



## GLA

Global Experience, Local Expertise

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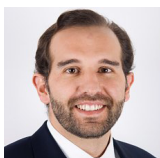
# REGULATION OF THE LEGISLATION APPLICABLE TO FOREIGN NATIONALS



## GLA - Gabinete Legal Angola

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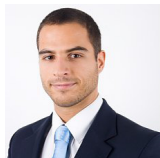
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### INTRODUCTION

The regulation of Law 2/07 of 21 January, which governs foreigner nationals in the Republic of Angola (known as the *Lei dos Vistos* or Visa Law), has finally been approved through the recent publication of Presidential Decree 108/11 of 25 May.

With the benefit of much needed political stability, Angola is one of the economies which has seen the fastest and healthiest growth over the last decade. It is no surprise, therefore, that it has become a magnet for foreign (and domestic) investment that draws in people of many different nationalities, whether workers or the investors themselves. The greatest demand at Consulates of the Republic of Angola happens to be for ordinary, privileged and work visas. From a practical and a legal point of view, these visas give rise to the greatest difficulties in the migration process in terms of visiting or remaining in Angola.

In general terms, Presidential Decree 108/11 aims to allow more effective control over immigration. As we have said, the decree regulates Law 2/07 on the Legal Framework for Foreign Nationals in the Republic of Angola and brings the Angolan legal system into line with the changes that have been occurring in the business and economic life of the country.

### ENTERING ANGOLAN TERRITORY

This Presidential Decree lays down the general principle of freedom of movement and choice of place of residence for foreign nationals in Angola.

Foreign nationals must enter the country at official border posts and entry is dependent on them complying with a number of cumulative requirements, one of which is a guarantee that they have the means to sustain themselves. This requirement can also be met through a declaration signed by an Angolan national or a foreign resident who takes responsibility for the foreigner's stay in the country. However, in this case the border authorities may make acceptance of the declaration dependent on proof of the financial capacity of the person who signed it.

Foreigners holding diplomatic, official and courtesy visas, and any children under 14 who accompany them, are exempt from having to present means of subsistence.

### ENTRY VISAS

Requests for entry visas must be presented to Angolan diplomatic missions or consulates. Foreign nationals from countries that do

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not have an Angolan consulate or diplomatic mission must present their visa application in the country closest to their country of origin or place of habitual residence that has such facilities. It should be noted that the privileged visa is subject to special rules allowing the application to be made to the Serviço de Migração e Estrangeiros - the migration and foreigners service - provided that an authorization from the National Agency for Private Investment is obtained.

The types of visas listed in Law 2/07 remain unchanged and the purpose of the Presidential Decree is to lay down the rules and procedures to be followed for visa applications and some of these rules are indeed new.

Among the changes this decree establishes an important new rule for ordinary visas: they can now be used for the purpose of multiple entries into the country. It should be noted that ordinary visas are granted for family reasons of for prospecting for business. Such prospecting is defined as an intention on the part of the foreign national to carry out research or sound out the Angolan market, establishing contacts with a number of companies or organisations with ties to the Angolan business world. The rules allow the holder of such a visa to remain in the country for up to 30 days and to extend the visa up to twice for equal periods of time if the grounds on which it was granted remain in place.

News of the signature of a bilateral protocol on the facilitation of visas between Portugal and Angola emerged on the date this text was written. The protocol aims to set up a less demanding system for the granting of visas between the two countries and introduces significant changes which are covered in a separate Newsletter dedicated to the topic.

#### REFUSAL OF ENTRY AND CANCELLATION OF VISAS

It should be remembered that the simple fact that a foreign national holds an entry visa does not, in itself, guarantee entry into Angola. The visa amounts to no more than an expectation of the right and entry or the right to remain may be refused on the basis of the failure to comply with other requirements.

In addition to this, foreign nationals must always bear in mind that any visa they hold could be cancelled. In general terms, visas can be cancelled if:

- they have been granted on the basis of false statements, by the use of fraud or by relying on grounds different to the real reasons for entering the country;
- when the respective holder has been subject to an expulsion order from Angola.

In addition to the situations described above it should be noted that work visas may also be cancelled if:

- the contract on which the granting of the visa was based is terminated;
- the visa holder is carrying out a professional activity different to the one for which the visa was granted;
- the visa holder is working for an employer other than the one who applied for the visa.

#### EXIT RULES

A foreign national's exit from Angola may be voluntary or compulsory. However, there are special rules for legally ordered deportation applicable to:

- resident foreign nationals;
- holders of work visas who are in dispute with their employer; or
- foreigners with an Angolan spouse and dependent child.

In the case of refugees, they cannot be deported to a country where they may be subject to political, racial or religious

persecution, or where their lives may be endangered.

The costs of deportation will be borne by the foreign national being deported unless they do have the means, in which case the costs will be borne by the state or by the company the foreign national is working for at the time of the deportation.

The foreign national may appeal against the deportation order and any such appeal will suspend the process and the foreign national may remain in the country until notice of the final decision is received.

#### ENTRY EXCLUSION

An exclusion on entry into Angola is put into effect by registering the details of the foreign national on Angola's list of undesirable persons. Under this system, the duration of the prohibition is longer and never fewer than 5 years. The grounds for exclusion are:

- deportation in the last five years;
- final sentence of a supplementary punishment of deportation;
- the presence of indications amounting to a threat to internal public order or national security.

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#### REMAINING IN ANGOLA ILLEGALLY

A person who exceeds the period of the stay granted to them without justification is subject to a daily fine in the Angolan currency, kwanzas, equivalent to USD 150.00. If that person does not pay the fine within 30 days, he or she will be subject to deportation from the country and the consequent prohibition on re-entry.

If the foreign national is doing paid professional work without having the proper qualifications to do so, that person will be subject to a fine in kwanzas equivalent to USD 1000.00.

Any employers having foreign workers in their service without proper authorisation will be subject to a fine in kwanzas equivalent to USD 5000.00. Such employers will also be responsible for any costs inherent to the deportation of those unauthorised workers from Angola.

*Note: reading this newsletter should not substitute consultation of the applicable legislation.*

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This newsletter was prepared by a multidisciplinary team made up of Angolan lawyers from GLA – Gabinete Legal Angola and Portuguese lawyers from PLMJ. This team was brought together under an agreement for international cooperation and membership of PLMJ International Legal Network, in strict compliance with applicable rules of professional ethics.

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