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REPORT ON CITIZENSHIP LAW: ANGOLA

AUTHORED BY
PATRÍCIA JERÓNIMO

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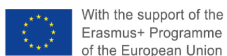
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Report on Citizenship Law

Angola

Patrícia Jerónimo

1. Introduction

Angola is the fifth largest country in Sub-Saharan Africa, with a total area of 1,246,700 square kilometres, having ‘inherited’ the territory demarcated under Portuguese colonial rule at the time of its independence on 11 November 1975. It is located on the western coast of southern Africa and is bound by the Republic of the Congo to the north, the Democratic Republic of the Congo (DRC) to the northeast, the Republic of Zambia to the east, the Republic of Namibia to the south, and the Atlantic Ocean to the west. Although Angola presents itself as a unitary state (Article 8 of the 2010 Constitution) and the Angolan authorities make a point of stressing that all Angolans have equal status, it is nevertheless acknowledged that the people of Angola belong to various ethnolinguistic groups, each of which has its own cultural traditions. These are – according to the Angolan authorities – the Bantu Peoples (Bakongo, Ambundu, Cokwe, Ovimbundu, Nganguela, Oxiwando, Oxihelero and Nyahneka-Nkhumbi), the Non-Bantu (Hotentotes and Khoisan) and the Pre-Bantu (Vatwa).¹ At the time of the 2014 General Census, the country’s resident population was estimated at 25,789,024 people, of which 586,440 (2,3%) were foreign citizens.²

As with other African states, citizenship rules were introduced in Angola during colonial times and reflected the European conceptualisation of citizenship as attached to the state system, with little regard to pre-colonial traditions of belonging (Manby 2018: 37-41). During the fight for independence, the three liberation movements (FNLA, MPLA and UNITA³) clashed over whether to adopt a ‘universalistic’ or a ‘tribalistic’ approach to nation building, and this division spilled over into the civil war that engulfed the country after independence (Martins 2017: 103-105; Pinto 2012: 39-50; Pereira 2002: 60). The MPLA, which eventually prevailed, favoured a universalistic approach, consistent with its multiracial

¹ Information taken from the United Nations Human Rights Committee Considerations on the First Periodic Report from Angola, of 3 March 2011, CCPR/C/AGO/1, §§ 1, 4 and 110, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fAGO%2f1&Lang=en [25.02.2019]. The ethnic map of Angola – drawn from linguistic and cultural traits – is contested by some groups which are absent from the list or are treated as mere subgroups. Nevertheless, calls for an ethnic revival are said to be rare and limited to rural areas. Ethnic hybridity is increasingly the norm, due to mass internal migration to the cities and interethnic marriages (Bahu 2011: 49-59).

² *Resultados Definitivos do Recenseamento Geral da População e da Habitação de Angola*, 2016, available at http://www.effaangola.org/AngolaCensus2014_ResultadosDefinitivos_Mar2016.pdf [25.02.2019].

³ FNLA – National Liberation Front of Angola (*Frente Nacional de Libertação de Angola*), led by Holden Roberto; MPLA – Popular Movement for the Liberation of Angola (*Movimento Popular de Libertação de Angola*), led by Agostinho Neto; and UNITA – National Union for the Total Independence of Angola (*União Nacional para a Independência Total de Angola*), led by Jonas Savimbi.

composition, and, at independence, set the statutory rules for accessing Angolan citizenship along the lines of European state-centred models. In doing so, Angola kept with the general trend among newly independent African states, which accorded little to no influence to indigenous African traditions of belonging when drafting their Nationality laws (Manby 2018: 60). These African traditions continue, nevertheless, to be relevant to individuals' daily lives at sub-state level, in particular in border regions, where it is often the case that the inhabitants on both sides of the border belong to the same ethnic group (Brambilla 2007: 27-33; Rodrigues 2017: 427-433; Neto 2017: 311). For instance, during the civil war (1975-2002), large numbers of Angolan refugees settled in Zambia's Mwinilunga District among people of the same ethnic group, which is deemed to have facilitated their integration into Zambia society (Bakewell 2007: 4; Kambela 2016: 6-7).

Also similar to many other African states, Angola faces serious challenges in the implementation of its statutory provisions on access to citizenship, given the problems that it continues to face in ensuring universal birth registration and adult civil registration,⁴ the destruction and loss of public records during four decades of armed conflict (1961-2002), and the sheer size of the country. In the more remote inland and border regions, which are 'barely reached by the arm of the state' (Bakewell 2007: 3), many individuals live without legal documents proving their identity and citizenship, and yet manage to get by, which is indicative of the limited practical relevance of the formal rules of belonging as defined by statutory law (Manby 2018: 4-5) and of the identity papers which document the individuals' formal status vis-à-vis the state (Bakewell 2007: 18).⁵ As Bakewell (2007: 17) puts it, '[t]he clear rules expressed in the law are blurred as one moves away from the centre of state power', which creates 'room for manoeuvre' and informality, at times accepted as necessary by state authorities themselves. In the absence of official records or legal documents certifying the fulfilment of the requirements set by the Nationality Act for accessing or proving Angolan citizenship, state authorities have relied on the testimony of traditional leaders and local dignitaries, even though their views of citizenship may be at odds with the statutory provisions (Bakewell 2007: 18; Manby 2018: 4-5). An example of Angolan state authorities' reliance on the testimony of local mediators for determining individual citizenship can be found in the voting registration process that took place from November 2006 to September 2007, in preparation of the 2008 parliamentary election. Proof of identity and eligibility to vote could be provided by presenting some form of documentation – passport, identity card, birth certificate, army ID, driver's licence, residency permit or refugee

⁴ Birth registration, 'the primary route established in law to prove a child's origins' (Manby 2018: 3), is still low, in spite of the measures adopted by Angolan authorities in recent years to address the issue. As reported to the United Nations Human Rights Committee in 2017, during the 2014 General Census, it was found that only 53% of the resident population was registered, and that for children aged 4 years or under the figure stood at 25%. Angolan authorities then created new registration stations, conducted awareness raising campaigns on the importance of civil registration, and made birth registrations and the issuance of identity cards free of charge, following which a total of 3,413,770 child and adult citizens were registered and a total of 5,418,570 identity cards were issued throughout the country between September 2013 and December 2016. Human Rights Committee Considerations on the Second Periodic Report from Angola, of 28 November 2017, CCPR/C/AGO/2, §§ 144-147, available at https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fAGO%2f2&Lang=en [25.02.2019].

⁵ Among other things, for populations in border regions, the lack of legal documentation is hardly an impediment to cross border mobility, even though Angola has toughened its border controls in recent years. As noted by Neto (2017: 305, 314-315) with regard to the Angola-Zambia border, '[t]he international demarcation between both countries is far from evident to the naked eye: the separation line extends for nearly 1,000 kilometers along which there are only two active border posts, and along which there are no walls, fences, and virtually no signs announcing its presence'. Add an often inaccessible terrain and widespread corruption, and we have a border of very questionable effectiveness.

card issued by the UNHCR –, but also by corroborating testimony from a religious or a traditional authority or from two registered members of the community (Schubert 2010: 662).

These limitations to the practical relevance of statutory provisions on citizenship do not mean, however, that Angolan politicians are willing to relinquish their power to set the rules of belonging to the state or to abandon their nation building projects (Manby 2018: 32-33). The importance given by Angolan politicians to the rules on access to citizenship can be deduced from the fact that they have adopted five different Nationality Acts since independence – in 1975, 1984, 1991, 2005 and 2016 –, and that the 2010 Constitution included substantive provisions on the topic, setting the basic criteria for attribution of Angolan citizenship by birth (Article 9). In its evolution over time, Angolan citizenship law grew increasingly more detailed and formatted along European standards, while keeping with most of the trends found in other African states over the same period, such as the preference for *ius sanguinis* to the detriment of *ius soli* in the attribution of citizenship by birth (Bakewell 2007: 16; Manby 2018: 93), the maintenance of restrictive naturalisation requirements and the eventual acceptance of dual citizenship. Where Angola stands out from its African counterparts is in its early adoption of egalitarian rules for women and men in the attribution of citizenship to children by birth, which is explained by the strong socialist influence on the liberation movements (Manby 2018: 92-93) and on the MPLA-run Government during what we will refer to as the *first constitutional cycle* (1975-1991).⁶

Since the end of the civil war, in 2002, the rules on access to citizenship have been atop the political agenda in Angola for two main reasons: the rise in the number of labour immigrants, attracted by the country's accelerated economic growth, some of whom claim Angolan citizenship to circumvent immigration restrictions⁷ and, more importantly, the return of Angolan refugees from neighbouring countries such as Zambia, DRC, Namibia and South Africa, often under voluntary repatriation programmes which have required Angolan authorities to determine eligibility and issue identification and travel documents (Waldorff 2017: 57; Bakewell 2007: 8-9; Carciotto 2016: 370). Several repatriation programmes were conducted over the years, in partnership with IOM, UNHCR and host countries. The first phase of repatriation (2002-2007) allowed for the return to Angola of around 420,000 Angolan refugees, but more than 100,000 were still in exile in 2011. Following the 2012 UNHCR recommendation that asylum countries invoke the 'ceased circumstances' cessation clause of the 1951 Refugee Convention for all Angolan refugees, new repatriation

⁶ Paraphrasing Feijó (2015: 18-75), who presided over the technical commission of the Constitutional Commission which drafted the 2010 Angolan Constitution, we will identify three phases in the political and constitutional history of Angola and structure the historical overview in section 2 of this report accordingly: (a) first constitutional cycle (1975-1991); (b) constitutional transition (1991-2010); and (c) constitutional normalisation (2010 to the present).

⁷ That is notably the case with Portuguese immigrants who have successfully claimed Angolan citizenship on the basis of their descent from individuals born in Angola who left the territory at independence. As Waldorff (2017: 58-75) points out, dual citizenship is an asset since work permits for foreigners are hard to acquire. These immigrants use their Angolan and Portuguese citizenship statuses strategically, saying they are Angolan to be admitted to the job market and that they are Portuguese when it is time to sign the work contracts, in order to benefit from the perks Portuguese workers get (higher salaries and fringe benefits), something which is a source of discontent among their Angolan co-workers. The surge in the number of Portuguese citizens acquiring Angolan citizenship led the Minister of Justice, Guilhermina Prata, to suspend the application of the Nationality Act in 2011, with the argument that a new Nationality Act was in the works and that it was necessary to clarify who was and who was not entitled to Angolan citizenship. Information available from the AngoNoticias website, news item entitled 'Ministra da Justiça manda suspender Lei da Nacionalidade', at <http://www.angonoticias.com/Artigos/item/32593/ministra-da-justica-manda-suspender-lei-da-nacionalidade> [20.02.2019]. The 2016 Nationality Act addressed the issue by excluding from the right to Angolan citizenship foreign citizens born in Angola before independence and their descendants, as will be discussed below.

programmes were implemented and more Angolans returned home. After decades away from Angola, many returnees are now struggling to re-establish recognition of their Angolan citizenship (Manby 2018: 8, 292). Due to multiple factors, such as the perceived lack of democracy, human rights and civil liberties in Angola, a considerable number of Angolans has opted to remain in their countries of asylum either as refugees, foreign residents with temporary residence permits or naturalised citizens (Lopes 2013: 1-8; Carciotto 2016: 369-374). This wish to remain expressed by thousands of Angolan refugees has prompted the host states to implement special integration programmes, such as the Strategic Framework for the Local Integration of Former Angolan Refugees in Zambia, launched in 2014, which opened access not only to permanent residence permits but also to Zambian citizenship (Kambela 2016: 2-6).⁸

For those who return to Angola, as for most of those who never left, access to full Angolan citizenship continues to be elusive, with or without identity papers. As Martins (2017: 105-109) puts it, many Angolans continue to be ‘estranged from full citizenship’, with little access to political representation and no public participation venues. Restrictions to freedom of expression, assembly, association and the press, as well as the excessive use of force by the police, are routinely denounced by human rights organisations (Jerónimo 2015: 25-51).⁹ The percentage of the population living in poverty was reduced from 77%, in 2001, to 48%, in 2018,¹⁰ but is still remarkably high for a country rich in natural resources and having one of the fastest growing economies in the world. The 2010 Constitution adopts a universalistic and inclusive conception of citizenship, and sets ambitious fundamental rights standards (Jerónimo 2015: 11-25), but, as elsewhere in Africa, the facts on the ground are often quite distant from the norm.

2. Historical Background

2.1. Membership criteria at the time of independence

Angola became an independent state on 11 November 1975, after four centuries of Portuguese colonial rule.¹¹ Liberation movements (FNLA, MPLA and UNITA) had been

⁸ As Kambela (2016: 6) points out, ‘the success of the programme was predicated on the quick provision of Angolan identity cards and passports by the Government of Angola’, which did not happen. Until 2016, only 200 Angolan refugees had been issued permanent resident permits, even though 6,000 Angolans had already been certified as eligible by the Zambian authorities.

⁹ See e.g. *Human Rights Watch World Report 2018*, pp. 29-33, available at https://www.hrw.org/sites/default/files/world_report_download/201801world_report_web.pdf [27.02.2019].

¹⁰ Information available from the Oxford Poverty & Human Development Initiative website at https://ophi.org.uk/ophi_stories/new-numbers-show-48-of-people-in-angola-are-poor-2/ [27.02.2019].

¹¹ The Portuguese are deemed to have reached southern African shores for the first time between 1482 and 1486, when the expedition of Portuguese navigator Diogo Cão reached the mouth of the river Zaire. The Angolan colony was established in 1575, but efforts at effective colonisation of the territory only started in the nineteenth century, after the independence of Brazil in 1822, and in particular following the Berlin Conference of 1884-1885 (Gouveia 2017: 222-224; Coelho 2002: 131-132). With time, Angola became a colony of white settlement (Chabal 2002: 21-22), governed by special legislation designed to fit its ‘state of civilization’ (Silva 2009: 33-35, 212-217), such as the Organic Law for the Overseas Territories (*Lei Orgânica do Ultramar*), Law no. 2066, of 27 July 1953, and the Decree-Law no. 39666, of 20 May 1954, which regulated the special status enjoyed by the indigenous populations of Guinea, Angola and Mozambique. During the *Estado Novo* regime, Angola was

fighting for independence since 1961, but the decolonisation process only started when the *Estado Novo* dictatorship collapsed in an uprising of the military in metropolitan Portugal on 25 April 1974. By ‘Constitutional’ Law no. 7/74, of 27 July 1974,¹² it was ruled that the solution for the overseas wars was political, not military, which meant that Portugal recognised peoples’ right to self-determination in all its consequences, including the acceptance of the independence of its overseas territories and the repeal of the section in Article 1 of the 1933 Constitution where those territories were listed as being part of Portugal.¹³ Angola was to be governed in the meantime in accordance with the transitional regime set by Law no. 6/74, of 24 July 1974,¹⁴ replaced soon after by Law no. 11/74, of 27 November 1974,¹⁵ designed to adapt to the developments in the Angolan decolonisation process.

None of these Acts included provisions on citizenship. At the time, except for the children of foreign diplomats, all individuals who had been born in Angola were Portuguese citizens, per Article 1 of the 1959 Portuguese Nationality Act,¹⁶ even though this formal status was scarcely understood, let alone exercised, by the majority of the population. Besides the limited reach of the Portuguese colonial administration into the Angolan heartland (e.g. eastern districts of Lunda, Moxico and Cuando Cubango), it should be noted that, until 1961 (or even 1971, which was the year when all mentions to indigenous peoples were finally deleted from the 1933 Constitution), Angolan colonial society had been divided by law into three separate racial/civilisational categories: (a) the white settlers, European born and their offspring, who were full citizens; (b) a small group of black or mixed raced ‘assimilated natives’ (*assimilados*), socialised through education and employment in the colonial administration, who enjoyed individual rights theoretically on a par with full citizens; and (c) the large majority of black ‘unassimilated natives’, the indigenous population *sensu stricto*, to whom specific statutes applied and who did not enjoy equal civil or political rights (Silva 2012: 132; Martins 2017: 102; Waldorff 2017: 65; Manby 2018: 56-57; Pinto 2012: 22-23, 61). Most ‘naturals of Angola’ (i.e. individuals born in Angola) would, in any case, lose their Portuguese citizenship before Angola became formally independent, due to the entry into force of the infamous Decree-Law no. 308-A/75, of 24 July 1975,¹⁷ which assumed that the persons born or domiciled in an overseas territory turned independent would acquire the citizenship of the new state and so deprived them of Portuguese citizenship *ex lege* (save for a few exceptions), with no regard to whether or not they wished to keep Portuguese citizenship and/or would become stateless as a result (Ramos 1976: 140-141).

In January 1975, the Portuguese Government negotiated with representatives of the three liberation movements (FNLA, MPLA and UNITA), as the ‘sole legitimate representatives of the Angolan people’, the terms of the process and the calendar for Angola’s independence. The resulting Alvor Agreements, signed on 15 January 1975,¹⁸ defined the territory of the new state in line with the principle of territorial integrity within

first a ‘colony’, then a ‘province’ and, in the 1970s, a ‘state’, an honorific title bestowed upon it as recognition of the ‘progress of its society and the complexity of its administration’, which in reality meant only that Angola was an *autonomous region* within Portuguese territory (Gouveia 2017: 224-225).

¹² Text available at <http://www1.ci.uc.pt/cd25a/wikka.php?wakka=descon03> [01.03.2019].

¹³ The text of the 1933 Constitution is available at <https://www.parlamento.pt/Parlamento/Documents/CRP-1933.pdf> [01.03.2019].

¹⁴ Applicable also to Mozambique. Text available at <http://cedis.fd.unl.pt/wp-content/uploads/2016/01/REGIME-T-ANGOLA-MO%C3%87AMBIQUE.pdf> [01.03.2019].

¹⁵ Text available at <http://www1.ci.uc.pt/cd25a/wikka.php?wakka=descon17> [01.03.2019].

¹⁶ Law no. 2098, of 29 July 1959; text available at <https://dre.pt/application/conteudo/431607> [01.03.2019].

¹⁷ Text available at <https://dre.pt/application/conteudo/530841> [01.03.2019].

¹⁸ Text available at <http://www1.ci.uc.pt/cd25a/wikka.php?wakka=descon21> [01.03.2019].

colonial borders, expressly including the exclave of Cabinda (Article 3); set the date for the solemn proclamation of Angola's independence to the 11th of November 1975 (Article 4); determined that until that date power in Angola would be exercised by a High Commissioner, representing the Portuguese state, and by a Transition Government, to be inaugurated on 31 January 1975, with the participation of representatives of the three liberation movements (Articles 5, 11, 15, 21 and 22); set a deadline for the Transitional Government to organise general elections for the Constituent Assembly (Article 40); and formalised the cease fire between Portuguese and Angolan forces (Article 6); etc.

Most important for the purposes of this report, the Alvor Agreements also included a set of provisions on Angolan citizenship. There had already been tensions among and within FNLA, MPLA and UNITA about whether or not to grant whites and mixed-race residents the right to become Angolan citizens (Pinto 2012: 79-80), and the Agreement tried to settle the matter by enshrining the principle that all inhabitants of Angola, irrespective of race, would be entitled to the citizenship of the new state. Article 45 affirmed the commitment of the Portuguese state and of the three liberation movements to act together for the elimination of all effects of colonialism, adding that FNLA, MPLA and UNITA would adopt a non-discrimination policy in this regard and would thereby ascribe the 'quality of Angolan' on the basis of birth or domicile in Angola, provided that those resident in Angola identified with the aspirations of the Angolan Nation through a conscious option, which was the same as saying if they had participated in the fight for independence (Pinto 2012: 79-80). The FNLA, MPLA and UNITA pledged to consider as Angolan citizens all individuals born in Angola if they did not declare, within a deadline to be set, their wish to keep their previous citizenship or to opt for another one (Article 46). Article 47 ruled that individuals not born in Angola but resident in the country would be entitled to apply for Angolan citizenship, in accordance with the rules to be set in the Fundamental Law. Finally, Article 48 prescribed that special agreements, to be studied by a commission of Portuguese and Angolan representatives, would regulate the grounds for granting Angolan citizenship to Portuguese citizens domiciled in Angola as well as the legal status enjoyed by Portuguese citizens residing in Angola and the legal status of Angolan citizens residing in Portugal.

The cohabitation of the FNLA, MPLA and UNITA in the Transitional Government proved difficult from the start (Pinto 2012: 81-82; Pereira 2002: 47) and soon the three movements were at war with each other, leading Portugal to suspend the Alvor Agreements on 22 August 1975 (Feijó 2015: 17-18). Enjoying Soviet and Cuban support, the MPLA managed to 'capture state power' (Martins 2017: 105) and made a unilateral proclamation of independence in Luanda on 11 November 1975, as scheduled in the Alvor Agreements, while the coalition FNLA-UNITA – supported by South Africa and the United States – made a separate proclamation of independence on the same date in Huambo (Pinto 2012: 84).

2.2. First Constitutional Cycle (1975-1991)

On the same day that Angola became an independent state, the first Angolan Constitution entered into force – the Constitutional Act of the People's Republic of Angola (*Lei Constitucional da República Popular de Angola*).¹⁹ It had been impossible to hold general elections for a Constituent Assembly, given that the members of the Transitional Government were at war, so the first Angolan Constitution was approved on the 10th of November 1975 by

¹⁹ Text available at <http://cedis.fd.unl.pt/wp-content/uploads/2016/01/LEI-CONSTITUCIONAL-de-1975.pdf> [04.03.2019].

the Central Committee of the MPLA, acting as a ‘true revolutionary constituent power’ (Feijó 2015: 18). The Constitution defined the People’s Republic of Angola as a democratic state committed to the eradication of colonialism and to building of a country free from any form of exploitation of man by man (Article 1). It stressed Angola’s unitary and indivisible character, warning against any attempts at separatism (Article 4), and set the goal of fostering solidarity and common development as a means to fight regionalism and tribalism (Article 5). The MPLA was presented as the legitimate representative of the Angolan people, and put in charge of the political, economic and social direction of the Nation (Article 2), with its president being also the President of the People’s Republic of Angola (Article 31), an overlap between party and state structures which would be reinforced in subsequent constitutional amendments during the 1970s and 1980s (Feijó 2015: 19-23).²⁰

The universalistic (as opposed to ‘tribalistic’) spirit of the 1975 Constitution was expressed in the provision that all citizens were equal before the law, enjoyed the same rights and were bound by the same obligations, with no discrimination based on colour, race, ethnicity, gender, place of birth, religion, education and social or economic condition (Article 18 § 1). The ordinary legislator was furthermore directed to severely punish any acts aimed at hindering social harmony or at creating discrimination or privileges based on those factors (Article 18 § 2).

The 1975 Constitution did not clarify who were to be considered Angolan citizens, nor the means by which the status could be acquired. The Central Committee of the MPLA opted to address the issue in a separate text – the Nationality Act – also approved on the 10th of November 1975 and entered into force on the following day.²¹ The Act was very brief – eight Articles in total – and set only a superficial legal framework, full of omissions²² and inconsistencies. It nevertheless settled the matter under discussion among MPLA factions in the run-up to independence of whether or not to make the grant of Angolan citizenship to whites and mixed race individuals born in Angola conditional on their participation in the liberation struggle (Pinto 2012: 45-50, 77-80, 87). Consistent with the universalist approach preferred by the Luanda-based MPLA elite, which had opposed ethnic, racial and regional distinctions from very early on, the Nationality Act made no reference to race, setting the example for all the Nationality Acts that would follow. It also made no reference to gender, in line with the ideology of international socialism that so influenced the MPLA during the liberation struggle (Manby 2018: 92-93, 98) and for the duration of the first constitutional cycle.

The 1975 Nationality Act started by establishing the criteria for attribution of citizenship by birth, combining *ius soli* and *ius sanguinis*, with a clear preference to the former²³ and a hint at the coming ban on dual citizenship when framing the latter. Per Article 1 (1), full Angolan citizenship was granted to all individuals born in Angola (*ius soli*) as well as to the children born abroad to an Angolan father or mother (*ius sanguinis*). For those born abroad to an Angolan parent, if they had acquired a foreign citizenship, Article 1 (2) added

²⁰ During the first constitutional cycle, the 1975 Constitution was amended six times, at short intervals (1976, 1977, 1978, 1980, 1986, 1987) and mostly to change governance related provisions (Gouveia 2017: 227-228). As Feijó (2015: 23) puts it, the amendments did not touch the ‘identity of the Constitution’, i.e. party-state, concentration of powers, soviet influence, centralized economy and state ownership of the means of production.

²¹ *Lei da Nacionalidade*, 1975. Text available at <http://citizenshiprightsafrika.org/wp-content/uploads/2016/04/Angola-Lei-da-nacionalidade-1975.pdf> [05.03.2019].

²² Per Article 7, all omissions were to be resolved by the Revolutionary Council (*Conselho da Revolução*) which could delegate to the Government.

²³ This can be taken as a sign of the influence exerted on the drafters by the Portuguese Nationality Act of 1959 (Manby 2018: 92-93).

that they had to opt (*deverão optar*) for Angolan citizenship, but this provision applied only if they were over 18 years of age on the date of independence.²⁴ On the other hand, the Act favoured the automatic attribution of Angolan citizenship to the ‘naturals’ of the country (Manby 2018: 68-69), so individuals born in Angola who did not wish to keep their Angolan citizenship would have to issue a written statement declaring their renunciation to Angolan citizenship within one year after the proclamation of independence [Article 1 (3)]. However, nothing was said about the legal consequences for failing to meet this deadline nor about the possibility of having dual citizenship if born in Angola.²⁵ The reach of *ius soli* was, in any case, limited by the diplomatic exception established in Article 2 (3), according to which the underage children born in Angola to foreign parents who were in Angola in the service of their country were not considered Angolan.

Article 2 (1) and (2) prescribed that the underage children followed their parents’ citizenship status – in acquisition and in loss – with the possibility of opting out from or opting into Angolan citizenship after turning 18 years of age.²⁶ Article 3 allowed for acquisition of Angolan citizenship by naturalisation based on a prolonged residence in the country (10 years) or on marriage to an Angolan citizen coupled with a three year period of ‘permanence’ in Angola. Article 6 added the possibility of granting Angolan citizenship, irrespective of the fulfilment of the requirements set in Article 3, to individuals born abroad who had rendered relevant services to the national liberation struggle. Per Article 4, citizenship would be denied to or withdrawn from those who: (i) alone or as part of a collective, had committed murder against the Angolan civil population; (ii) had directly and voluntarily practiced acts of opposition to the national liberation struggle by taking part in or rendering services to repressive colonial organisations; or (iii) had been part of clandestine organisations created to undermine the decolonisation process. The competence to decide on the applications for Angolan citizenship (and on withdrawals of citizenship, it is to be assumed) was with the Minister of Justice, whose decisions were appealable to the Government (Article 5).

With the civil war still raging, but already under the leadership of José Eduardo dos Santos (who succeeded Agostinho Neto as head of the MPLA and President of the Popular Republic of Angola), a new Nationality Act was adopted in 1984 – Law no. 2/84, of 7 February 1984²⁷ – providing a slightly more elaborate legal framework, making explicit the ban on dual citizenship and shifting the balance between *ius soli* and *ius sanguinis* in favour of the latter, while introducing specific safeguards against statelessness. Article 1 prescribed very simply that the child of an Angolan father or of an Angolan mother was an Angolan citizen, without further requirements. Birth in the territory was acknowledged as relevant either when necessary to prevent statelessness or when combined with residence in the country (*ius domicilii*) and a conscious option for Angolan citizenship. Article 2 recognised as Angolan citizen the child born in Angola to unknown parents, to parents of unknown citizenship or to stateless parents, as well as the child who did not acquire the citizenship of any of the parents by virtue of the parents’ law of nationality. Article 3 granted individuals

²⁴ Article 1 (2) reads like a transitional provision, since its letter does not cover individuals born abroad to an Angolan parent who turn 18 after 11 November 1975.

²⁵ The 1984 Nationality Act would clarify this point, by inverting the phrasing, i.e. by making the maintenance (not the loss) of Angolan citizenship dependent on a declaration by the interested party.

²⁶ If one of the parents had or acquired Angola citizenship, the underage child would be an Angolan citizen with the possibility, in any case, of opting for another citizenship after turning 18 years of age [Article 2 (1)]. Underage children born in Angola whose parents renounced or lost their Angolan citizenship would also lose Angolan citizenship, but were entitled to opt for Angolan citizenship after turning 18 [Article 2 (2)].

²⁷ *Lei n.º 2/84, de 7 de Fevereiro, Lei da Nacionalidade*, available at http://citizenshiprightsafrika.org/wp-content/uploads/2016/05/Angola-Lei-da-nacionalidade-No2_1984.pdf [05.03.2019].

born in Angola to foreign parents who kept their habitual residence in Angola until coming of age the right to acquire Angolan citizenship provided they renounced their foreign citizenship. Article 4 provided another safeguard against statelessness by prescribing that the foreign citizen who married an Angolan citizen would acquire Angolan citizenship if he or she lost his/her previous citizenship as a result of the marriage.

The rules on acquisition of Angolan citizenship by naturalisation were elaborated further, although the basic residence requirement was kept at 10 years. Article 5 (1) prescribed that the National Assembly (*Assembleia do Povo*) could grant Angolan citizenship to foreigners who applied for it and who, at the time of the application, met a set of cumulative requirements: (a) if they had reached the age of majority according to Angolan law and the law of the state of origin; (b) had resided habitually and legally in Angola for at least 10 years; (c) offered moral and political guarantees of integration in Angolan society; and (d) had lost their previous citizenship. These requirements applied also to foreigners married to Angolan citizens, with the difference that the residence requirement was lowered to five years [Article 5 (2)]. With the naturalisation of the parent, the underage unmarried children could also acquire Angolan citizenship, if they applied for it, with the possibility of opting for another citizenship after coming of age [Article 5 (3)]. The National Assembly was furthermore competent to grant Angolan citizenship to foreign citizens who had rendered relevant services to the country (Article 6), nothing being said however whether the recipients would have to renounce their prior citizenship or not.

Per Article 7, Angolan citizenship would be lost by those who (a) voluntarily²⁸ acquired a foreign citizenship; (b) rendered public service to a foreign government without the Angolan government's authorisation; (c) opted for a foreign citizenship after coming of age, if born abroad to Angolan parents; (d) were considered unfit (*indignos*) to continue to be Angolan, by the National Assembly, due to the performance of activities contrary to the interests of the Angolan people. Whether Angolan citizenship was lost voluntarily [Article 7 (c)] or involuntarily [Article 7 (a), (b) and (d)], it could still be reacquired by decision of the National Assembly, per Article 8.

The 1984 Nationality Act included a set of transitional provisions, to clarify its interplay with the regime set by the 1975 Nationality Act and to correct some ambiguities left by the 1975 Act which were signalled earlier. Article 9 (1) ruled that, for the purpose of interpreting the Act's provisions, any mention to an Angolan father or mother was to be interpreted as meaning individuals who were Angolan citizens on 7 February 1984 according to the 1975 Nationality Act. Article 9 (2) added, however, that those who on 7 February 1984 also held a foreign citizenship would not be considered Angolan except if they expressed their wish to be Angolan within one year time and renounced their foreign citizenship. Article 10 provided for the cases in which children had lost Angolan citizenship as a result of declarations made by their parents while they were underage, allowing them to opt for Angolan citizenship within one year after having become of age. Although the 1984 Act was explicitly anti-dual citizenship, it admitted in Article 11 that the application of its provisions as well as of those in the 1975 Act could lead to cases of dual citizenship and referred the solution of the matter to the celebration of international agreements with the states of which Angolans were also citizens. Article 12 clarified, in any case, that no other citizenship held by Angolan citizens would be recognised or have legal effects in Angola.

²⁸ Which could be interpreted as meaning that an involuntary acquisition would not lead to loss of Angolan citizenship, for instance if an Angolan citizen married a foreigner abroad and acquired the spouse's citizenship *ope legis*. There are no records available to confirm whether that was the case or not.

In fulfilment of the obligation set by Article 14 of the 1984 Nationality Act, albeit with a considerable delay, the Council of Ministers adopted a Regulation of the Nationality Act – Decree no. 1/86, of 11 January 1986²⁹ – which remained in force through different Nationality Acts until 2017. The Regulation is remarkable in its abstraction from the situation lived in Angola at the time, since it regulates proof of citizenship as if birth registration was universal and as if record keeping was generalised throughout the country and had been kept undisturbed in the midst of a civil war and with massive population displacements going on. Compared with the two Nationality Acts, the Regulation is more detailed – as expected in a legal instrument of this kind – but also more careful (although not always precise)³⁰ in the distinct use of the terms *attribution* (citizenship by birth) and *acquisition*, which can be said to reflect the influence of Portuguese citizenship law.

According to Article 1 (1) of the Nationality Regulation, the attribution of Angolan citizenship to children born in Angola required that the Angolan citizenship of one of the parents was indicated in the child's birth registration. The Angolan citizenship of the parent was assumed when he or she was a 'natural of Angola', i.e. was born in Angola [Article 1 (2)]. If the parent declaring to be Angolan was not born in Angola, he or she had to make proof of his/her Angolan citizenship [Article 1 (3)]. The children born abroad to an Angolan parent after 11 January 1986 were attributed Angolan citizenship provided that they (a) were registered at the Angolan diplomatic or consular representation in the place of birth or (b) were registered in the Angolan Central Registry Office (*Conservatória dos Registos Centrais*), with the requirement in each case that the author of the registry made proof of the Angolan citizenship of one of the parents (Angolan citizenship being assumed whenever the parent was a 'natural of Angola') (Article 2). Angolan citizenship was furthermore attributed to children born in Angola in whose birth registration no mention was made of the parents' identity (Article 3), to children in whose birth registration the parents or parent were identified as stateless, following proof before the Registrar (Article 4), and also to children born in Angola to foreign parents if it was proven before the Registrar that they had not acquired the citizenship of their parents (Article 5). Proof of the right to Angolan citizenship and an express renunciation to any foreign citizenship were required from those who had lost Angolan citizenship as a result of declaration made by their parents while they were underage and wanted to opt for Angolan citizenship after reaching majority (Article 6). Those who held both Angolan and a foreign citizenship on 7 February 1984 and wanted to keep their Angolan citizenship, had to submit to the Registrar a 'declaration of option', expressly mentioning the renunciation to the foreign citizenship, accompanied by proof of Angolan citizenship (Article 7). Proof of residence in Angola – by document issued by the Municipal Commissioner (who was expected to check with other municipal authorities from the areas where the individual had resided) or by the Emigration and Borders Service – was required to instruct the applications submitted by individuals born in Angola to foreign parents who had lived in Angola until reaching majority and were willing to renounce their foreign citizenship (Article 8). Those who lost their foreign citizenship as a result of their marriage to an Angolan citizen were required to prove that fact – and that proof had to be recognised by the Minister of Justice – in order to be granted Angolan citizenship (Article 9).

²⁹ *Decreto n.º 1/86, de 11 de Janeiro, Regulamento da Lei da Nacionalidade*, available at http://citizenshiprightsafrika.org/wp-content/uploads/2017/11/Angola_regulamento-da-lei-da-nacionalidade-1986.pdf [05.03.2019].

³⁰ For instance, Article 9, uses both terms to refer to the acquisition of Angolan citizenship by the foreign spouse of an Angolan citizen who proves to have lost his or her citizenship of origin as a result of the marriage.

Innovating vis-à-vis the 1984 Nationality Act, the Regulation included a provision on acquisition of Angolan citizenship by adoption. Article 10 (1) ruled that foreigners³¹ adopted by Angolan citizens would be entitled to acquire Angolan citizenship, provided that (a) the adopting person(s) declared their wish that the adoptee acquired Angolan citizenship; (b) the adoptee, when older than 14 years of age, declared his/her wish to acquire Angolan citizenship; and (c) the applicants joined copy of the judicial decision establishing the adoption. The application was to be submitted to the Minister of Justice [Article 10 (2)].

As for the acquisition of Angolan citizenship for relevant services to the country, the Regulation provided much needed specifications to the vague statements in the two Nationality Acts, although it brought the process closer to a naturalisation application than to the grant of an honour as acknowledgement and reward for services rendered to the country. The initiative to grant Angolan citizenship to foreigners who had rendered relevant services to the country belonged to the Members of Parliament (*deputados*) in the National Assembly,³² but the recipient of the honour was referred to as ‘the interested party’ and was required to renounce to any foreign citizenship. The proposal had to be accompanied by a ‘full identification’ of the interested party and instructed by (a) a document issued by the Secretariat of the Central Committee of the MPLA³³ attesting to the facts on which the proposal was grounded; (b) a declaration by the interested party in which he or she declared his/her wish to acquire Angolan citizenship and his/her renunciation to the foreign citizenship; and (c) the interested party’s integral birth registration certificate. The proposal was to be addressed to the President of the National Assembly and approved in accordance with the Assembly’s Internal Rules (Article 12).

The formal requirements for acquisition of Angolan citizenship by ‘regular’ naturalization were set in Article 13. The application was to be addressed to the President of the National Assembly and enclose (a) the interested party’s integral birth registration certificate; (b) document attesting to 10 or five-year residence in Angola, if married to Angolan citizen, issued by the Municipal Commissioner of the interested party’s area of residence or by the foreigners service of the Ministry of State Security (*Ministério da Segurança do Estado*); (c) certificate issued by the Provincial Commissioner of the interested party’s area of residence attesting that he or she offered moral and political guarantees of integration into Angolan society; (d) criminal record issued in the country of origin and in Angola; (e) marriage certificate, in case of application as spouse to an Angolan citizen; (f) declaration of commitment to renounce to foreign citizenship [Article 13 (1) and (2)]. If the interested party had underage children whom he or she wanted to have granted Angolan citizenship, he/she had to request it and enclose the children’s integral birth registration certificates [Article 13 (3)]; however, children over 14 years of age were required to declare their wish to acquire Angolan citizenship [Article 13 (4)].

The Regulation was also ‘innovative’ in its rules on loss of citizenship. First of all, per Article 14 (2), Angolan male citizens, resident in Angola, who had not yet rendered their obligations under the Military Service Act were not allowed to opt for a foreign citizenship. In cases where option for a foreign citizenship was allowed, Angolan citizenship would only be withdrawn once the citizen who had opted for a foreign citizenship made a statement of that fact and proved to have acquired the foreign citizenship [Article 14 (1)]. Similarly, Angolan citizens who voluntarily acquired a foreign citizenship by marriage or naturalisation

³¹ In a clear drafting mistake, Article 10 actually read ‘the Angolan citizen adopted by national citizen’.

³² A minimum of five MPs was required to put forward the proposal [Article 11 (1)].

³³ The MPLA had, by then, been renamed MPLA-Partido do Trabalho, to stress its identification with the cause of the working masses.

had to state that fact and prove the acquisition of the foreign citizenship before the withdrawal took effect (Article 15). In any case, however, the Angolan authorities could withdraw Angolan citizenship *ex officio* whenever they received information that an Angolan citizen had opted or voluntarily acquired a foreign citizenship, although the person denouncing the fact to the Ministry of Justice was required to submit proof of the acquisition of the foreign citizenship (Article 16). Angolan citizens could perform public functions to the benefit of a foreign state provided they obtained the Government's authorisation, which had to be requested through the Ministry of Foreign Affairs [Article 17 (1)]. The Government decided on whether or not to grant the authorisation and set the conditions for the exercise of the functions [Article 17 (2)]. Any citizen or entity could denounce cases of unauthorised performance of public functions to the Ministry of Foreign Affairs or to the Public Prosecutor which would then relate the facts to the Ministry of Justice for the purpose of withdrawing Angolan citizenship [Article 17 (3)]. Article 18 gave the competence to decide on the renunciation and withdrawal of Angolan citizenship to the Minister of Justice. Regarding the loss on grounds of unfitness (*indignidade*) due to activities past or present contrary to the interests of the Angolan people, the procedure was laid down in Articles 19 to 21 of the Regulation. The initiative could come from a range of public organs and entities, which had to submit a reasoned proposal to the President of the National Assembly. The President would then give the interested party the opportunity to submit his or her reply within 30 days and, if necessary, would mandate one of the MPs to make inquiries and produce a report within a given deadline, following which the National Assembly would decide on the proposal, in accordance with its Internal Rules.

The Regulation treated differently the reacquisition of Angolan citizenship depending on the grounds on which the citizenship had been lost. Per Article 23 (1) and (2), if the former Angolan citizen had renounced his or her citizenship under the 1975 Nationality Act or had lost his/her citizenship for any of the reasons listed in Article 7 (a), (b) and (c) of the 1984 Nationality Act, reacquisition of Angolan citizenship would require an application to the President of the National Assembly with (a) proof that the applicant had held Angolan citizenship; (b) certificate issued by the Municipal Commissioner of the applicant's area of residence attesting that he or she had his/her permanent domicile in Angola, if that was the case;³⁴ (c) certificate issued by the Provincial Commissioner of the applicant's area of residence or by the Angolan diplomatic or consular representation attesting that the applicant offered guarantees of reintegration into Angolan society; (d) declaration with the commitment to renounce to the foreign citizenship or proof of statelessness. If the former citizen had lost his or her Angolan citizenship due to acquisition of a foreign citizenship on the basis of marriage to a foreign citizen which had been annulled or dissolved, the application had to enclose the documents listed in (a), (b) and (d), plus proof of annulment or dissolution of the marriage [Article 23 (4)]. Similarly to what happened to the regular regularisation procedure, if the applicant wanted that his or her children also (re)acquired Angolan citizenship, he/she had to request it and enclose the children's integral birth registration certificates; if the children were older than 14 years of age, they had to declare their wish to acquire Angolan citizenship [Article 23 (3)]. Those whose citizenship had been withdrawn as a result of activities contrary to the interests of the Angolan people could also reacquire Angolan citizenship by proposal from any MP in the National Assembly [Article 24 (1)]. The proposal was to be addressed to the President of the National Assembly and

³⁴ The 1984 Nationality Act did not set a residence requirement for reacquisition of Angolan citizenship and the phrasing of this provision in the Regulation also seems to indicate that a permanent domicile in Angola was not always necessary for reacquisition. Being that so, it is not easy to explain why it would be necessary to submit such a certificate with the reacquisition application.

accompanied by the documents required for reacquisition under Article 23 except for the certificate to be issued by the Provincial Commissioner; the discussion of the proposal was to take place according to the Assembly's Internal Rules [Article 24 (2)].

Throughout this first constitutional cycle, the citizenship regime was developed against a background of civil war, with ethnic tensions at their peak and millions of individuals on the move, either internally displaced or exiled. One can only wonder to what extent the statutory provisions in the Nationality Acts and Regulation were actually applied in practice. The war destroyed the country's infrastructures and made the normal functioning of the state's administrative system impossible, including the registration of births, the maintenance of records and the issuance of identity documents. It would not be surprising to find that administrative decisions to issue identity or travel documents, to grant entry or to allow stay in the territory were taken in disregard for the statutory provisions defining who was entitled to Angolan citizenship and *ipso iure* entitled to be issued Angolan identity documents and to enjoy the right to enter and stay in Angolan territory. It would also not be surprising if administrative decisions discriminated on the basis of race, in spite of the careful universalism of the Nationality Acts, as was the case in other countries in Africa with egalitarian laws but discriminatory public officials (Manby 2018: 139; 311). The legal framework developed during this period in Angola did not provide much in the way of due process safeguards, as the Nationality Acts and the Regulation only allowed for administrative appeals, not judicial oversight.

2.3. 'Constitutional Transition' (1991-2010)

The civil war was briefly interrupted in 1991-1992, with an agreement to a cease-fire being reached in the context of the negotiation of the Bicesse Peace Accords, which were formally signed on 31 May 1991 by the President of the People's Republic of Angola, José Eduardo dos Santos, and the leader of UNITA, Jonas Savimbi, under the auspices of the United Nations, with the Portuguese Government as mediator and in the presence of observers from the Governments of the United States and of the Soviet Union.³⁵ The fundamental principles for the establishment of peace in Angola, as listed in Attachment II to the Accords, included the creation of a multi-party democracy in Angola in which UNITA would have the right to 'conduct and freely participate in political activities' (§ 2); the revision of the Constitution and of the electoral laws after consultation with all political forces (§ 3); the organisation of free and fair elections for a new government, following voter registration conducted under the supervision of international elections observers, who were to remain in Angola until they certified that the elections had been free and fair and that the results had been officially announced (§ 4); and respect for human rights and basic freedoms, including the right of free association (§ 5). The Estoril Protocol, in Attachment IV, included a provision determining that all Angolan citizens of adult age would be entitled to vote, participate in the election campaign and stand for election without any discrimination or intimidation (§ 5 of section I). It also provided for the establishment of a Joint Political-Military Commission to ensure the political supervision of the cease-fire process, composed of representatives of the Angolan Government and of UNITA as members, and of representatives of Portugal, the United States and the Soviet Union as observers, with the possibility of the United Nations being also represented in the capacity of invited guest (§§ 1 and 5 of section II).

³⁵ Text available at https://peacemaker.un.org/sites/peacemaker.un.org/files/AO_910521_PeaceAccordsforAngola%28en%29.pdf [07.03.2019].

The Bicesse Peace Accords are said to have kick-started the Angolan constitutional transition towards a democratic state under the rule of law (Feijó 2015: 26-29; Gouveia 2017: 222),³⁶ with their stress on the need to create a multi-party democracy and to revise the constitutional framework accordingly. By the time the Accords were formally signed, the Constitution had indeed been subject to a major revision with Law no. 12/91, of 6 May 1991,³⁷ which – as Gouveia (2017: 228-229) puts it – radically changed the identity of Angola’s constitutional order. The change was so profound that it could even be argued that Law no. 12/91 was no mere amendment to the 1975 Constitution, but a whole new Constitution. Angolan constitutionalists such as Feijó (2015: 29), however, seem to prefer to consider Law no. 12/91 as simply the start of the process of constitutional transition that would continue with the 1992 constitutional amendment and would eventually lead to the adoption of the 2010 Constitution of the Republic of Angola. In Law no. 12/91, Angola was still identified as People’s Republic of Angola, but it now took the form of a democratic state under the rule of law, based on national unity,³⁸ human dignity, pluralism of expression and political organisation, and respect for individuals’ fundamental rights (Article 2). The list of fundamental rights was considerably expanded, with more detailed provisions and a few new rights, such as the right to form or take part in labour unions (Article 25), the right to strike (Article 26) and the right to freedom of the press (Article 27). More important for the purposes of this report, Law no. 12/91 ‘constitutionalised’ the issue of citizenship attribution, acquisition, loss and reacquisition by dedicating a provision to it (Article 19), albeit without going so far as setting substantive criteria, which would only happen with the 2010 Constitution. Article 19 only prescribed that Angolan citizenship could be by birth (*originária*) or acquired (*adquirida*), and that the grounds for attribution, acquisition, loss and reacquisition of Angolan citizenship would be determined by ordinary legislation.

Although the Peace Accords only required changes to the Constitution and to the electoral laws, the National Assembly adopted a number of other legal acts on matters deemed to be substantially constitutional and complementary to the new legal framework set by Law no. 12/91 (Gouveia 2017: 229; Feijó 2015: 28), including a new Nationality Act – Law no. 13/91, of 11 May 1991.³⁹ This new Nationality Act did not depart much from the regime set by the 1984 Act and the 1986 Regulation in what regarded the main criteria for attribution, acquisition, loss and reacquisition of Angolan citizenship, even though it eliminated the ban on dual citizenship and made acquisition through marriage to Angolan citizens significantly easier by doing away with the residence and integration requirements. It was, in any case, a significant improvement in terms of legislative technique, from the structure adopted (which became a template for the Acts that followed), to the clarifications provided and the new aspects covered. And it finally introduced judicial oversight of the decisions taken by the Government in matters of citizenship.

The 1991 Nationality Act made a clear distinction between attribution and acquisition of Angolan citizenship, not only because it treated them in separate sections, but most importantly because it ruled that the attribution of Angolan citizenship by birth, even if

³⁶ A move away from the soviet influence which can easily be explained in the new international context resulting from the fall of the Berlin Wall in 1989 and the implosion of the Soviet Union that soon followed (Gouveia 2017: 228).

³⁷ *Lei de Revisão Constitucional da República Popular de Angola, Lei n.º 12/91, de 6 de maio*; text available at <http://www2.senado.leg.br/bdsf/bitstream/handle/id/176034/000472167.pdf?sequence=3> [07.03.2019].

³⁸ The abhorrence to tribalism, racism and regionalism continued to be strong and was expressed in Article 15.

³⁹ Text available at <http://citizenshiprightsafrika.org/wp-content/uploads/2017/11/Angola-Lei-da-nacionalidade-1991.pdf> [08.03.2019].

determined at a later date, would have effects from the date of birth (Article 4),⁴⁰ which *a contrario* had to be interpreted as meaning that the acquisition of Angolan citizenship would not have retroactive effects. Grounds for attribution were birth to an Angolan parent either in Angola or abroad [Article 9 (1)], with an assumption of Angolan citizenship by birth in favour of newborn abandoned children, absent proof to the contrary [Article 9 (2)]. In the list of grounds for acquisition, there was now a separate provision for adoptees (Article 11) and a final provision for ‘other cases of acquisition’ (Article 14), which covered the cases of individuals born in Angolan territory who were stateless and of individuals born in Angolan territory to unknown parents, to parents of unknown citizenship or to stateless parents, who could acquire Angolan citizenship on application – creating an overlap with Article 9 (2) that is still to be addressed by the Angolan legislator to this day. As mentioned earlier, acquisition on the grounds of marriage to an Angolan citizen became much easier than before, since it was no longer required that the applicant resided in Angola for five years, nor that he or she fulfilled other naturalisation requirements such as political and moral guarantees of integration into Angolan society. Any foreigner married to an Angolan citizen who wanted to acquire Angolan citizenship just had to ask for it (Article 12). Except for the standard naturalisation procedure provided for in Article 13, where the phrasing adopted was ‘the Ministry of Justice may grant’, it would seem that the acquisition of Angolan citizenship by those who met the statutory criteria was an entitlement and did not depend on a discretionary decision by the Government. As for the naturalisation requirements, they were kept mostly the same, with the important difference that it was no longer required that the applicant renounced his or her previous citizenship and that it was now required that the applicant proved to be capable of providing for him/herself.

On the topic of loss and reacquisition of Angolan citizenship, the main innovations introduced by the 1991 Nationality Act were the elimination of the automatic loss for those who voluntarily acquired a foreign citizenship, the elimination of unfitness (*indignidade*) as grounds for loss, and the distinction between forms of acquisition for the purposes of loss and between forms of loss for the purposes of reacquisition. Now, those who voluntarily acquired a foreign citizenship had to expressly state their wish not to be Angolan in order to lose their Angolan citizenship, per Article 15 (1) (a). Besides the cases of renunciation [Article 15 (1) (a), but also (c) and (d) for children and adoptees of Angolan citizens], the only other ground for loss common to all forms of citizenship acquisition (and attribution) was the unauthorised rendering of sovereign functions for the benefit of a foreign state [Article 15 (1) (b)]. Angolan citizenship acquired by naturalisation could however also be lost on the grounds of (a) conviction in final judgment for a crime against the external security of the state; (b) rendering of military service for a foreign state; and (c) use of forgery or other fraudulent means to acquire citizenship [Article 15 (2)], with the consequence that the Angolan citizenship lost on one of these grounds could never be reacquired [Article 16 (3) *a contrario*]. Those whose Angolan citizenship had been lost as a result of declaration made by their parents while they were underage were entitled to reacquire it after coming of age, provided that they had resided in Angola for at least one year before they exercised their right of option [Article 16 (1) and (2)]. Those who had renounced their Angolan citizenship or who had lost it as a result of unauthorised rendering of sovereign functions for the benefit of a foreign state could reacquire it by decision of the National Assembly, provided that they had resided in Angola for at least five years before they submitted their application [Article 16 (3)].

⁴⁰ Per Article 4, the retroactive effects of the attribution of Angolan citizenship did not hinder the validity of the legal relations previously entered into on the basis of a different citizenship.

The 1991 Nationality Act also innovated by including a list of grounds for the Public Prosecutor to oppose the acquisition (but not the attribution) or reacquisition of Angolan citizenship. Per Article 17, the grounds for opposition were: (a) manifest absence of any effective ties to Angolan society; (b) conviction for a crime punishable under Angolan law in a prison sentence of eight years or more; (c) conviction for a crime against the internal or external security of the Angolan state; (d) exercise of sovereign functions for a foreign State without the authorisation of the National Assembly; and (e) rendering of military service for a foreign state.⁴¹ The opposition was exercised by the Public Prosecutor on appeal to the People's Supreme Court within six months after the submission of the application by the interested party (Article 18).

The 1991 Nationality Act prescribed that a Regulation would be adopted within 180 days of its publication (Article 34)⁴² but, contrary to its predecessors, it provided in any case for a number of procedural aspects (registration, proof of citizenship, citizenship certificates) and introduced due process safeguards by establishing that any acts pertaining to the attribution, acquisition, loss or reacquisition of Angolan citizenship could be appealed by the direct interested parties and by the Public Prosecutor to the Civil and Administrative Chamber of the People's Supreme Court (Articles 28 and 29). Article 32 retroactively cancelled the loss of Angolan citizenship that had resulted from the application of Article 9 (2) of the 1984 Nationality Act, which required renunciation to any foreign citizenship within one year of publication of that Act,⁴³ and extended the benefit of the cancellation to the children born to such individuals before the entry into force of the 1991 Nationality Act, who would only have to declare their wish to be Angolan to be attributed Angolan citizenship by birth.

In preparation for the presidential and legislative elections foreseen in the Bicesse Peace Accords, the National Electoral Council conducted a voter registration campaign, with technical assistance from the UN and foreign donors, which was initially planned to run from 20 May until 31 July 1992, but which was eventually extended until 10 August due to UN pressure. The registration process included the issuing of a plastic laminated photo ID card to all eligible voters (Bayer 1993: 13). In his report to the Security Council dated 9 September 1992, the UN Secretary-General Boutros Boutros-Ghali stated that the results of the registration exercise had surpassed expectations, with the National Electoral Council reporting the registration of 4.8 million eligible voters, representing some 92% of an estimated voting population of 5.3 million.⁴⁴ In the meantime, the dates for the elections had been officially set for 29 and 30 September 1992, and, following the closing of voter

⁴¹ The grounds listed in Article 17 (d) and (e) are a bit perplexing, since there would be no apparent reason why a foreigner, while foreigner, even if residing in Angola, would have to ask the Angolan National Assembly for authorisation to exercise sovereign functions for a different state (e.g. his/her country of origin), or why the fact that a foreigner had rendered military service to a foreign state (probably his/her country of origin) would impede his/her naturalisation as Angolan later in life. The Angolan legislator seems to have realised this when drafting the 2016 Nationality Act, because the new Act reserves these grounds for opposition to the *reacquisition* of Angolan citizenship.

⁴² Which did not happen, requiring the continued application of the 1986 Regulation, with the necessary adaptations, per Article 36 (2) of the 1991 Nationality Act.

⁴³ With the exception of those who declared their wish not to benefit from the cancellation, i.e. to regain Angolan citizenship.

⁴⁴ Information available from the UN mission to Angola (UNAVEM II) website, at <https://peacekeeping.un.org/mission/past/Unavem2/UnavemIIB.htm#observation> [07.03.2019]. The UN estimate of potential voters was different (5.8 million) (Bayer 1993: 13), which suggests discrepancies in the criteria and methodology used for determining who was Angolan citizen over the age of 18. If the research conducted for this report, it was not possible to ascertain what these discrepancies were.

registration, eighteen political parties and thirteen presidential candidates managed to register with the National Electoral Council (Bayer 1993: 13).

On the eve of the elections, there was still time for a new amendment to the 1975 Constitution through Law no. 23/92, of 16 September 1992.⁴⁵ This new amendment was premised on the understanding that the 1991 amendment had not fulfilled the historic role of laying the constitutional basis for the democratic transition and that the signature of the Bicesse Peace Accords required a proper reform of the applicable constitutional norms, with a more elaborate legal framework and a broad participation of Angolan political parties⁴⁶ (Gouveia 2017: 229; Feijó 2015: 32-33, 36-38). In any case, while the 1992 amendment renamed the former People's Republic of Angola as Republic of Angola and introduced other changes to symbolic aspects of the regime, besides adding a few new institutes and rights, it did not break with the past as the 1991 amendment had done, but simply elaborated on the 1991 text (Gouveia 2017: 229-230). Where the 1992 amendment set itself apart was in presenting itself as a 'provisional Constitution', designed to be in force just until the approval of the 'definitive' Constitution of the Republic of Angola by the new National Assembly formed following the September 1992 election (Gouveia 2017: 229-230; Feijó 2015: 39, 53). The return to civil war after UNITA rejected the electoral results would keep the 1992 Constitutional Amendment Act in force for many more years, with an amendment in 1996 (Law no. 18/96, of 14 November) following the signature of the 1994 Lusaka Protocol⁴⁷ and a minor amendment in 2005 (Law no. 11/05, of 21 September) to allow the holding of general elections before the approval of the future Constitution (Gouveia 2017: 231). The 1992 text continued in any case to be perceived as provisional until it was finally replaced by the 2010 Constitution (Feijó 2015: 39-47, 51-53).

The Lusaka Protocol is said to have reduced the impact of the civil war (Pereira 2002: 52), but the fighting resumed in 1998 and only ended in 2002 after the death of Jonas Savimbi at the hands of the Government's military. On 4 April 2002, the Angolan Armed Forces and the UNITA Military Forces signed the Luena Memorandum of Understanding, in the presence of the UN and of the Observer Countries for the Angolan Peace Process (United States, Russian Federation and Portugal).⁴⁸ The construction of the post-war order required the integration of former foes into one community of equal citizens under the banner of democracy and social and political pluralism. It was also the opportunity to finally close the 'constitutional transition' initiated with the 1991-1992 constitutional amendments. The constituent process had in the meantime been reignited in 1998 with the creation of a

⁴⁵ *Lei Constitucional de 1992*, available at <http://cedis.fd.unl.pt/wp-content/uploads/2016/01/LEI-CONSTITUCIONAL-1992.pdf> [08.03.2019].

⁴⁶ The 1992 amendment was negotiated by the MPLA with 26 commissions of emerging political parties and separately with UNITA, which demanded special treatment as co-signatory of the Bicesse Peace Accords. The fact that the amendment was eventually approved by the one-party National Assembly does not affect its negotiated character, as argued by Feijó (2015: 36-38).

⁴⁷ The Lusaka Protocol was signed on 20 November 1994 by the Minister for External Relations of Angola, Venâncio de Moura, and by the Secretary-General of UNITA, Eugénio Manuvakola, in the presence of President José Eduardo dos Santos. Citing security concerns, Jonas Savimbi did not travel to Lusaka for the event. The negotiations had been mediated by the UN with the United States, the Russia Federation and Portugal as observers. The main political issues covered by the Lusaka Protocol included the completion of the electoral process and the question of national reconciliation. The text of the Protocol is available at https://peaceaccords.nd.edu/sites/default/files/accords/Lusaka_Peace_Accord.pdf [08.03.2019].

⁴⁸ As with the Lusaka Protocol, national reconciliation was a key concern of the Luena MoU. To achieve it, the Angolan Government guaranteed *inter alia* the approval of an Amnesty Law covering all crimes committed in conjunction with the armed conflict between UNITA military forces and the Government (§ 2.1. of Chapter II, Agenda for the Memorandum of Understanding). Text available at https://peaceaccords.nd.edu/sites/default/files/accords/The_Luena_Agreement_2002.pdf [08.03.2019].

Constitutional Commission to prepare the text, but after the war ended it was eventually decided that elections had to be held before a ‘definitive’ Constitution could be approved. The Commission was dissolved in 2004 and the Constitutional Bill (*anteprojecto de Constituição*) that it had approved was shelved (Feijó 2015: 45-47; Gouveia 2017: 231).

Parliamentary elections were deferred repeatedly but were finally held on 5 September 2008, under attentive (largely sceptical) observation by the international community (Bösl 2008: 1). In preparation for the elections, a new voter registration campaign had to be conducted, as recommended in a 2002 Pre-Election Assessment Report,⁴⁹ since the 1992 voter register (if it ever was accurate) was now ‘out-of-date, damaged and otherwise not worth updating.’ Among the recommendations in the assessment report was that Angolan authorities should adopt a registration system that placed the minimum burden of proof on citizens, given that many Angolans did not have written identity documents. As mentioned earlier, the voting registration process that took place between 15 November 2006 and 15 September 2007 did take this into account and allowed for a variety of means of proof of identity and eligibility to vote, including the corroborating testimony from religious or traditional authorities or from registered members of the community (Schubert 2010: 662).⁵⁰ Overall 8,397,173 voters were registered in the process.⁵¹

As part of the legislative package adopted in preparation for the elections, the National Assembly also approved a new Nationality Act – Law no. 1/05, of 1 July 2005 –, although it brought very few changes to the previous regime. The main concern driving this reform of the Nationality Act seems to have been to put a stop to fraudulent marriages being used to acquire Angolan citizenship. The 1991 Nationality Act had made acquisition on grounds of marriage to an Angolan citizen extremely easy, by doing away with the residence and integration requirements of the 1984 Act. The 2005 Nationality Act now required that the foreigner be married to his or her Angolan spouse for more than five years, that the application be submitted during the marriage and that the spouse be heard [Article 12 (1)]. Furthermore, the acquisition of Angolan citizenship on the basis of a fraudulent or illegal marriage or of a marriage entered into in bad faith was added to the list of grounds for involuntary and irrevocable loss of citizenship, in Article 15 (2) (d).

Two child registration campaigns were conducted following the end of the civil war, but many children continued to be unregistered in 2007, which led the Government to adopt Decree no. 31/07, of 14 May,⁵² establishing the gratuity of birth registration and of ID cards for children between 8 and 11 years of age (Articles 2 and 7). In order to make the registration process more accessible, Article 6 allowed for the birth registration to be made at the Civil Registry Offices (*Conservatórias do Registo Civil*) and at designated offices in the maternity wards, medical centres, health posts, and at municipal and communal

⁴⁹ Prepared by a Consortium for Elections and Political Process Strengthening; text available at https://www.ndi.org/sites/default/files/angola_preelect_030102.pdf [09.03.2019].

⁵⁰ While this flexibility can be commended, it can also be considered problematic, as Schubert (2010: 662) points out, since reliance in witness testimonies meant that the political affiliations of the witnesses sometimes influenced whether a person was registered or not. This, added to the fact that Angolans residing abroad had not had the chance to register at their Embassies, led Schubert to doubt that all the potential voters had actually registered in 2006-2007.

⁵¹ Information retrieved from the Preliminary Statement of the European Union Election Observation Mission, issued on 8 September 2008. According to the same source, the voters were registered into a centralised database and were given a voter registration card with a magnetic strip bearing their details as well as their photograph and fingerprint. The text of the Preliminary Statement is available at http://eeas.europa.eu/archives/eueom/pdf/missions/eueom_angola_2008_ps_en.pdf [09.03.2019].

⁵² Text available at http://citizenshiprightsafrika.org/wp-content/uploads/2016/01/Angola_Registo_Nascimento_14-May-07-1.pdf [10.03.2019].

administrations in the parents' area of residence. This decentralisation however proved to be detrimental to the maintenance of a consistent record. Other registration campaigns followed after the adoption of Decree no. 31/07 – and Law no. 25/12, of 22 August 2012, on the protection and full development of the child,⁵³ provided for birth registration free of charge of children up to five years of age (Article 73). However, as recently as June 2018, over three million children were still unregistered in Angola.⁵⁴

2.4. 'Constitutional normalisation' (2010 onwards)

In January 2009, the newly elected National Assembly appointed a Constitutional Commission composed of MPs from the political parties and coalitions with parliamentary representation (MPLA, UNITA, PRS,⁵⁵ FNLA, New Democracy Coalition) to prepare the draft of the future Constitution (Feijó 2015: 47-48). Each party and coalition submitted its own bill and a technical commission worked on the harmonisation of the different bills into one text, ending up with three alternative proposals concerning the system of government to be adopted (presidentialism, semi-presidentialism and presidentialist-parliamentarianism), which were amply divulged in the media and submitted for public discussion with civil society organisations, traditional authorities, religious entities, etc. (Feijó 2015: 49-50). According to Feijó (2015: 51), the final version of the Constitution of the Republic of Angola submitted for approval by the Constituent Assembly was the result of the combination of the three proposals with input received from citizens and institutions during the public consultation. The Constitution was approved on 21 January 2010 and, following mandatory judicial review by the Constitutional Court,⁵⁶ which led to minor revisions, was again approved on 3 February 2010. Within two days, it was promulgated by the President of the Republic, published in the Official Journal and entered into force, finally closing the constitutional transition started in 1991 and opening the way for the long-awaited constitutional normalisation and democratic consolidation in Angola (Feijó 2015: 55-56; Gouveia 2017: 221-222, 237-238).

The 2010 Constitution stayed true to the 'constitutional identity' that had been defined by the 1991-1992 constitutional amendments (Gouveia 2017: 237-238), while introducing significant changes in the Angolan citizenship regime by treating citizenship as a fundamental right [Article 32 (1)],⁵⁷ setting substantive standards for the attribution of citizenship by birth [Article 9 (2) and (3)], and protecting citizenship by birth against involuntary deprivation [Article 9 (4)]. The criteria for attribution of Angolan citizenship by birth were the same as those already set by the Nationality Act since 1991, but their inclusion in a constitutional provision added to their normative strength, since all legal acts must comply with the Constitution to be valid, per Article 6 (3) of the 2010 Constitution, which means that those standards are now practically 'set in stone'. The opposite is true for the rules

⁵³ Text available at <http://www.governo.gov.ao/VerLegislacao.aspx?id=511> [10.03.2019].

⁵⁴ Statistics released by Angola's Minister of Justice and Human Rights, Francisco Queirós. Information available at <http://citizenshiprightsafrika.org/over-3-million-of-unregistered-children-in-angola/> [10.03.2019].

⁵⁵ Social Renovation Party (*Partido de Renovação Social*), founded in 1990.

⁵⁶ Judgment no. 111/2010, of 30 January 2010, available at <http://www.tribunalconstitucional.ao/uploads/%7B7dbaf50c-d9b7-420e-930d-2d908d231402%7D.pdf> [10.03.2019].

⁵⁷ Which makes Angola one of the few African countries to provide for an explicit right to citizenship (Manby 2016: 4).

on acquisition, loss and reacquisition of Angolan citizenship, which, per Article 9 (5), continue to be set by ordinary legislation.

With the new constitutional framework, it became necessary to approve a new Nationality Act that would adapt the rules on acquisition, loss and reacquisition of Angolan citizenship to the ‘new political and social reality arising from the transformations ongoing in the country’, in light of the state’s obligations to set uniform integration and cohesion criteria for all citizens, as can be read in the preamble to the 2016 Nationality Act, which was approved by Law no. 2/16, of 15 April 2016.⁵⁸ While the 2010 Constitution strengthened the citizenship status of Angolan citizens by birth, the 2016 Nationality Act made acquisition of Angolan citizenship by marriage and naturalisation considerably more difficult without providing for new safeguards against statelessness. The 2016 Nationality Act also expressly excluded from the right to Angolan citizenship foreign citizens born in Angola before independence and their descendants, except if they had regularised their situation in the meantime by acquiring an Angolan passport or ID card [Article 34 (1) and (2)],⁵⁹ a measure adopted in reaction to the surge in the number of Portuguese citizens who were circumventing immigration controls by reacquiring Angolan citizenship on the basis of their (or their parents) birth in Angola during colonial times.⁶⁰ In any case, the 2016 Nationality Act did not apply to the applications pending at the time of its entry into force (Article 35), which allowed some Portuguese to acquire Angolan citizenship under the previous regime.⁶¹

3. Current citizenship regime

The current citizenship regime in Angola results from the combination of Article 9 of the 2010 Constitution with the statutory provisions set by the 2016 Nationality Act and the 2017 Nationality Regulation (approved by Presidential Decree no. 152/17, of 4 July 2017). There seems to be as yet no case law on citizenship attribution, acquisition, loss or reacquisition from the Angolan Supreme Court, and the Appellate Courts, which are now competent to adjudicate these issues per Article 31 of the Nationality Act, are only expected to start functioning in March 2019.⁶²

⁵⁸ Text available at http://citizenshiprightsafrika.org/wp-content/uploads/2016/04/Angola_Lei-da-nacionalidade_No2-2016.pdf [10.03.2019].

⁵⁹ Article 34 (3) of the 2016 Nationality Act safeguarded the rights acquired under the 1975, the 1984 and the 1991 Nationality Acts, but expressly revoked the possibility of opting for Angolan citizenship conferred by Article 1 (2) of the 1975 Nationality Act for the children born abroad to an Angolan father or mother who were over 18 years of age on 11 November 1975.

⁶⁰ Information retrieved from the blog AngolaBela, post entitled ‘Aumentam os pedidos de naturalização angolana’, at <http://www.angolabelazebelo.com/category/naturalizacao/> [12.03.2019].

⁶¹ In March 2017, it was reported in the Portuguese press that Angolan authorities had granted Angolan citizenship to 45 foreigners (half of whom Portuguese) still on the basis of the 2005 Nationality Act. Information retrieved from JN website, news item entitled ‘Mais de 20 portugueses recebem nacionalidade angolana em março’, at <https://www.jn.pt/mundo/interior/mais-de-20-portugueses-recebem-nacionalidade-angolana-em-marco-5751613.html> [12.03.2019].

⁶² Information on the establishment of the Appellate Courts is available from the Agência Angola Press website, news item entitled ‘Tribunais de Relação iniciam funções em Março de 2019’, at http://www.angop.ao/angola/pt_pt/noticias/politica/2018/8/36/Tribunais-Relacao-iniciam-funcoes-Marco-2019,6dfea4e1-e8c2-44de-8d44-e8d89fbaa5f2.html [10.03.2019].

As was the case with its predecessors, the Nationality Act differentiates between attribution and acquisition, with the important legal consequence that the former operates retroactively to the date of birth while the latter only produces effects to the future (Article 4). The conceptual distinction is also made clear in the Constitution, which directly sets the criteria for attribution and therefore only leaves the rules on acquisition, loss and reacquisition to the purview of the ordinary legislator [Article 9 (5) of the Constitution]. The use of the two terms is not always consistent, however, even in the text of the statutory provisions, as can be confirmed e.g. by the reference to attribution instead of the correct term ‘acquisition’ in Article 16 (1) of the Nationality Act, where it is prescribed that the ‘attribution’ of Angolan citizenship by naturalisation requires an oath of allegiance to the Republic of Angola, to be made before a public authority. Another example can be found in the 2017 Nationality Regulation, where the heading of Article 12 is ‘extraordinary attribution by the President of the Republic’, when what is at stake is the facilitated naturalisation for foreigners who have rendered or who are called to render relevant services to the country. The mistake, which no doubt results from the equivalence of attribution and acquisition in natural language (as opposed to technical legal jargon) can also be found in the discourse of Angolan politicians and in the media.⁶³ The difference in legal effects, mentioned earlier, would suggest that more care in the use of the two terms is needed, but the issue does not seem to have arisen yet in Angolan politics and legal practice.

The competence to assess and decide on the applications pertaining to acquisition, reacquisition and loss of Angolan citizenship now rests with the President of the Republic, except when it is expressly ascribed to the National Assembly (Article 8 of the Nationality Act). In the meantime, the Nationality Regulation created a Citizenship Commission (*Comissão de Acompanhamento dos Processos de Atribuição⁶⁴ da Nacionalidade*) as an inter-ministerial consultative body, under the coordination of the Ministry for Justice and Human Rights, with competence to review the files and issue opinions on the applications for acquisition, loss and reacquisition of Angolan citizenship (Articles 23 to 30).

The President of the Republic is furthermore entitled to enter into bilateral agreements with African states where Portuguese is an official language in order to arrange for the extraordinary regularisation by naturalisation of Lusophone foreigners who are habitually resident in Angola for more than ten years (Article 7 of the Nationality Act). The opening of this possibility is said to have been motivated by the large number of illegal immigrants from Cape Verde, São Tomé and Príncipe, and Guinea Bissau, who have been residing in Angola for many years and who are well integrated into Angolan society,⁶⁵ but no such agreement has been signed so far. It seems, in any case, odd that naturalisation is the solution envisaged by the Angolan Government to regularise these immigrants, when it would in principle be easier to grant them residence permits. The ‘Lusophone privilege’ is easily explained by the historical affinities and the political ties that bind together Angola and the other African members of the Portuguese Speaking Countries Community (CPLP).

The Registrar of the Central Registry Office is competent to issue opinions on all questions of citizenship, namely those that must be submitted by the consular agents in case

⁶³ See e.g. the news item on the approval of the 2017 Nationality Regulation, published on the África 21 Digital website under the title ‘Angola vai facilitar processo de aquisição da nacionalidade’, available at <https://africa21digital.com/2017/05/17/angola-vai-facilitar-processo-de-aquisicao-da-nacionalidade/> [10.03.2019].

⁶⁴ This is another misnomer.

⁶⁵ Information retrieved from the Observador website, news item entitled ‘Governo de Angola concede nacionalidade angolana a 53 portugueses só em julho’, at <https://observador.pt/2016/07/25/governo-de-angola-concede-nacionalidade-angolana-a-53-portugueses-so-em-julho/> [11.03.2019].

of uncertainty regarding the Angolan citizenship of the author of a consular registration (Article 28 of the Nationality Act). The Registrar is also competent to issue Angolan ‘citizenship certificates’ (*certificados de nacionalidade*) at the request of the interested party, provided that there is a registration of his or her Angolan citizenship (Article 29 of the Nationality Act).

All acts or facts that determine the attribution, acquisition, loss or reacquisition of Angolan citizenship are subject to mandatory registration before the Central Registry Office, at the request of the interested parties, with the exception of the cases of attribution based on registration at the Angolan Civil Registry Offices and of acquisition based on adoption (Article 21 of the Nationality Act). The registration makes proof of the acquisition and loss of Angolan citizenship (Article 27 of the Nationality Act).

Any administrative acts pertaining to the attribution, acquisition, loss or reacquisition of Angolan citizenship may be appealed by the interested parties and by the Public Prosecutor within five years of acquiring knowledge of the fact on which the appeal is based (Article 30 of the Nationality Act). The competence to adjudicate citizenship litigation lies with the Civil and Administrative Chamber of the Appellate Court [Article 31 (1) of the Nationality Act]. The case may be sent to a court of first instance whenever there is a preliminary issue regarding the individuals’ personal status [Article 31 (4) of the Nationality Act].

If a person is a citizen of more than one state, Articles 32 and 33 apply to determine which citizenship is to prevail. When one of the competing citizenships is Angolan citizenship, only this citizenship status is relevant for the Angolan authorities who do not recognise any other citizenship ‘attributed’ to Angolan citizens. While the conflict of laws rule is pretty standard, the use of the term ‘attributed’ in Article 32 seems to be a mistake, as it would, if taken in its technical legal meaning, result in excluding from the scope of the provision all cases of dual citizenship in which Angolans had acquired (not been attributed) a foreign citizenship, e.g. by naturalising abroad.⁶⁶ If the competing citizenships are foreign, Article 33 prescribes that the prevailing citizenship will be that of the state where the foreigner has his or her habitual residence or, in its absence, that of the state with which the foreigner keeps stronger ties.

3.1. Modes of attribution and acquisition of Angolan citizenship

Attribution based on birth to an Angolan father or mother, in Angola or abroad: Continuing a long standing and very strong *ius sanguinis* tradition in Angolan citizenship law, Article 9 (2) of the Constitution determines that Angolan citizenship is automatically attributed to children born to an Angolan father or mother, irrespective of place of birth, by mere effect of the law. The Nationality Act replicates this provision in Article 9 (1), adding that the expressions ‘Angolan father or mother’ and ‘Angolan citizen’ are to be interpreted as referring to those to whom Angolan citizenship was attributed under the 1975 and the 1984 Nationality Acts (Article 10).

When the birth to an Angolan father or mother takes place in Angola, proof of Angolan citizenship by birth is made by birth registration, provided that no mention is made to the contrary [Article 26 (1) of the Nationality Act]. The Nationality Regulation adds that the birth registration must attest the Angolan citizenship of any of the parents [Article 3 (1)]

⁶⁶ A similar mistake can be found in the even more inconsistent Nationality Act of Timor-Leste (Jerónimo 2017: 23-24).

and that, if the parent declaring to be Angolan is not a ‘natural of Angola’ (i.e. born in Angola), he or she must prove his/her Angolan citizenship by presenting an ID or birth registration [Article 3 (2)].

When the birth to an Angolan father or mother takes place abroad, proof of Angolan citizenship by birth is made, depending on the cases, by the registration of the declaration on which the attribution depends or by the mentions included in the birth registration lodged with the Angolan Civil Registry Office [Article 26 (2) of the Nationality Act]. It is not entirely clear what declaration is meant here, since none is required in Article 9 (1) or elsewhere in the Nationality Act. Article 22 (1) of the Act also refers to ‘declarations to obtain citizenship’ (*declarações para obtenção de nacionalidade*), ruling that such declarations may be made before the Angolan diplomatic or consular agents, in which case they are registered *ex officio* and sent, along with the required documentation, to the Central Registry Office.⁶⁷ The Nationality Regulation makes no mention of a ‘declaration’. In Article 4, under the heading ‘citizen born abroad’, what is required for recognition as Angolan citizen is either (a) registration at the Angolan diplomatic and consular offices in the area where the child is born or (b) registration before the authorities of the country of birth; in either case with presentation of the ID of the Angolan parent to prove that at least one of the parents is an Angolan citizen.

As mentioned earlier, the attribution of Angolan citizenship has retroactive effects to the date of birth, although it does not hinder the validity of legal relations previously established on the basis of a different citizenship (Article 4 of the Nationality Act). This provision is relevant for all the cases in which the identity of the biological parents is learned later during the individual’s life and it turns out that one of the parents was an Angolan citizen at the time of birth. Since the only other ground for attribution of citizenship by birth is the case of new-born babies found abandoned in Angola, who are immediately treated as Angolan citizens until proof to the contrary, Article 4 of the Nationality Act only applies to the attribution under Article 9 (2) of the Constitution, i.e. in cases of birth to an Angolan father or mother, which are the only cases in which a person may live part of his/her life without knowing that he/she is entitled to Angolan citizenship by birth. When such persons finally find out and claim their right to Angolan citizenship by birth, they will be treated by Angolan authorities as though they had always been Angolan citizens, with the already mentioned safeguards to the validity of previous legal relations under a different citizenship.

Article 25 of the Nationality Act prescribes in this regard that when the filial ties (*filiação*) are established after the birth registration of foreign children born in Angola, information on the act or judicial decision which establishes the filial ties is added to the child’s birth registration with mention of the Angolan citizenship of the parent(s). Interpreted literally, this provision would only cover children born in Angola, not children born abroad whose filial ties to Angolan citizen(s) were determined at a later date in life, but the provision can be considered applicable to this other type of cases by analogy.

⁶⁷ Apparently, these declarations are not to be confused with the mere consular registration (*inscrição ou matrícula consular*), which, according to Article 22 (2), do not constitute as such a title attributing Angolan citizenship.

Attribution to new-born babies found abandoned in Angolan territory: As a safeguard against statelessness, Article 9 (3) of the Constitution assumes that new-born babies⁶⁸ found abandoned in Angolan territory are Angolan citizens by birth. The Nationality Act replicates this provision in Article 9 (2). Being an assumption, the Angolan citizenship of the new-born baby may be disproved, e.g. because one of the biological parents finally appears and turns out to be a foreigner whose citizenship is passed on to the child. Neither the Constitution nor the Nationality Act and Regulation set any time limit or procedure for disproving that the individual was born as an Angolan citizen.

This mode of attribution bears a striking resemblance to Article 15 of the Nationality Act covering ‘other cases of acquisition’, which also provides safeguards against statelessness. The resemblance is particularly striking when we consider that Article 15 (b) covers *inter alia* cases in which the individual is born in Angolan territory to unknown parents. The only difference with Article 9 (3) of the Constitution and Article 9 (2) of the Nationality Act is that these provisions only apply to new-borns. This means that a child whose parents are unknown but who is brought to the attention of Angolan authorities at the age of one year, for instance, will not be automatically attributed Angolan citizenship by birth and will only be entitled to acquire Angolan citizenship on application. This has considerable legal implications: (i) the acquisition will only have effects from the moment Angolan authorities grant the citizenship; (ii) the citizenship so acquired will not be protected against involuntary loss; and (iii) the holders of acquired citizenship will not be entitled to the full range of citizenship rights which are recognised to Angolan citizens by birth. It is difficult to understand why the law would treat so differently similar cases such as these. It seems that the Angolan legislator wanted to preserve the strength of the *ius sanguinis* rule by accepting relevance of birth in the territory only for cases in which it can be assumed that the child is very likely born to an Angolan father or mother. It should be noted, in any case, that until the 1991 Nationality Act, the cases now listed as ‘other cases of acquisition’ were treated as cases of attribution.

The Angolan authorities seem to have realised the inconsistency of treating new-born babies so differently from other abandoned children, because the Nationality Regulation uses the broader term ‘foundling’ (*achado*),⁶⁹ which, per Article 5 (2) of the Regulation, is to be understood as synonymous with the category ‘children in a state of abandonment’ (*em situação de abandono*) as defined by the Angolan Civil Registration Code.⁷⁰ Article 133 of the Civil Registration Code includes in the definition of ‘children in a state of abandonment’ not only the new-born babies of unknown parents, but also children seeming to be 14 years or younger whose parents are unknown or are known but have disappeared. By using the term ‘foundling’, the Regulation is, in effect, widening the universe of potential Angolan citizens by origin, against the letter of the Constitution, which is problematic, even if well-intended. Since the Constituent Assembly decided to include substantive criteria on attribution of Angolan citizenship in the Constitution, and the validity of all legal acts depends on their compliance with the Constitution, any changes to the constitutional criteria for attribution of Angolan citizenship will have to go through the proper constitutional amendment procedure (set in Articles 233 to 237 of the Constitution) and cannot be made by means of a mere

⁶⁸ Angolan law does not provide a definition of ‘new-born babies’, but the term is used by the World Health Organisation to refer to children of up to 28 days of age. See <https://www.who.int/news-room/fact-sheets/detail/newborns-reducing-mortality> [13.03.2019].

⁶⁹ Per Article 5 (1) of the Regulation, Angolan citizenship is recognised to individuals born in Angola (a) who are found in national territory; and (b) whose birth registration makes no mention to the identity of the parents.

⁷⁰ The Civil Registration Code, inherited from the Portuguese colonial administration and revised several times since independence, is available at <https://data.unicef.org/wp-content/uploads/2017/12/codigo-do-registo-civil-decreto-lei-no-47-678-de-5-de-maio-de-1967-2017-04-06-11-50-48-185.pdf> [13.03.2019].

Presidential Decree. Article 5 of the Regulation is also problematic for the overlap that it creates with the cases of acquisition under Article 15 of the Nationality Act and Article 14 of the Regulation, as will be discussed below.

Acquisition by underage and other incapacitated children following acquisition by one of the parents: Per Article 11 (1) of the Nationality Act, the incapacitated children (*filhos incapazes*) of a father or a mother who acquires Angolan citizenship may request Angolan citizenship through their legal representatives. Article 11 uses the expression ‘incapacitated children’ in paragraph 1 and ‘minor’ (*menor de idade*) in paragraph 2. In Angolan law, legal incapacity can result from age but also from other factors such as dementia. Assuming that the legislator said exactly what he meant, the scope of the provision in Article 11 (1) covers not only the underage children of foreigners who naturalise as Angolan citizens but also the adult children who are legally incapacitated due to other factors.⁷¹ However, the corresponding provision in the Nationality Regulation only refers to acquisition by underage children (Article 6). Given that the National Assembly has exclusive competence to legislate on the acquisition, loss and reacquisition of citizenship per Article 164 (a) of the Constitution, in case of contradiction between an Act of Parliament and a Regulation enacted by Presidential Decree, the Act of Parliament prevails. Article 11 (1) of the Nationality Act should therefore be given the broader scope allowed by a literal interpretation of its terms to encompass other forms of legal incapacity besides age.

Furthermore, Article 11 (1) of the Nationality Act entitles the children of citizens by acquisition to acquire Angolan citizenship as well. This means that Angolan authorities have no discretion in this type of cases and, therefore, can neither oppose nor deny the request made under this provision. This is confirmed by the Nationality Regulation, which prescribes in Article 6 (1) that the father or mother who acquires Angolan citizenship and wants the same for his or her child, only has to request the transcript of the child’s birth registration at the Central Registry Office.

The request of Angolan citizenship by the child’s legal representatives must be accompanied by a copy of the father or mother’s citizenship acquisition registration, per Article 11 (3) of the Nationality Act. Article 6 (2) of the Nationality Regulation requires furthermore that the author of the request encloses (a) a full copy of the child’s birth registration attested by the authorities of the country of birth and the Angolan diplomatic and consular offices accredited there; (b) a full copy of the parents’ birth registration; and (c) a copy of the ID of the Angolan parent authenticated by a notary.

The underage children who acquire Angolan citizenship under Article 11 (1) of the Nationality Act are entitled to opt for another citizenship after reaching majority [Article 11 (2) of the Nationality Act]. If we adopt the broader interpretation of Article 11 (1) endorsed earlier, this provision should be applied, with the necessary adaptations, to the cases in which the ‘legal incapacity’ is lifted; an analogy which the 2016 Nationality Act already expressly allows in Article 18 (4).

⁷¹ The legislator uses the two terms again in Article 18, where the loss of Angolan citizenship due to declaration made while the individual was underage is equated with the loss of citizenship due to declaration made while the individual was legally incapacitated. It is also worth noting that the 2005 Nationality Act used the expression ‘underage or incapacitated’ (*menores ou incapazes*) in Article 10, which made clear that the two terms are not synonymous, while being redundant since minority is a form of incapacity under Angolan law.

Acquisition based on adoption by Angolan citizen: Children⁷² adopted by Angolan citizens acquire Angolan citizenship, provided that the adopting person(s) requests it [Article 12 (1) of the Nationality Act]. When the child to be adopted is over 14 years of age, he or she must express his/her wish to acquire Angolan citizenship [Article 12 (2) of the Nationality Act]. Children adopted by Angolan citizen(s) are entitled to acquire Angolan citizenship, which means that Angolan authorities have no discretion and therefore cannot oppose nor deny the acquisition under this provision.

Per Article 7 of the Nationality Regulation, the request is lodged at the Civil Registry Office of the adopting person(s)' area of residence, and must be accompanied by the following documents: (a) the child's birth registration; (b) the court decision which decreed the adoption; (c) the birth registration of the adopting person(s); a copy of the adopting person(s)' ID authenticated by a notary; and (d) a declaration of consent if the child is over 14 years of age. If the adoption was decreed by a foreign court, the request must enclose a copy of the foreign judgment confirmed by the competent Angolan court.

Acquisition based on marriage or registered partnership to Angolan citizen: Doubling down on the restrictive course initiated with the 2005 Nationality Act, Article 13 (1) of the 2016 Nationality Act allows for the acquisition of Angolan citizenship based on marriage to an Angolan citizen on application, provided that (i) the marriage has lasted for at least five years; (ii) the application is made during the marriage; (iii) the spouse is heard; and (iv) the marriage was concluded under a specific marital property system – the common acquired property (*regime de comunhão de adquiridos*). Furthermore, per Article 13 (2), applicants are also required to meet some of the general naturalisation requirements in Article 14, i.e. to be of age under Angolan law; to offer moral and civic assurances of the ability to integrate into Angolan society; and to not have been convicted in the final instance for a crime punishable under Angolan law with a prison sentence of three years or more.⁷³ These requirements are waived by Article 13 (4) if the foreign spouse proves to have lost his or her foreign citizenship as a result of the marriage. The declaration of nullity or annulment of the marriage does not affect the citizenship acquired by the spouse who married in good faith [Article 13 (5)].

Article 13 (3) of the Nationality Act widens the scope of the provision by allowing the acquisition of Angolan citizenship also by foreigners who are in a registered partnership (*união de facto legalmente registada*) with Angolan citizens. Registered partnerships have been recognised in Angola since the adoption of the Family Code in 1988 and have the same legal effects as marriage (Article 119 of the Family Code), so it could be argued that registered partners were already entitled to acquire Angolan citizenship based on an interpretation by analogy of the relevant provisions in the 1991 and 2005 Nationality Acts. In any case, the explicit mentioning of registered partnerships in the 2016 Nationality Act is a welcome development as it adds legal certainty to the application of the law. The 2016

⁷² Only individuals under 18 years of age may be adopted, per Article 200 (1) of the Angolan Family Code, approved by Law no. 1/88, of 20 February 1988; text available at <http://www.consuladogeralangola-porto.pt/download/pt/1-codigo-familia.pdf> [11.03.2019].

⁷³ Article 8 (2) of the Nationality Regulation lists the documents to be enclosed with the application: (a) a full copy of the applicant's birth registration attested by the authorities of the country of birth and by the Angolan diplomatic and consular offices accredited there; (b) a copy of the passport authenticated by a notary; (c) integral copy of the marriage or registered partnership certificate; (d) a copy of the spouse or partner's ID authenticated by a notary; (e) criminal record attested by the authorities of the country of origin and by the Angolan diplomatic and consular offices accredited there; (f) criminal record issued by the Angolan authorities; (g) the spouse or partner's declaration of consent; (h) a proof of residence; and (i) one photograph.

Nationality Act is nevertheless the most restrictive regime ever adopted in Angola for the acquisition of Angolan citizenship on the basis of spousal/partnership ties to an Angolan citizen.

Furthermore, Angolan authorities have discretion when deciding on the applications made under this provision, except for the cases covered by Article 13 (4), and the Public Prosecutor may oppose acquisition, by appealing to the Appellate Court (Article 20) on one of the grounds listed in Article 19 (1), i.e. lack of effective ties to the Angolan community; conviction in the final instance for crime punishable under Angolan law by a prison sentence of three years or more; and conviction in the final instance for a crime against the security of the Angolan state.

Acquisition by naturalisation: In line with the general trend that can be observed in most African states (Manby 2018: 5, 111), the naturalisation requirements set by Angolan law have always been strict, but the 2016 Nationality Act has made access to Angolan citizenship via naturalisation almost impossible,⁷⁴ which may be explained as part of the restrictive approach that the Angolan authorities have taken to immigration control in recent years in response to the arrival of thousands of immigrants attracted by the economic boom that Angola experienced after the end of the civil war. In any case, there are no official statistics on the number of naturalisations requested and granted under the current (or the previous) citizenship regime.

According to Article 14 (1) and (4) of the Nationality Act, foreigners may acquire Angolan citizenship by naturalisation on application, provided that they satisfy all of the following requirements. They must (a) be of age according to Angolan law, i.e. be 18 years or older; (b) have resided legally in Angola for at least ten years; (c) offer moral and civic assurances of their ability to integrate into Angolan society; (d) possess the ability to lead an autonomous life and provide for their sustenance by proving their regular income during the three years prior to the application; (e) have sufficient knowledge of Portuguese, to be demonstrated in an examination; (f) have effective ties to the national community, proven by knowledge about the people and the nation, to be certified by an examination; (g) have an adequate knowledge of the rights and obligations enshrined in the Constitution; and (h) have no prior conviction in the final instance for crime punishable under Angolan law with a prison sentence of three years or more. The Nationality Regulation made meeting these requirements even harder by clarifying that the 10 years residence period is to be counted from the date when the applicant is granted his or her permanent resident permit [Article 9 (2)].⁷⁵

Furthermore, Angolan authorities have discretion when deciding on the applications for naturalisation and the Public Prosecutor may oppose acquisition, by appealing to the

⁷⁴ Even without taking into account the bureaucratic challenges faced by those who apply for naturalisation in practice (Manby 2018: 113-114).

⁷⁵ Per Article 9 (1) of the Regulation, the documents to be submitted with the application are the following: (a) a full copy of the applicant's birth registration attested by the authorities of the country of birth and by the Angolan diplomatic and consular offices accredited there; (b) a copy of the passport authenticated by a notary; (c) the criminal record attested by the authorities of the country of origin and by the Angolan diplomatic and consular offices accredited there; (d) the criminal record issued by the Angolan authorities; (e) a copy of the foreign resident card authenticated by a notary and updated residence certificate; (f) a declaration by the employer and tax return, or, alternatively, a document attesting regular income for the previous three years. Per Article 10 of the Regulation, proof of effective ties to the community and of knowledge about the national symbols and Angolan history is made by an oral or written examination taken before the Citizenship Commission.

Appellate Court (Article 20), on one of the grounds listed in Article 19 (1), i.e. inexistence of effective ties to the Angolan community; conviction in the final instance for a crime punishable under Angolan law with a prison sentence of three years or more; and conviction in the final instance for crime against the security of the Angolan state.

If granted, the naturalisation as Angolan citizen is only effective after the interested party takes an oath of allegiance to the Republic of Angola before a public authority. The formula of the citizenship oath for naturalisation as Angolan citizen is as follows: ‘I swear that I will be faithful and respect the Constitution of the Republic, the Angolan laws, obey and fulfil my duties and obligations as an Angolan citizen’ (Article 16 of the Nationality Act).

Acquisition by facilitated naturalisation for services rendered to Angola or for exceptional professional, scientific or artistic qualities: The National Assembly may grant Angolan citizenship to foreigners who have rendered or who may in the future render relevant services to the country or who show exceptional professional, scientific or artistic qualities, upon a proposal by at least 15 active MPs [Article 14 (2) of the Nationality Act]. The proposal is addressed to the President of the National Assembly and the procedure and deliberation follow the Internal Rules of the National Assembly, per Article 11 (2) of the Nationality Regulation. If the deliberation is favourable, the Ministry of Justice sends the file to the Central Registry Office which notifies the beneficiary to submit several identification documents, including his or her passport authenticated by a notary and his/her criminal records in Angola and in his/her state of origin [Article 11 (3) of the Nationality Regulation].

Article 14 (2) of the Nationality Act authorises the National Assembly to grant Angolan citizenship to foreigners without them requesting it and without them meeting any of the naturalisation requirements set in Article 14 (1). Naturalisation is treated here as a reward for services already rendered and for exceptional qualities shown, which already cover the possibility of naturalising foreign athletes as Angolans with a view to their prospective services to Angola as members of the national football or Olympic teams, presumably the main goal of such a provision in this day and age, as suggested by similar developments elsewhere in the Lusophone world (Jerónimo 2017: 34). The Angolan legislator did not want to leave anything to chance, however, and expressly allowed the National Assembly to grant Angolan citizenship to foreigners who have not yet rendered but who may come to render relevant services to the country.

By a similar reasoning, the President of the Republic is empowered to grant Angolan citizenship by naturalisation to foreigners who have rendered or who are called to render relevant services to the Angolan state without them meeting all of the naturalisation requirements set in Article 14 (1). The foreigners in this category still have to be over 18 years of age, offer moral and civic assurances of the ability to integrate into Angolan society, have effective ties to the national community, demonstrable by knowledge about the people and the nation, have an adequate knowledge of the rights and obligations enshrined in the Constitution, and have no prior conviction in the final instance for a crime punishable under Angolan law with a prison sentence of three years or more. They do not need to have resided in Angola for 10 years, to know Portuguese or to prove the ability and means of ensuring their sustenance [Article 14 (3) of the Nationality Act]. The reasons for waiving these and not other naturalisation requirements are not entirely clear. In any case, the President of the Republic has complete discretion to decide on the issue.

The procedure is initiated by the Civil House of the President of the Republic (*Casa Civil do Presidente da República*), a support service within the Presidency's office. The Presidential Order granting naturalisation is published in the Official Journal and must include, besides the identification of the beneficiary, a description of the relevant services that he or she has rendered or has been called to render to the Angolan state. The Ministry of Justice sends the file to the Central Registry Office which notifies the beneficiary to submit several identification documents, including his or her passport authenticated by a notary and his/her criminal records in Angola and in his/her state of origin (Article 13 of the Nationality Regulation).

Since both provisions are included in Article 14, under the heading 'acquisition of citizenship by naturalisation', it is to be assumed that the foreigners who are granted Angolan citizenship by the National Assembly or by the President of the Republic in these cases are also required to take the oath of allegiance to the Republic of Angola before a public authority, in the form prescribed by Article 16 of the Nationality Act.

Acquisition by individuals born in Angola who are stateless: As another safeguard against statelessness, Article 15 (a) of the Nationality Act entitles individuals born in Angola to acquire Angolan citizenship upon request, if they do not hold another citizenship. The wording of Article 15 (a) suggests that the Angolan authorities have no discretion in the application of this provision, which means that the Public Prosecutor cannot oppose and the President of the Republic cannot refuse to grant Angolan citizenship on these grounds.

Read in conjunction with Article 15 (b) of the Nationality Act, which is also designed to prevent statelessness, Article 15 (a) may seem to be redundant, but that is not the case, since it covers one hypothesis which is not covered by paragraph (b), that of having an individual born in Angola to foreign parents whose identity and citizenship are known but who are not in a position to transmit their citizenship to their child due to the citizenship law of their state of origin. This hypothesis was explicit in the wording of Article 2 of the 1984 Nationality Act, which recognised as Angolan citizens the 'naturals of Angola' whose parents were unknown, of unknown citizenship or stateless, or *who did not acquire their parents' citizenship under the law of their parents' state of origin*.

Contrary to the regime set in 1984, nowadays the commitment of the Angolan legislator to the prevention of statelessness does not go so far as to entitle individuals born in Angola who are otherwise stateless to Angolan citizenship by birth. Individuals in such circumstances are only entitled to acquired citizenship, which means that they are not shielded against involuntary deprivation, as they would be if they were Angolan citizens by birth, and that they are not entitled to the full range of citizenship rights, including the right to be elected President of the Republic, which is reserved to citizens by birth according to Article 110 (1) of the Constitution. The distinction made by the Angolan legislator is nevertheless legitimate and in compliance with Angola's international human rights obligations under e.g. the International Covenant on Civil and Political Rights, which, in Article 24 (3), only requires the states to ensure that 'every child has the right to acquire a nationality', not that every child should be entitled to the attribution of citizenship by birth in the state where he or she is born.

Acquisition based on birth in Angola to unknown parents, stateless parents or parents of unknown citizenship: A third and last safeguard against statelessness is that of Article 15 (b) of the Nationality Act, which entitles individuals born in Angola to parents who are

unknown, whose citizenship is unknown or who are stateless to acquire Angolan citizenship upon request. Similarly to Article 15 (a), the wording of this provision suggests that the Angolan authorities have no discretion here, which means that the Public Prosecutor cannot oppose and the President of the Republic cannot refuse to grant Angolan citizenship on these grounds.

As noted earlier, there are not many differences between the hypothesis of Article 15 (b), which concerns children born in Angola to unknown parents, and that of Article 9 (3) of the Constitution/Article 9 (2) of the Nationality Act, which may lead to confusion in the application of the law. There is plenty of room for overlap between attribution and acquisition of Angolan citizenship for abandoned children born in Angola, something which the Nationality Regulation only aggravates by using the term ‘foundling’ in Article 5 and by referring, in Article 14, to the rules in the Civil Registration Code which pertain to the procedure for registration of abandoned children. As already noted, the definition of ‘child in a state of abandonment’ in the Angolan Civil Registration Code covers both new-born babies and children up to 14 years of age. Furthermore, the procedure for registration of abandoned children is likely to be applicable also to cases of attribution, even though the procedure is only expressly mentioned in the Nationality Regulation for cases of acquisition.⁷⁶ While the Angolan legislator is entitled to reserve citizenship by birth to a limited number of cases of birth in the territory, reasons of legal certainty would, in any case, recommend that a clarification is made as to which cases fall under Article 9 (3) of the Constitution/9 (2) of the Nationality Act and under Article 15 (b) of the Nationality Act. If such a clarification touches the scope of Article 9 (3) of the Constitution, it will have to be introduced by constitutional amendment, not by an Act of Parliament nor by Presidential Decree, as already explained.

3.2. Modes of loss of Angolan citizenship

Loss of Angolan citizenship is governed by Article 9 (4) of the 2010 Constitution, Article 17 of the 2016 Nationality Act and Articles 15 and 16 of the 2017 Nationality Regulation. While the right to a citizenship is recognised as a fundamental right in Article 32 (1) of the Constitution and both the Constitution and the Nationality Act provide for several safeguards against statelessness, involuntary loss of Angolan citizenship is still possible on numerous grounds (the list was actually expanded by the 2016 Nationality Act) and irrespective of whether or not the deprivation of Angolan citizenship will lead to statelessness. Only Angolan citizens by birth are shielded against involuntary loss of citizenship, per Article 9 (4) of the Constitution, replicated by Article 17 (3) of the Nationality Act, which rules that no Angolan citizen by birth may be deprived of his or her Angolan citizenship.

The Nationality Regulation differentiates between loss by option (i.e. renunciation) and coercive loss. The documents required for the renunciation do not seem, however, suited for the purpose, since the Angolan citizen has to present criminal records issued by the authorities of the ‘country of origin’ and by Angolan authorities, while not being required to prove that he or she holds another citizenship (Article 15 of the Nationality Regulation).

In any case, it would seem that, similarly to what happens in most other African countries (Manby 2018: 115-119), the procedures for loss of Angolan citizenship are hardly

⁷⁶ According to the Civil Registration Code (Articles 133 to 138), whoever finds an abandoned child must take it, within 24 hours, to the administrative or police authorities, who will arrange for the registration of the birth at the Civil Registry Office of the area where the child was found.

used. There are no statistics, no court cases and no news items available on the topic to dispute this observation.

According to Article 5 of the Nationality Act, the loss of Angolan citizenship does not have retroactive effects, only producing effects from the date of the acts or facts that originate it. According to Article 21 (1) and (3) of the Nationality Act, the registration of the loss of Angolan citizenship is subject to mandatory registration before the Central Registry Office, at the request of the interested parties, although there may be questions as to whether the interested party in cases of involuntary loss is the person who loses Angolan citizenship or the Angolan authorities.

Renunciation following naturalisation abroad: According to Article 17 (1) (a) of the Nationality Act, a person who voluntarily acquires a foreign citizenship and expresses his or her wish not to be Angolan loses Angolan citizenship. Any Angolan (by birth or any form of acquisition) who also holds another citizenship is entitled to renounce his or her Angolan citizenship. This provision combines respect for the individual's will with a proviso designed to prevent statelessness. The acquisition of a foreign citizenship is not, in and of itself, a cause for loss, which demonstrates the acceptance of dual citizenship in Angola and makes it illegitimate for the Angolan authorities to deny Angolan citizenship to individuals who have another citizenship if these individuals do not expressly renounce their Angolan citizenship. Renunciation is not to be assumed.

Loss following the performance of sovereign functions on behalf of a foreign state without informing the National Assembly beforehand: According to Article 17 (1) (b) of the 2016 Nationality Act, acquired Angolan citizenship is withdrawn when the citizen performs sovereign functions on behalf of a foreign state, except if the citizen informs the National Assembly beforehand. Contrary to the previous Nationality Acts, it is no longer required that the citizen obtains an authorisation from the National Assembly, but just that he or she informs the National Assembly, which could be read as a move towards a more lenient loss regime if there were not developments in the opposite direction by the addition of new grounds for involuntary loss in the same Act.

Neither the Nationality Act nor the Nationality Regulation elaborate on what are to be considered 'foreign functions' for the purposes of Article 17 (1) (b), although it is safe to assume that these will include functions in the three branches of government (legislative, executive and judicial), e.g. as parliamentarian, cabinet minister, judge at court, and diplomat.

The procedure for withdrawal of citizenship is set in Article 16 (1) of the Nationality Regulation. It is initiated by the Ministry of Foreign Affairs or by the Public Prosecutor, which inform the National Assembly, and follows the procedural provisions in the Assembly's Internal Rules, without prejudice to the possibility of an appeal to the courts. There is no safeguard against statelessness.

Renunciation by children born abroad to Angolan parents, upon reaching majority: According to Article 17 (1) (c) of the 2016 Nationality Act, the underage children of Angolan citizens who are born abroad and who, due to that fact, also have another citizenship, lose Angolan citizenship if, upon reaching majority, they express their wish not to be Angolan. Given the broad scope of Article 17 (1) (a), this provision is arguably redundant. The content of the two subparagraphs is certainly very similar, in the combination of respect for

individuals’ will with a safeguard against statelessness. The only difference seems to be in the reference to ‘voluntary acquisition’ of a foreign citizenship in subparagraph (a), whereas the hypothesis in subparagraph (b) is that the children born abroad are attributed by law (i.e. involuntarily) the citizenship of their state of birth. Either way, the consequence is the same: if they have another citizenship and want to renounce their Angolan citizenship, they are entitled to do so. Again, an express renunciation is required.

Renunciation by children adopted by foreign citizens, upon reaching majority: According to Article 17 (1) (d) of the 2016 Nationality Act, the Angolan children adopted by foreign citizens lose their Angolan citizenship if, upon reaching majority, they express their wish not to be Angolan. Contrary to the other cases of renunciation in the Nationality Act, this provision does not include a safeguard against statelessness, seeming to assume that the adopted children will always acquire the citizenship of their adopter(s). An express renunciation is required, in any case.

Loss following conviction for crime against the security of the state: According to Article 17 (2) (a) of the 2016 Nationality Act, acquired citizenship is withdrawn if the citizen is convicted in the last instance for a crime against the security of the state. Crimes against the security of the state are listed in Law no. 23/10, of 3 December 2010,⁷⁷ and include high treason, collusion with foreigners to provoke war, sabotage, violation of state secrets, espionage, destruction of military structures, propaganda against the Armed Forces and national defence, attack on a foreign state or international organisation, rebellion, insult against national symbols, disturbance of the workings of constitutional bodies, etc. A literal interpretation of the statutory provisions would lead to the conclusion that a conviction for any of the crimes listed in Law no. 23/10, but only for those crimes, would be grounds for loss under Article 17 (2) (a) of the Nationality Act. It may be argued against such a literal interpretation that not all crimes listed in Law no. 23/10 represent the same degree of danger to the security of the state – consider, for instance, the crime of disturbance of the workings of a constitutional body – and that there are crimes which are not listed in Law no. 23/10 but do represent a serious threat to the security of the state, as is the case, for instance, with international terrorism and other crimes against peace and humanity, which, in the new Criminal Code approved in January 2019, are included in a separate section.⁷⁸

A literal interpretation may, however, be what the Angolan legislator had in mind, since the court which convicts in the last instance an Angolan defendant for a crime against the security of the state must send *ex officio* a copy of the judgment to the Civil Registry Office in charge of the subsequent acts, i.e. registration of the loss [Article 16 (2) of the Nationality Regulation]. There is no safeguard against statelessness.

⁷⁷ Text available at <http://www.tribunalconstitucional.ao/uploads/%7Bba5a9a35-5652-4e00-ba36-89281ab1b7a6%7D.pdf> [12.03.2019].

⁷⁸ The new Criminal Code, which will finally replace the one inherited from the Portuguese colonial administration, includes a section on ‘crimes against the security of the state’ (Articles 295 to 324), replicating the typology set by Law no. 23/10, and a separate section on ‘crimes against peace and the international community’ (Articles 362 to 376). The text of the bill is available at <https://www.wipo.int/edocs/lexdocs/laws/pt/ao/ao026pt.pdf> [12.03.2019].

Loss following the performance of military service on behalf of a foreign state: According to Article 17 (2) (b) of the 2016 Nationality Act, acquired citizenship is withdrawn if the citizen performs military service for a foreign state. The procedure is initiated by the Public Prosecutor before the Appellate Court, which, after reaching its decision, informs the Civil Registry Office in charge of the subsequent acts, i.e. registration of the loss [Article 16 (3) of the Nationality Regulation]. There is no safeguard against statelessness.

Loss due to the use of forgery or other fraudulent means: According to Article 17 (2) (c) of the 2016 Nationality Act, acquired citizenship is withdrawn if it is established that the citizen obtained Angolan citizenship by forging documents, by using fraudulent means or by misleading the competent authorities in any other way. The procedure is initiated by the Public Prosecutor before the Appellate Court, which, after reaching its decision, informs the Civil Registry Office in charge of the subsequent acts, i.e. registration of the loss [Article 16 (3) of the Nationality Regulation]. There is no safeguard against statelessness.

Loss due to fraudulent or illegal marriage or registered partnership: According to Article 17 (2) (d) of the 2016 Nationality Act, Angolan citizenship acquired on the basis of marriage or registered partnership with an Angolan citizen is withdrawn if it is established that the marriage or the registered partnership were entered into by fraudulent means, were simulated, illegal or entered into in bad faith. This ground for loss was introduced by the 2005 Nationality Act in a context of social alarm in the face of a surge in the number of fraudulent marriages for the sake of acquiring Angolan citizenship under the extremely liberal regime of the 1991 Nationality Act. It is, to some extent, redundant vis-à-vis Article 17 (2) (c), as both subparagraphs punish fraud. Where Article 17 (2) (d) exceeds the scope of subparagraph (c) is in also covering cases of illegal marriages and registered partnerships, as these will include cases of violation of legal impediments (e.g. age, dementia of one of the spouses), bad faith, and inobservance of formal requirements (e.g. lack of witnesses), which, under the Angolan Family Code, are grounds for the annulment of the marriage and for the withdrawal of the recognition of registered partnerships (Articles 65 and 121).

The procedure is initiated by the Public Prosecutor before the Appellate Court, which, after reaching its decision, informs the Civil Registry Office in charge of the subsequent acts, i.e. registration of the loss [Article 16 (3) of the Nationality Regulation]. There is no safeguard against statelessness.

Loss by a dual citizen who acts as a foreigner in Angola: According to Article 17 (2) (e) of the 2016 Nationality Act, acquired citizenship is withdrawn if it is established that the Angolan citizen also holds a foreign citizenship and uses this foreign citizenship to ‘practice acts’ (*praticar actos*) in Angola. This new ground for loss of acquired citizenship, introduced by the 2016 Nationality Act, seems to have been motivated by the realisation that there were many foreigners (often Portuguese citizens) who were naturalising as Angolans to circumvent immigration restrictions but who were at the same time invoking their foreign citizenship when signing work contracts in order to benefit from the perks reserved for foreign workers in Angola, including higher salaries and fringe benefits (Waldorff 2017: 58-75). The wording of Article 17 (2) (e) is extremely vague in its reference to ‘acts’, but it is to be assumed that what is meant in this provision is ‘legal acts’ such as work contracts.

The procedure is initiated by the Public Prosecutor before the Appellate Court, which, after reaching its decision, informs the Civil Registry Office in charge of the subsequent acts, i.e. registration of the loss [Article 16 (3) of the Nationality Regulation].

3.3. Reacquisition of Angolan citizenship

The 2016 Nationality Act introduced a number of changes in the rules on reacquisition of Angolan citizenship, making it generally more difficult and limiting to one the number of times each person may reacquire Angolan citizenship [Article 18 (6)]. It nevertheless continues to differentiate between cases in which citizenship may be reacquired and cases in which reacquisition is not allowed, depending on the grounds on which citizenship was lost. Only citizenship lost on the grounds listed in Article 17 (1) may be reacquired, i.e. only citizenship lost by renunciation or because the citizen performed sovereign functions on behalf of a foreign state without informing the National Assembly. Reacquisition, in these cases, is decided by the National Assembly, at the request of the interested party, who must have established residence in Angola for at least five years [Article 18 (3)]. According to Article 17 of the Nationality Regulation, the procedure follows the Assembly's Internal Rules.

Angolan citizenship may also be reacquired if the former citizen lost it as a result of a declaration made while he or she was legally incapacitated by age or on other grounds. According to Article 18 (1) and (2), individuals who acquired Angolan citizenship under the 1975 or the 1984 Nationality Acts but lost it as a result of a declaration made by their parents or legal representatives while they were underage may reacquire Angolan citizenship, provided that they request it within three years after coming of age (after which the Angolan citizenship is definitively lost) and that they prove to have established residence in Angola for at least one year.⁷⁹ The same applies, according to Article 18 (4), to former citizens who were legally incapacitated due to reasons other than age, with the three-year-deadline starting to count from the date of the final judicial decision lifting the legal incapacity. For the future, anyone who loses his or her Angolan citizenship as a result of a declaration made while he or she is legally incapacitated is entitled to reacquire it by request made when the legal incapacity is lifted [Article 18 (5)]. The wording of the different paragraphs of Article 18 suggests that former citizens covered by Article 18 (1), (2), (4) and (5) have an entitlement to Angolan citizenship, with the consequence that Angolan authorities are not at liberty to oppose or deny reacquisition if the requirements are met.

In this reading, the Public Prosecutor may only oppose the reacquisition, by appealing to the Appellate Courts, in cases where Angolan citizenship was lost by renunciation or because the citizen performed sovereign functions on behalf of a foreign state without informing the National Assembly. The grounds for opposing reacquisition of Angolan citizenship are listed in Article 19 (1) and (2) and are as follows: (a) lack of effective ties to the Angolan community; (b) conviction in the final instance for a crime punishable under Angolan law with a prison sentence of three years or more; (c) conviction in the final instance

⁷⁹ According to Article 18 of the Nationality Regulation, the application is to be addressed to the Ministry of Justice accompanied by the following documents: (a) a full copy of the birth registration authenticated by a notary; (b) a copy of the passport authenticated by a notary; (c) the criminal record attested by the authorities of the country of origin and by the Angolan diplomatic and consular offices accredited there; (d) the criminal record issued by the Angolan authorities; (e) a residence certificate; (f) a declaration by employer or document attesting regular income; (g) proof of residence in Angola for at least one year; (h) one photograph.

for a crime against the security of the Angolan state; (d) exercise of sovereign functions on behalf of a foreign state without informing the National Assembly beforehand; (e) rendering of military service for a foreign state; and (f) having already reacquired Angolan citizenship once before. The Public Prosecutor has six months to oppose the reacquisition, counted from the date of the submission of the application (Article 20).

Citizenship reacquisition is subject to mandatory registration before the Central Registry Office, at the request of the interested parties [Article 21 (1) and (3) of the Nationality Act].

3.4. Rights of citizens by birth and by acquisition

The 2010 Constitution of the Republic of Angola only differentiates between citizens by birth and citizens by acquisition on three occasions: when ruling that no Angolan citizen by birth may be deprived of his or her Angolan citizenship [Article 9 (4)]; when reserving eligibility to the office of President of the Republic to Angolan citizens by birth [Articles 110 and 129 (1) (d)]; and when requiring that citizens by acquisition hold Angolan citizenship for a minimum period of seven years before they can run for election as Members of Parliament [Article 145 (2)].

In the absence of a constitutional provision explicitly authorising other distinctions in the rights enjoyed by citizens by birth and by citizens by acquisition, ordinary law cannot establish other forms of discrimination against citizens by acquisition, nor can it impose any incapacities, even if temporary, on individuals who reacquire Angolan citizenship under Article 18 of the Nationality Act. Any such differentiation among Angolan citizens would be contrary to the constitutional principles of universality and equality, according to which all citizens are equal before the law, entitled to the same rights and subject to the same obligations (Articles 22 and 23 of the Constitution). It would also be contrary to Article 57 (1) of the Constitution, which prescribes that the restriction of civil and political rights is only possible in the cases expressly foreseen in the Constitution.

For this reason, it is questionable that the Law on Political Parties – approved by Law no. 22/10, of 3 December 2010⁸⁰ – can pass constitutional muster where it prescribes that Angolan citizens by acquisition are only entitled to hold leadership positions in political parties 15 years after acquiring Angolan citizenship, and where it reserves the position of leader of political parties to Angolan citizens by origin who do not hold another citizenship [Article 25 (2) and (3) of Law 22/10].

⁸⁰ Text available at <http://www.tribunalconstitucional.ao/uploads/%7Bba5a9a35-5652-4e00-ba36-89281ab1b7a6%7D.pdf> [13.03.2019].

4. Current political debates and reforms

After the 2016 Nationality Act ‘settled’ the problems resulting from the strategic use of citizenship by dual citizens born (or whose parents had been born) in Angola during colonial times, and with resettlement of returned refugees continuing its course, the main topic of concern for the Angolan authorities continues to be the high numbers of children going unregistered in the country (over three million estimated in June 2018). This is a very serious problem since, under the statutory provisions in force, proof of Angolan citizenship is entirely dependent on the ability to present a birth registration, even though the Angolan authorities have accepted to rely on other types of evidence in the context of voter registration processes.

The social alarm that surrounded perceived abuses of citizenship law, which directly motivated legal developments in 2005 and 2016, is indicative of the symbolic and practical importance attributed to citizenship by Angolan politicians and by the general population. Not much is known about how Angolan authorities apply the legal framework in practice and it would not be surprising if the administration of citizenship were to be confirmed to be corrupt – as is often the case in African countries (Manby 2018: 4-5) – or simply mistaken due to lack of training of the public officials and/or to ambiguities in the text of the law. As noted in this report, there are many areas for improvement in the wording of the applicable constitutional and statutory provisions, a priority being, in our opinion, the clarification of the scope of Article 15 of the Nationality Act.

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