life or in mutual benefit of the couple.

2. Spouses are responsible in solidarity for debts contracted by both or by one of them with the agreement of the other.

3. Mutual benefit [t.n.: from *proveito*, possibly "profit" or "interest"] of the couple is not assumed, except in cases in which the law so declares.

4. Aliments owed to common descendants, as well as those of each of the spouses from before the marriage, are normal duties of family life, even though the beneficiary lives in a separate economy.

ARTICLE 62  
**(Debt of responsibility exclusive to each one of the spouses)**

The following are the exclusive responsibility of the respective spouse:

a) Debts contracted by each one of the spouses without the agreement of the other, except for cases foreseen in numbers 1 and 2 of article 61.

b) Debts arising from condemnation for crimes and indemnifications, restitutions, judicial costs or fines due to facts imputable to each of the spouses, except if these facts, implying merely civil responsibilities, are included in the disposition of numbers 1 and 2 of article 61.

c) Alimentary obligations not included in number 4 of article 61, unless the beneficiary lives in table and habitation communion with the couple.

ARTICLE 63  
**(Property responding for debts of both spouses)**

1. For debts of mutual responsibility of both spouses, property common to the couple respond [t.n.: possibly refers to serving as guarantee] and, in their lack or insufficiency, in solidarity, property pertaining to each one of the spouses.

2. Under the regime of property separation, the responsibility of the couple is merely joint.

ARTICLE 64  
**(Property that responds for debts of exclusive responsibility of each of the spouses)**

1. For debts of exclusive responsibility of each of the spouses the common property of the owing couple responds and, in subsidiary fashion, their half of the common property; in this case, however, compliance is only demandable after the marriage is dissolved or annulled.

2. Furthermore, the product of his/her work responds, at the same time as personal property of the debtor [t.n.: from *devedor*, also "owing"].

3. There is no place for extension established in number 1, if the debt the compliance of which is intended, results from the disposition of line b) of article 62.

CHAPTER IV  
**Annulability of Marriage**

SECTION I  
**General dispositions**

ARTICLE 65  
**(Causes of annulability)**

In the following cases marriage is annulable if formalized under the terms of the present law:

- a) Contracted with inobservance of the disposition of articles 24, 25 and 26;
- b) Celebrated on the part of one or both of the betrothed couple, lack [t.n. from apparent typo *fata*, probably *falta*] of or faulty will [t.n., also "desire"], or for purposes different than those foreseen in the present law.
- c) Celebrated with inobservance of the formality of celebration of the marriage foreseen in line c) of article 34.

ARTICLE 66  
**(Annulment action)**

The annulment of marriages is not invocable for any effect and in any form while unrecognized by sentence in an action especially intended for this objective.

**SECTION II**  
**legitimacy**

ARTICLE 67  
**(Annulment founded on the existence of impediments)**

The following have legitimacy for attempting annulment action in the cases referred to in line a) of article 65, or to proceed in it:

- a) Either of the spouses;
- b) The Public Ministry;
- c) The spouse from a prior marriage, in the case of bigamy;
- d) The parents, adopters or tutors in cases of minor age and interdiction or incapacity by reason of psychic anomaly;
- e) Another person whose interest in the annulment is judicially protected.

ARTICLE 68  
**(Annulment by reason of lack of or faulty will [desire], or due to dissimulation)**

1. In cases referred to in the first part of line b) of article 65, the annulment action may only be attempted by the spouse who lacked desire/will, was victim of error or coercion, but in the case of the author dying while the cause is pending, direct line relatives or his/her heirs may proceed with the case.

2. Annulment by reason of dissimulation may be proposed by the Public Ministry or by persons damaged by the marriage.

ARTICLE 69  
**(Annulment for lack of formal requirements)**

Annulment action founded in the inobservance of the formal demands referred to in line c) of article 65 may only be attempted by Public Ministry.

**SECTION III**  
**Time Limits**

ARTICLE 70  
**(Annulment founded in the existence of impediments, in lack of or faulty desire/will or in the lack of essential formal requirements)**



1. Action of annulment of marriage founded in the existence of impediments to what is referred to in articles 24, 25 and 26 may be undertaken:

a) In cases of incapacity for lack of nubile age, through interdiction or incapacity due to psychic anomaly or notorious dementia when proposed by the incapacitated person his/herself, up to one year after having coming of age, or if he/she has had the interdiction or incapacity lifted or because the dementia has ceased. When proposed by another person, within two years following the celebration of the marriage, but never after coming of age, the raising of the interdiction or incapacity, or the cessation of dementia.

b) In cases of lack or faulty will/desire, of condemnation for homicide against the spouse of one of the betrothed, or of lack of essential formalities, up to two years after the celebration of the marriage.

c) At any time in cases of kinship, by blood ties or through adoption in direct line or in the second degree of the collateral line, and of bigamy, but never after two years have passed since the dissolution of the marriage.

2. Without detracting from the time limit fixed in line c) of number 1, the action of annulment founded on the existence of a previous undissolved marriage cannot be undertaken, nor proceed, while the annulment action of the previous marriage is pending.

#### **SECTION IV Consequences of annulment**

##### **ARTICLE 71 (Effects of annulled marriages)**

1. Annulled marriage, when contracted in good faith by both spouses, produces its effects in relation to them and to third parties, until the transition in judgment of the respective sentence.

2. If only one of the spouses has contracted it in good faith, only this spouse may arrogate to him/herself of benefits of marriage and oppose them with regard to third parties.

3. The annulment of a marriage does not detract, in any form, from the rights of children born and conceived during its existence.

##### **ARTICLE 72 (Good faith)**

1. A spouse is considered as acting in good faith if he/she has contracted marriage in pardonable ignorance of the fault that caused the annullability, or whose declaration of will/desire has been extorted through physical or moral coercion.

2. A spouse is considered as acting in bad faith if, at the moment of celebration of the marriage, he/she knew of the existence of some cause for annulment.

3. The good faith of the spouses is presumed.

4. Knowledge of good faith is part of Court competence.

**SECTION V**  
**Validation of marriage**

ARTICLE 73  
**(Norms)**

A marriage is considered to be valid and having its annulability cleansed from the moment of its celebration if, before the sentence of annulment has gone to judgment, any of the following facts has occurred:

- a) If the marriage of a non-nubile minor is confirmed by his/herself before a civil registry functionary and two witnesses, after having come of age.
- b) If the marriage of a person interdicted by reason of psychic anomaly confirmed by him and in terms of the previous line, after the interdiction or incapacity has been lifted, when referent to dementia, after judicial verification of his state of mental sanity.
- c) If the prior marriage of a bigamist has been annulled.
- d) The lack of formal requirements due to understandable circumstances is recognized as such by the Ministry of Justice, if there is no doubt as to the celebration of the act.

**CHAPTER V**  
**Dissolution of marriage**

**SECTION I**  
**General dispositions**

ARTICLE 74  
**(Causes of the dissolution of marriage)**

Marriage is dissolved due to:

- a) The death of one of the spouses;
- b) Judicial declaration of the presumption of death of one of the spouses;
- c) Divorce.

**SECTION I**  
**Dissolution through death**

ARTICLE 75  
**(Effects of dissolution through death)**

1. In case of marriage dissolved through death, the surviving spouse maintains the rights and benefits he/she may have received by reason of marriage, and the division of mutual patrimony operates between the surviving spouse and the heirs of the late spouse.

2. In the division the surviving spouse may preferentially incorporate his/her half of the common property that has been used in home life and as personal or common/mutual work-related property.

3. Debts contracted with third parties or between the spouses among themselves will be successively liquidated by means of the debtor's half of the common property and by means of his/her personal property.

4. The dissolution of marriage by reason of death incurs the terms fixed in law of the transmission of leasing/renting rights to the surviving spouse.

**SECTION III**  
**Presumption of death**

**ARTICLE 76**  
**(Declaration requirement)**

Either spouse may petition the Court for a judicial declaration of the presumption of death of the other spouse, after three years from the date of last notice/news of him/her, and if strong indications exist that death occurred.

**ARTICLE 77**  
**(Effects of the presumption of death)**

1. Judicial declaration of the presumption of death of one of the spouses dissolves the marriage from the moment in which the declaration becomes definite and produces the effects of dissolution through death or through divorce if the other spouse returns.

2. However, if the absent spouse appears and neither of them have contracted marriage, they may, if both so desire, judicially petition for the re-validation of the marriage as if it had never been dissolved.

3. If, however, either of the spouses has contracted a new marriage, it will be considered valid.

**SECTION IV**  
**Divorce**

**SUBSECTION I**  
**General dispositions**

**ARTICLE 78**  
**(Bases/Foundations)**

Spouses may petition for divorce if the principles on which the union and the marriage have lost meaning for the spouses, for the children and for society, in complete and irremediable form.

ARTICLE 79  
**(Divorce modalities)**

Divorce may be requested:

- a) By both spouses based on mutual accord;
- b) By only one of the spouses, by reason of bases foreseen in this law.

ARTICLE 80  
**(Effects of divorce)**

Divorce produces personal and patrimonial effects of dissolution through death, except in the exceptions foreseen in law, namely:

- a) It puts an end to property communion;
- b) It causes the cessation of the right to succession to the property of the other spouse;
- c) It causes the loss of the benefits received by reason of the marriage.

ARTICLE 81.  
**(Date of the production of effects in personal relations)**

- 1. Effects of the divorce on personal relations are produced as soon as judgment is handed down.
- 2. When the date of the end of cohabitation is part of the sentence, the spouses may petition for a cessation of the personal effects to become operative from this date.

ARTICLE 82  
**(Production of the effects on patrimonial relations)**

- 1. Effects of the divorce on spousal patrimonial relations is produced when the sentence judgment is handed down or when definite cessation of cohabitation occurs if this happens before the extinction of the link, when declared by the sentence.
- 2. Such effects are only produced insofar as third parties are concerned after registration of the sentence.

SUBSECTION II  
**Divorce by mutual agreement**

ARTICLE 83  
**(Legal assumptions)**

Divorce by mutual agreement may be petitioned by spouses married for more than three years who have completed 21 years of age.

ARTICLE 84  
**(Bases/Basics)**

Divorce by mutual agreement is based on mutual, personal deliberation of the spouses regarding putting an end to their conjugal life.

ARTICLE 85  
**(Complementary agreements)**

Spouses should, furthermore, agree:

- a) About the exercise of parental authority with regard to minor children, if they exist and if this is not decided by the court:
- b) As to the supplying of comestibles to spouses who lack them;
- c) As to the disposition of the family residence.

ARTICLE 86  
**(Competence)**

Divorce by mutual agreement may be judicially decreed or effected through the organ of Civil Registry of the area of residence of either of the spouses, under terms of the following articles.

ARTICLE 88  
**(Petition)**

The divorce by mutual accord petition will be signed by both spouses, personally or upon request [t.n.: possibly refer to signature by proxy], the establishment of judicial representative not being obligatory, even in cases of divorce by judiciary means.

ARTICLE 89  
**(Necessary documentation)**

Petitioners should present the following documents together with the initial petition:

- a) Certificate of the complete narrative of the marriage registry;
- b) Certificate of the age of the spouses;
- c) Specific list of personal as well as mutual property.
- d) Certificate of the property regime adopted in the marriage.
- e) Agreements referred to in article 85, if they exist.

ARTICLE 90  
**(Petition processing)**

Once the petition is processed and its viability recognized through verification of the legal conditions, a day will be designated for the spousal conference.

ARTICLE 91  
**(Spousal conference)**

Spouses must appear personally at the conference, in which third parties are not admitted, except if a judicial representative has been constituted.

ARTICLE 92  
**(Spousal failure to be present)**

1. The failure of spouses to be present, if not immediately justified, or if this is not done within 10 days, is equivalent to desistance from the intention and consequent archiving of the legal documents.
2. If a justified cause has occurred, the conference may be postponed only one time.

ARTICLE 93  
**(Procedure)**

In the case that both spouses appear, the judge or functionary of the competent Civil Registry will ask each of them if he/she effectively intends to divorce, cautioning them of the effects of marriage dissolution on the personal and social ambience, namely when there are minor children.

2. If both spouses maintain their intention to divorce one another, the reading of agreements together with the initial petition will proceed, and the documentation will be written in which the divorce and the agreements will be provisionally ratified.
3. The disposition in article 109, number 1, is applicable to the regulation of the agreement on the exercise of parental [t.n.: Portuguese *paternal*, also "paternal"] power.
4. The spouses will be cautioned at the outset that the divorce will be officially converted to definite form if within the span of 90 days neither of them has manifested the intention to desist from the obtention of the divorce.

ARTICLE 94  
**(Effects of provisional divorce)**

Provisional divorce suspends the duty of cohabitation of the spouses and renders either of them able to petition for the inventory of personal or mutually held property.

ARTICLE 95  
**(Definite divorce)**

After 90 days without desistance from either of the spouses, the definitive divorce decree will be issued.

ARTICLE 96  
**(Effects of definite divorce)**

Only definite divorce produces the dissolution of the marriage and the decision that the decree will be officially communicated to the Civil Registry organs that have celebrated the marriage and the birth certificates of the spouses.

**SUBSECTION III**  
Litigious divorce

ARTICLE 97  
**(General bases)**

Divorce may be requested, namely:

- a) Due to de facto separation for a period superior to three years.
- b) Due to the abandonment of the Country on the part of the other spouse without the intention to return.
- c) Due to the absence with no news/notice from the absentee, for a period not inferior to three years;
- d) Due to alteration of the mental faculties of the other spouse, clinically verified, when it persists for more than three years, and due to its gravity compromising the possibility of life in common.

ARTICLE 99  
**(Relevance of the bases for divorce)**

The spouse who has instigated the other spouse to the practice of the fact invoked as basis for the request, or who has intentionally created conditions propitious to its verification, may not obtain a divorce based on it.

ARTICLE 101  
**(Loss of right)**

The spouse who has revealed in his/her behavior, namely by express or tacit pardon/forgiveness, that he/she does not consider the fact as impeditive to life in common, loses the right to invoke it as basis for the divorce request.

ARTICLE 102  
**(Lapsing of the right)**

1. The right to invoke in judgment the fact upon which the divorce request is based lapses in the period of two years counting from the date the offended spouse became aware of it.
2. In cases of a continued fact, the time period begins only from the date on which the fact ceased.

ARTICLE 103  
**(Women's pregnancy)**

1. The husband may not, without the woman's consent, petition for divorce if the woman is pregnant or before one year after birth has elapsed, except when the child's paternity is impugned.
2. The time period foreseen in the previous article begins only after the time period established above.

ARTICLE 104  
**(Litigious divorce process)**

1. Any of the following requests may be joined with the litigious divorce request:
  - a) For comestibles to the spouse who needs them;
  - b) For the regulation of the exercise of paternal/parental authority and comestibles with respect to the couple's minor children;
  - c) For the attribution of the family residence.
2. The spouse against whom the divorce petition was presented may, in recrimination, formulate a new divorce request or merely [t.n.: subscribe to] any of the requests present on lines a), b) and c) of the previous number.
3. In the cases referred to in the previous number, the author retains the right to respond.

ARTICLE 105  
**(Reconciliation attempt)**

1. In the litigious divorce, if the spouses live in the country, an attempt at reconciliation must be made.
2. Whenever ponderous reasons so counsel, the Court may, justifiably, suspend the processing of the divorce for no longer than three months.
3. When deemed useful to reconciliation of the spouses the Court may officially, or at the request of the parties, hear the Family Council.



ARTICLE 106  
**(Conversion of litigious divorce into divorce by mutual agreement)**

1. When the Court verifies the impossibility of reconciliation of the spouses, it must, if the legal suppositions are verified, attempt to obtain agreement on the part of the spouses for divorce by mutual agreement.
2. If the agreement is obtained, the legal terms of the mutual accord case follow, with necessary adaptations.

ARTICLE 107  
**(Provisional decision)**

If the process of litigious divorce is to continue, the Court, when such has been requested of it, will provisionally decide as to the requests referred to in article 104 of this law, proceeding to the diligences it considers necessary.

ARTICLE 108  
**(Regulation of the exercise of parental/paternal authority)**

1. In the divorce sentence the Court, when such has been requested of it, must decide on the regulation of the exercise of parental authority of the couple's minor children, bearing in mind the interest of the minors and the best guarantee of their education and development.
2. Furthermore, the Court must set the parents' contribution to the minors' nourishment.

ARTICLE 109  
**(Accord on the regulation of the exercise of parental authority)**

1. The parents may agree on the regulation of the exercise of parental authority over the couple's minor children, the agreement being, however, subject to ratification by the Court, which will bear in mind the minor children's interests and the best guarantee of their education and development.
2. If regulation of the exercise of parental authority over the couple's minor children has not been requested, the parents may present the agreement in court within 30 days after the divorce sentence has been handed down.

ARTICLE 110  
**(Attribution of the family residence)**

1. In the attribution of the family residence the Court must take into account the life conditions of the spouses, the interest of the couple's children, and the causes of the divorce.
2. The decision will be alterable if de facto causal circumstances modify.

**TITLE IV  
DE FACTO UNION**

**CHAPTER I  
General dispositions**

**ARTICLE 112  
(Concept)**

De facto union consists of the voluntary establishment of life in common between a man and a woman.

**ARTICLE 113  
(Legal suppositions)**

1. De facto union may only be recognized after the lapse of three years of consecutive cohabitation and when the legal suppositions for the celebration are verified, namely with respect to singularity and matrimonial capacity.

2. In the case that the de facto union cannot be recognized due to lack of legal suppositions, it will be attended to outside the cases foreseen in this law, when illicit enrichment under terms of the civil law are verified, specifically for effects of the division of common property and for the attribution of the right to common residence.

**ARTICLE 114  
(Legitimacy)**

Recognition may be requested:

- a) By the interested parties in mutual agreement;
- b) By one of the interested parties in case of death of the other, or of rupture.

**CHAPTER II  
Recognition by mutual agreement**

**ARTICLE 115  
(Competence)**

Recognition upon the request of both interested parties is the competence of the Civil Registry organ in the area of residence.

**ARTICLE 116  
(Formality)**

1. The request will be accompanied by the documents proving the verification of the legal suppositions.

2. The proof of duration and of the singularity of the union will be made by witnesses or document emitted by the local administrative organ.

3. The interested parties must declare which economic regime they opt for.

ARTICLE 117  
**(Subsidiary application)**

All dispositions on the recognition of the de facto union with respect to the process of matrimony, which do not contradict the disposition in this title, are applicable.

ARTICLE 118  
**(Recognition dispatch/registration)**

Upon verification of the legal suppositions, it is the Civil Registry functionary's duty to recognize the de facto union by registration [t.n.: or, "dispatch"]

ARTICLE 119  
**(Effects)**

Recognition of de facto union produces the effects of the celebration of marriage, with retroactivity to the date of the beginning of the union, in conformity with the law.

ARTICLE 120  
**(Registry)**

Recognition of the de facto union will be subject to registry effected in its own book [t.n.: possible, "book dedicated to this purpose"]

ARTICLE 121  
**(Annulment of recognition)**

Recognition of the de facto union is subject to annulment under the general terms foreseen for the annulment of the marriage.

CHAPTER III  
**Recognition in case of death or rupture**

ARTICLE 122  
**(Competence)**

De facto union, in case of the death of one of the interested parties or rupture of the union, should be recognized by the Court.

ARTICLE 123  
**(Legitimacy)**

The following have legitimacy for attempting to proceed in a recognition action:

- a) The interested party, or his/her legal representative in the case of disability.
- b) Heirs of the interested party in case of his/her death.

ARTICLE 124  
**(Time periods)**

The action of recognition lapses two years after the end of the union.

ARTICLE 125  
**(Family council)**

In order to recognize the de facto union, the Court should hear the Family Council.

ARTICLE 126  
**(Sentence effects)**

The judicial decision recognizing de facto union produces, according to the case, the same effects as the dissolution of marriage through death or divorce, and is subject to registration.



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