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Poland

The final text of the Law after taking into consideration Senate's amendments

LAW

on Public Benefit Activity and Volunteerism

dated April 24, 2003

Section I

General regulations

Article 1

1. The Law regulates the rules:
 - 1) for performance by non-governmental organizations of public benefit activities, and for benefits resulting from such activities for public administration in the scope of performing public tasks;
 - 2) for appointment of non-governmental organizations to the status of public benefit organization and for operation of public benefit organizations;
 - 3) for supervision of public benefit activities.
2. The Law also regulates the conditions for providing services by volunteers and the benefits resulting from such services.

Article 2

Where the Law refers to:

- 1) “donation” – means donation in the sense of art. 69 par. 4 point 1 letter d of the Law on Public Finances dated November 26, 1988 (Journal of Laws of 2003 No. 15, it. 148, No. 45, it. 391 and No. 65, it. 594), hereinafter referred to as “The Law on Public Finances”;
- 2) “public resources” – means public resources referred to in the Law on Public Finances, allocated to public expenditures within the framework of this Law;
- 3) “volunteer” – means a person who voluntarily and with no remuneration provides services based on regulations specified in the Law.

Article 3

1. Public benefit activity is an activity that is socially useful and is performed by non-governmental organizations in the field of public tasks mentioned in the Law.
2. Non-governmental organizations are legal entities or entities with no legal personality created on the basis of provisions of laws, including foundations and associations, taking into consideration par. 4. Non-governmental organizations are not bodies of the sector of public finances in the understanding of regulations governing public finances, and operate on a not-for-profit basis.
3. Public benefit activities may also be performed by:
 - 1) legal entities and organizational units operating on the basis of regulations governing the relation between the State and Catholic Church in the Republic of Poland, the relation between the State and other churches as well as religious unions, and the guarantees of the freedom of faith and conscience, provided their statutory goals include the performing of public benefit activities;
 - 2) associations of units of local government.
4. The regulations from Section II do not apply to:
 - 1) political parties;
 - 2) trade unions and organizations of employers;
 - 3) professional self-governments;
 - 4) foundations founded solely by the State Treasury and/or a unit of self-government, unless:
 - a) separate regulations state otherwise,
 - b) the property of the foundation does not belong entirely to the State or its municipal bodies, or is not financed with public resources under the framework of the Law on Public Finances, or

- c) the foundation performs its statutory activities in the field of science or humanities, particularly for the sake of science or humanities;
 - 5) foundations established by political parties;
 - 6) companies operating pursuant to the regulations governing sport activities.
5. The regulations from Chapter 2 Section II do not apply to commissioning tasks in the field of protecting the Polish Diaspora and Polish citizens abroad, financed from the portion of the state budget that is at the disposal of the Head of the Senate Chancellery.

Article 4

- 1. The domain of public tasks mentioned in the Law covers tasks in the following fields:
 - 1) social care, including assisting families and individuals in difficult life situations, and providing equal opportunities to such families and individuals;
 - 2) charitable activities;
 - 3) sustaining national tradition, cultivating Polishness, and the development of national, civil, and cultural identity;
 - 4) activities for the sake of national minorities;
 - 5) protection and promotion of health;
 - 6) activities for the sake of the handicapped;
 - 7) promotion of employment and job-related motivation of individuals who are unemployed or who are threatened with redundancies;
 - 8) protection and promotion of women's rights and activities for the sake of equal rights for men and women;
 - 9) activities that support economic development, including the development of entrepreneurship;
 - 10) activities supporting the development of communities and local communities;
 - 11) science and humanities, education and upbringing;
 - 12) tourism and leisure of children and adolescents;
 - 13) culture, arts, protection of national heritage and tradition;
 - 14) promotion of sports;
 - 15) natural environment and animal welfare and the protection of environmental heritage;
 - 16) public order and social safety and prevention of social pathologies;
 - 17) promotion of knowledge and skills for the State defense;
 - 18) protection and promotion of human rights and freedoms, as well as activities supporting the development of democracy;
 - 19) protection of people and emergency rescuing;
 - 20) assistance to the victims of catastrophes, natural disasters, military conflicts and wars in the territory of the State and abroad;
 - 21) protection and promotion of consumer rights;
 - 22) activities for the sake of the European Integration and development of relations and co-operation among nations;
 - 23) promotion and organization of volunteerism;

24) activities that provide technical support, training, information and/or financial assistance to non-governmental organizations and units mentioned in art. 3 par. 3, within the scope of points 1–23.

2. The Council of Ministers may, through a decree, designate tasks in addition to those mentioned in par. 1; these tasks will belong to the field of public tasks. In doing so the Council will be guided by these tasks' particular social usefulness and the fact that units mentioned in art. 5 par. 1 are able to perform the tasks to the extent necessary to provide for social demands.

Article 5

1. Public administration organs perform activities in the field of public tasks that are mentioned in art. 4 in co-operation with non-governmental organizations and entities mentioned in art. 3 par. 3, which perform public benefit activities, taking into consideration the territorial division of public administration bodies. In particular, the co-operation may be conducted in the form of:

- 1) commissioning non-governmental organizations and entities mentioned in art. 3 par. 3 to perform public tasks according to the rules set by the Law;
- 2) mutually providing information about planned directions of activities and co-operation in order to harmonize these directions;
- 3) consulting with non-governmental organizations and entities mentioned in art. 3 par. 3, according to their scope of activities, regarding legislative projects in the fields related to the statutory activities of such organizations;
- 4) establishing mutual teams responsible for advising and initiative that consist of representatives of non-governmental organizations and entities mentioned in art. 3 par. 3 and representatives of relevant public administration bodies.
 2. The co-operation, mentioned in par. 1, is implemented based on the following rules: subsidiarity, independence of each side, partnership, effectiveness, fair competition and transparency.
 3. The decision-making body of a local government unit adopts an annual programme of co-operation with non-governmental organizations and entities mentioned in art. 3 par. 3.
 4. Commissioning public tasks, which are mentioned in par. 1 point 1 – as commissioned tasks described by art. 69 par. 4 point 1 letter d) and art. 71 par. 1 of the Law on Public Finances may be implemented in the following forms:
 - 1) commissioning public tasks, which is accompanied by a donation to finance its implementation or

- 2) supporting such tasks, which is accompanied by a donation to participate in their financing.

Section II

Public benefit activities

Chapter 1

Payable and free of charge public benefit activities

Article 6

Statutory activity of non-governmental organizations and entities mentioned in art. 3 par. 3, within the scope of public benefit activities, are not, taking into consideration art. 9 par. 1, business activity as described by the regulations of the Law on Business Activity, and can be performed as payable and/or free of charge activities.

Article 7

“Free of charge public benefit activity” means the provision of services based on a legal relation, for which the non-governmental organizations and entities mentioned in art. 3 par. 3 that provide such services do not charge fees.

Article 8

1. A payable public benefit activity means an activity in the field of public tasks, included in the statutory activities performed by non-governmental organizations and entities mentioned in art. 3 par. 3, for which payment is received. A payable public benefit activity also means selling goods or services that are manufactured and/or provided by individuals who directly benefit from public benefit activities, especially in the context of the rehabilitation and adaptation to work of the handicapped, and also of selling goods donated for the sake of public benefit.
2. The profit gained from payable activities of public benefit is to be used exclusively to implement the tasks that belong to the field of public tasks or statutory activities, which are mentioned in par. 1.

Article 9

1. A payable public benefit activity performed by non-governmental organizations and entities mentioned in art. 3 par. 3 is a business activity if:

1) the remuneration that is mentioned in art. 8 par. 1 is greater than the direct cost that would be expected for an activity of that type, or

2) the remuneration of physical persons due to employment in performing free of charge statutory activity and payable activity exceeds 150% of an average monthly remuneration in the sector of companies in the previous year, as published by the President of the Chief Statistics Office.

2. The remuneration mentioned in par. 1 point 2 is understood as remuneration for providing work and/or services, regardless of the form in which the job relation is established or the kind and content of the legal agreement signed with the physical person.

3. An activity may not be both a payable public benefit activity and an economic activity..

Article 10

1. Operating payable and free of charge public benefit activities requires appropriate accounting that identifies revenues, costs, and effects, in compliance with regulations governing accounting.

2. The regulations from par. 1 above apply accordingly in the case public benefit activities are separated from other activities on the organizational level.

Chapter 2

Performing public benefit activities based on commissioning public tasks

Article 11

1. Public administration bodies:

- 1) support non-governmental organizations and entities mentioned in art. 3 par. 3 that conduct statutory activities in a given field in performing public tasks, within the scope mentioned in art. 4;
- 2) commission organizations and entities mentioned in point 1 to implement public tasks, within the scope mentioned in art. 4.

2. The support and commissioning mentioned in par. 1 take place after an open call for tenders, unless separate regulations describe a different manner of commissioning.

3. In the open call for tenders mentioned in par. 2, non-governmental organizations, entities mentioned in art. 3 par. 3, and organizational units

dependent on or supervised by public administration institutions may participate.

4. Commissioning mentioned in par. 1 point 2 may be performed in a different manner than that described in par. 2 if a given task may be effectively performed in a different manner, described in separate regulations, particularly through purchasing services according to the regulations governing public calls for tenders, and if the methods of calculating costs and taxation are similar.

Article 12

1. Non-governmental organizations or entities mentioned in art. 3 par. 3 may also by their own initiative make an offer to perform public tasks, including those tasks that, until present, have been performed in a different way, for example by public administration bodies.
2. In a situation mentioned in par. 1, a public administration body within a period of up to two months:
 - 1) evaluates the usefulness of a given public task to be performed by non governmental organizations and entities mentioned in art. 3 par. 3. In this evaluation, the public administration body takes into consideration the degree to which the offer matches the priorities of public tasks and guarantees the completion of the task according to the standards set to the given task. The administrative body also considers the available means for the implementation of set tasks, the types of set tasks, and the benefits coming from the performance of public tasks by non-governmental organizations and entities mentioned in art. 3 par. 3
 - 2) makes its decision public, and if it decides the performance of a particular public task is necessary, it informs the entity submitting the offer about the manner of commissioning the public task mentioned in art. 11 par. 2.

Article 13

1. A public administration institution announces an open call for tenders at least 30 days in advance.
2. The announcement concerning an open call for tenders should include information about:
 - 1) type of the task;
 - 2) amount of public resources allocated with the task;
 - 3) rules of providing donations;
 - 4) deadlines and conditions of performing the task;
 - 5) deadline for submitting applications;
 - 6) deadline, mode, and criteria of choosing the offer;
 - 7) public benefit tasks of the same kind, implemented by the public administration institution in the year of announcing the open call for tenders and the previous year, and corresponding costs with particular

attention paid to the amount of donations given to non-governmental organizations and entities mentioned in art. 3 par. 3 and organizational units dependant on or supervised by public administration institutions

3. The announcement mentioned in par. 1 should be published, according to the type of the task, in a nationwide or local newspaper, in the Public Information Bulletin, and at the headquarters of the public administration body at a place designed for announcements. The announcement can be made public in other ways, particularly through the tele-information network, provided that anyone interested has access to it.

Article 14

The offer mentioned in art. 11 par. 1 and 2 should in particular contain:

- 1) a detailed scope of the suggested public task;
- 2) deadline and place of performing the public task;
- 3) estimated costs of performing the public task;
- 4) information about precedent activities of the entity submitting the offer in the field of the public task;
- 5) information about available resources, in terms of staff and material, that are necessary for performing the task, including the amount of financial resources for performing the task acquired elsewhere;
- 6) a statement whether the task will be performed free of charge.

Article 15

1. In assessing offers, a public administration body:

- 1) evaluates the capacity to perform the task of non-governmental organizations, entities mentioned in art. 3 par. 3, and organizational units dependent on or supervised by public administration institutions;
- 2) evaluates the suggested estimation of costs of performing the task, including the scope of the task;
- 3) takes into consideration the amount of public means allocated to the task.

2. The regulations in par. 1 apply also when only one offer has been submitted in the open call for tenders.

3. A public administration institution in delivering the explanation of its choice of a particular tender must specify how the tender fulfilled the requirements set in the Law and in the call, mentioned in art. 13. The regulations described in par. 2 also apply.

Article 16

1. Non-governmental organizations, entities mentioned in art. 3 par. 3, and organizational units dependent on or supervised by public administration

bodies, upon accepting the commissioning of a public task in the mode described in art. 11 par. 2, are obliged to complete the task in the period of time and on conditions specified in the agreement, respectively of commissioning the task or supporting the performance of the task, taking into consideration art. 71 par. 2 of the Law on Public Finances and the regulations of the following Law. The public administration institution that commissions the task is obliged to allocate relevant public resources to the task in the form of donation.

2. The agreement mentioned in par. 1 requires a written form. Otherwise it will be deemed invalid.
3. An agreement commissioning a public task may be signed for the duration of the task's performance, or for a definite period of time, not longer than three years.
4. A public task cannot be performed by a unit that is not a side of the agreement, unless the agreement allows such a unit to perform certain parts of the task.
5. A non-governmental organization, entities mentioned in art. 3 par. 3, and organizational units dependent on or supervised by public administration institutions are required to identify in accounting books the resources gained for the implementation of the agreement mentioned in par. 1 above. The regulations of art. 10 par. 1 apply accordingly.

Article 17

A public administration body that commissions a public task undertakes a periodic monitoring and assessment of the task, and in particular evaluates:

- 1) the degree of completion of the task;
- 2) effectiveness, accurateness, and quality of the task;
- 3) correct use of the public resources received for performing the task;
- 4) the conducting of documentation, prescribed by the Law and other legal regulations.

Article 18

1. A report on performing the public task described in the agreement has to be completed within 30 days after the agreement expires, taking into consideration par. 2.
2. The period of time used in reports is a budgetary year.

Article 19

The minister responsible for social security will set, in the form of a decree:

- 1) a template of the offer mentioned in art. 11 par. 2 and art. 12 par. 1;
 - 2) a general template of the agreement mentioned in art. 16 par. 1;
 - 3) a template of the report mentioned in art. 18 par. 1
- taking into consideration the need to clearly define rights and responsibilities of non-governmental organizations, entities mentioned in art. 3 par. 3, and organizational units dependent on or supervised by public administration bodies and respective responsibilities and rights of public administration bodies, as well as the need to provide complete information concerning the completion of the task.

Chapter 3

Public benefit organizations

Article 20

A non-governmental organization or entity mentioned in art. 3 par. 3 can be a public benefit organization if, taking into consideration art. 21, it complies with the following requirements:

- 1) it conducts its statutory activities for the sake of the whole community or a defined group of individuals on the condition that the group is selected because of its particularly difficult living or financial situation in relation to the rest of the society;
- 2) the activities, mentioned in point 1, taking into consideration point 3, are the only statutory activities of the organization and they concern the implementation of public tasks for the sake of the whole community or a group of individuals mentioned in point 1, and also other socially important tasks as described in art. 4;
- 3) in relation to associations and sports societies, fulfilling the criteria in point 2 could mean conducting activities mentioned in points 1 and 2 also for the sake of members of associations and sports societies;
- 4) it does not conduct economic activities, or the economic activities of the organization are limited only to the fulfilment of statutory activities;
- 5) its entire income is allocated in the activities mentioned in points 1 and 2;
- 6) it has a statutory collegiate institution of monitoring or supervision that is separate from the management board and not supervised by the management board as far as internal monitoring or supervision are concerned. The members of the institution of monitoring and supervision:
 - a) cannot be members of the management board, nor be their relatives, in-laws or be in work-based dependence;
 - b) cannot have been pronounced, with a lawful verdict, guilty of a deliberate crime;

- c) may receive, due to their duties in such institution, reimbursement of relevant expenditures or remuneration not exceeding the limit set in art. 8 point 8 of the Law on Remuneration of Persons in Charge of Certain Legal Units, dated March 3, 2000.
- 7) the statutes or other internal acts of the organizations and entities mentioned in art. 3 par. 3 prohibit:
- a) granting loans to or securing obligations with their properties for the following persons as they relate to the organization: members, employees, spouses or direct relatives, or in-laws of members or employees, or persons who are their relatives or in-laws on the second level of kinship, or who are related to them by the nature of being ward, under care or supervision and who are subsequently called “close ones;”
 - b) ceding their properties for the sake of their members, employees, or relatives of members or employees, according to rules other than those applying to third parties, particularly if such ceding is performed free of charge or in a privileged way;
 - c) using their properties for the sake of their members, employees, or relatives of members or employees, according to rules other than those applying to third parties, unless such use directly stems from a statutory goal of the organization or an entity described in art. 3 par. 3;
 - d) purchasing in a privileged way goods or services from units, in which members, employees, or relatives of members or employees, participate.

Article 21

In the case of entities mentioned in art. 3 par. 3 point 1:

- 1) public benefit activities described in art. 20 point 1 are distinguished in a form that ensures a proper identification in terms of organization and accountings;
- 2) the requirement of exclusiveness mentioned in art. 20 point 2 does not apply;
- 3) the regulation in art. 20 point 5 applies to the income earned through conducting public benefit activities;
- 4) the regulations in art. 20 point 6 apply accordingly, taking into consideration detailed regulations of organizing and operating such units, regulated by the provisions relevant to them in their statutes or other internal acts.

Article 22

- 1. A non-governmental organization and entities mentioned in art. 3 par. 3 point 2 registered by the State Court Register gain the status of public benefit

organization when it is noted in the Register that the organization or entity has fulfilled the criteria in art. 20, according to the rules and in the manner prescribed by the Law on the State Court Register dated August 20, 1997 (Journal of Laws of 2001, No. 17, it. 209 and No. 110, it. 1189 and of 2002 No. 1 it. 2 and No. 113, it. 984 and of 2003 No. 49, it. 408 and No. 60, it. 535).

2. A non-governmental organization, other than one referenced in par. 1, and entities mentioned in art. 3 par. 3 point 1 acquire the status of a public benefit organization the moment they are included in the State Court Register, according to the rules and in the manner prescribed by the Law mentioned in par. 1.
3. A non-governmental organization and entities mentioned in par. 1 lose the status of public benefit organization the moment, following an official notion or a plea, of removal of information concerning fulfilment of the criteria mentioned in art. 20 from the State Court Register.

Article 23

1. A public benefit organization prepares annual reports on its activities, taking into consideration other separate regulations, and makes the reports public in a manner that is accessible to anyone interested.
2. A public benefit organization prepares and announces annual financial statements even when other accounting regulations do not require it. Regulations concerning accounting are applied accordingly.
3. The reports referenced in par. 1 include reports submitted by foundations pursuant to relevant regulations.
4. A public benefit organization, regardless of other binding regulations, submits reports mentioned in par. 1 and 2 to the minister responsible for social security.
5. In relation to public benefit organizations whose financial reports are not obliged to be examined in accordance with regulations on accounting, the minister responsible for public finances, in agreement with the minister responsible for social security, may provide for such an obligation in the form of a decree, taking into consideration:
 - 1) the amount of received donations;
 - 2) the amount of revenue;
 - 3) the need to ascertain supervision of correct management of records.

Article 24

1. A public benefit organization is entitled, according to separate regulations, to exemption from:

- 1) corporate income tax,
- 2) real estate tax,
- 3) civil actions tax,
- 4) stamp duty, and
- 5) court fees,

- in relation to public benefit activities undertaken by it.

2. A public benefit organization may, according to the rules set in separate provisions, purchase, in a privileged way, the right of perpetual usufruct of estates that are owned by the State Treasury or local self-government units.
3. A non-governmental organization, which gained the status of a public benefit organization, is obliged to fulfil responsibilities stemming from tax exemptions from which it had benefited until gaining the status of a public benefit organization, based on rules set in separate provisions.
4. In the case of losing the status of a public benefit organization, the non-governmental organization will lose the right to benefit from exemptions stemming from such status.
5. The usufruct mentioned in par. 2 expires by the power of law when an organization or entity loses the status of public benefit organization.

Article 25

A public benefit organization may engage recruits who do not undergo military service in the army, based on rules and in the manner defined by separate regulations.

Article 26

Units of public radio and television are obliged to provide public benefit organizations with an opportunity to inform about their activities free of charge, based on rules defined in separate regulations.

Article 27

A taxpayer of personal income tax may, in the manner of and according to the rules defined in separate regulations, allocate 1% of the tax, which is calculated according to separate regulations, for the sake of public benefit organizations chosen by him or her.

Chapter 4

Supervision

Article 28

1. The supervision over the activities of public benefit organizations, with respect to the fulfilment of public tasks and the use of privileges described in the Law, is exercised by the minister responsible for the issues of social security, taking into consideration par. 2.
2. Public benefit organizations that perform their activities in the field of rescuing and protection of people are performing public tasks, and the supervision of the correct use of privileges described in the Law is undertaken by the minister responsible for internal affairs. The regulations of articles 29-34 apply accordingly.

Article 29

1. A public benefit organization is supervised by the minister responsible for social security in accordance with art. 28 par. 1.
2. An inspection is enacted by the minister responsible for social security, by virtue of his or her office, or on behalf of the public administration body.
3. The inspection is performed by individuals who hold a written clearance issued by the minister responsible for social security.
4. The inspection may involve the presence of a representative of the Council for Public Benefit Activities if a relevant motion is put forward by the minister responsible for issues of social security, a representative of a public administration body, which is mentioned in par. 2, or a representative of the non-governmental organization or entities mentioned in art. 3 par. 3.
5. The minister responsible for social security may commission a governor of a province to perform the inspection.
6. The minister responsible for social security may put forward a motion to permit the inspection to be performed by an institution that specialises in performing inspections of a given type of activities.

Article 30

1. Persons authorised to perform an inspection have the right to access the property, or a part of it, where activities of the organization are performed, and may also demand written or oral explanation. Inspectors have the right to access documents or other carriers of information and data relevant to the scope of the inspection.
2. The inspection described in par. 1 is performed in the presence of a representative of the management board, or his or her representative, or an employee of the public benefit organization in question. When none of the above is present, a witness must be present.

Article 31

1. After the inspection has been performed, a report is written, signed by the officials who performed the inspection and the head of the public benefit organization in question or a person authorised by him or her. If the head of the public organization in question or a person authorised by him or her refuses to sign the report, he or she must provide a reason. If the head or person authorized refuses to sign the report, the report is deemed signed on the day of the refusal.
2. The head of the public organization in question may, within 14 days from the day of signing the report, submit a written explanation or put forward objections about the content of the report.
3. The officials who perform the inspection, having reviewed the objections mentioned in par. 2, deliver the results of the report. If the objections are not accepted, in their entirety or partially, a written statement of the objections is submitted.

Article 32

The inspection report should contain a description of the facts found during the inspection, including any deficiencies, taking into consideration their causes, scope and outcome, and the period necessary to correct them, which shall not be fewer than 30 days.

Article 33

1. The minister responsible for social security, or a governor of a province commissioned by the minister, calls a public benefit organization to eradicate, in a given period of time, the mistakes that have been identified in the process of inspection.
2. If the mistakes are not eradicated by the public benefit organization, the minister responsible for social security may file for the removal from the register court the information mentioned in art. 22 par. 1, or for the removal of the organization from the State Court Register.
3. If the mistakes concerning fulfilling the requirements described respectively in art. 20 and 21 are not eradicated by the public benefit organization, the minister responsible for social security files for the removal of the organization from the State Court Register.
4. If a public benefit organization is removed from the Register, or if the information mentioned in art. 22 par. 1 is removed from the State Court Register, the organization is obliged, within 6 months, to spend, on its own activities mentioned in art. 4, the means gained through public fund-raising, which were gathered in the period when the organization possessed the status of a public benefit organization.
5. The means that have not been used in the manner and during the period defined in par. 4 have to be immediately ceded to an organization that runs statutory activities in the same or similar scope, and which is chosen by the minister responsible for

social security. The submission of means in this case does not constitute a donation as defined by separate regulations.

Article 34

1. In the fields not regulated by this Law, the supervision and monitoring of spending public means is defined by relevant regulations concerning public finances.
2. The regulations contained in art. 30-34 do not exclude the possibility of applying separate regulations concerning supervision and inspections, as well as the powers of supervision by other institutions.

Chapter 5

The Council for Public Benefit Activities

Article 35

1. The Council for Public Benefit Activities, hereinafter referred to as "the Council", is established as an opinion, advising and supporting body for the minister responsible for social security.
2. The duties of the Council include in particular:
 - 1) expressing opinion on the issues relevant for the application of the Law;
 - 2) expressing opinion about government's legal acts concerning public benefit activities and volunteering;
 - 3) providing assistance and expressing opinion concerning conflicts between public administration institutions and public benefit organizations;
 - 4) collecting and analysing information about the performed inspections and their outcomes;
 - 5) participating in the process of inspection;
 - 6) expressing opinion in the field of public tasks, commissioning non-governmental organizations and entities mentioned in art. 3 par. 3 to perform such tasks, and recommending standards of performing public tasks;
 - 7) creating, in co-operation with non-governmental organizations and entities mentioned in art. 3 par. 3, the mechanisms of informing about standards of performing public benefit activities and about the identified instances of violating such standards.
3. The term of the Council is three years.

Article 36

1. The Council consists of:
 - 1) five representatives of public administration institutions and organizational units dependant on or supervised by them;
 - 2) five representatives of local government units;

- 3) ten representatives of non-governmental organizations, unions, and alliances of non-governmental organizations and entities mentioned in art.3 par. 3.
2. The members of the Council are appointed and discharged by the minister responsible for the issues of social security, however, the appointing of the members of the Council representing:
 - 1) non-governmental institutions, unions and alliances of non-governmental organizations and entities mentioned in art.3 par. 3 is limited to the candidates pre-selected by the organizations;
 - 2) governmental administration bodies and units controlled or supervised by them is limited to the individuals pre-selected by these institutions and the heads of such institutions;
 - 3) units of local government is limited to the individuals put forward by the self-governmental side in the Mutual Committee of the Government and Local Government.
 3. The minister responsible for social security discharges members of the Council before the end of the term:
 - 1) following their request;
 - 2) following the request of the entity mentioned in par. 2 represented by a member;
 - 3) if they are pronounced guilty, with a lawful verdict, of committing a deliberate crime.

Article 37

The sessions of the Council are called by the minister responsible for social security or following the motion of at least one quarter of the members of the Council.

Article 38

The Council may:

- 1) appoint experts;
- 2) invite to the sessions representatives of public administration institutions and non-governmental organizations and entities mentioned in art. 3 par. 3 that are not represented in the Council;
- 3) commission research and expert studies concerning the tasks implemented by the Council.

Article 39

1. The costs of the Council that stem from services, conducting research, and preparing expert studies, as well as the participation in sessions by experts and

individuals who are not members of the Council, are partly covered from the budget at the disposal of the minister responsible for social security.

2. Participation in the works of the Council is remunerated with per diems and reimbursement of travel expenses defined in the regulations based upon art. 77(5) point 2 of the Labour Code.
3. An employer should grant an employee who is a member of the Council a leave in order to allow him or her to participate in the sessions of the Council. For the period of the leave the employee is entitled to remuneration calculated to be the financial equivalent of holiday leave. This is covered by the budget at the disposal of the minister responsible for social security.

Article 40

The minister responsible for social security will determine, in the form of a decree:

- 1) the manner of appointing the members of the Council, taking into consideration the need to provide accurate representation of non-governmental organizations and entities mentioned in art. 3 par. 3, diversity of types of public benefit activities and the deadlines of submitting candidates for the members of the Council;
- 2) the organization and the manner of operating of the Council, as well as the rules of participation in its works by representatives of public administration bodies, non-governmental organizations, and entities mentioned in art. 3 par. 3 that are not represented in the Council.

Article 41

The administrative and office services of the Council are provided by the office of the minister responsible for social security.

Section III

Volunteerism

Chapter 1

General regulations

Article 42

1. Based on the regulations set in the current chapter, volunteers may perform services on behalf of:

- 1) non-governmental organizations and entities mentioned in art. 3 par. 3 in the field of their statutory activities, in particular in the field of public benefit activities;
 - 2) public administration bodies, with the exception of performing economic activities;
 - 3) organizational units controlled by public administration bodies or supervised by them, except that a volunteer may not conduct economic activities on behalf of such units.
– hereafter collectively called "beneficiary."
2. The provisions of the current chapter also apply to volunteers in the territory of the Republic of Poland performing services for the sake of international organizations, unless the provisions of international agreements state otherwise.

Article 43

A volunteer should be qualified and should meet the expectations relevant to the scope and range of performed activities if separate regulations impose an obligation that a volunteer possess such qualities and meet such expectations.

Article 44

1. The services of volunteers are performed in the scope, range, and time specified in an agreement with the beneficiary. The agreement should also contain a provision that allows for its dissolution.
2. Upon the request of a volunteer, the beneficiary is obliged to confirm in writing the content of the agreement mentioned in par. 1 and also issue a written confirmation about the services delivered by the volunteer, including, at his or her request, the information about the range of services provided.
3. Upon the request of a volunteer, the beneficiary may submit a written opinion about the services provided by the volunteer.
4. If services provided by a volunteer are implemented for a period of time exceeding 30 days, the agreement should be in writing.

Chapter 2

Detailed regulations

Article 45

1. A beneficiary is obliged to:
 - 1) inform a volunteer about any health and safety risks that are connected with the services provided and about the rules for protection against risks;
 - 2) provide a volunteer, based on the rules applying to employees that are defined in separate regulations, safe and hygienic circumstances in which

- to provide service, including relevant medical examinations, personal protection, and training in the issues of safety and hygiene at work;
- 3) cover travel expenses and per diems, based on the rules applying to employees that are defined in separate regulations.
2. Based on regulations described in separate provisions that apply to employers, a beneficiary may cover other indispensable costs undertaken by a volunteer that are related to the services provided by him or her for the sake of the beneficiary.
 3. A beneficiary may cover the costs of training volunteers in the scope of the services provided by them that are described in the agreement mentioned in art. 44 par. 1.
 4. A volunteer may exempt the beneficiary entirely or partially from the obligations enumerated in par. 1 point 3 through a compulsory, written form.

Article 46

1. A volunteer is entitled to healthcare benefits based on the regulations concerning common health insurance.
2. A volunteer is entitled to compensation in case of an accident in the process of providing services that are mentioned in art. 42, based on separate regulations, taking into consideration par. 3.
3. The beneficiary is obliged to provide accident insurance to a volunteer who provides services for a period of time not more than thirty days.

Article 47

The beneficiary is obliged to inform a volunteer about due rights and responsibilities, and to provide access to such information.

Article 48

If there is an agreement signed by a beneficiary mentioned in art. 42 par. 1 points 2 and 3, and a volunteer and it calls for sending the volunteer to perform his or her duties in the territory of a foreign country, based on an international agreement binding the Republic of Poland, the volunteer is entitled to benefits and reimbursement of costs generally acknowledged for the situation, unless international agreements state otherwise.

Article 49

The expenditures, which are mentioned in art. 45 par. 1 and 3 and art. 46 par. 3, are respectively:

- 1) the costs of conducting statutory activities of non-governmental organizations and entities mentioned in art. 3 par. 3 as beneficiaries, and
- 2) the costs of beneficiaries mentioned in art. 42 par. 1 points 2 and 3.

Article 50

The value of services provided by volunteers does not constitute a donation to a beneficiary in under the regulations of the Civil Code and tax regulations.

Article 51

The first term of the Council mentioned in art. 35 point 1 lasts two years.

Article 52

Before June 30, 2005, the Council of Ministers will present to the Sejm and Senate of the Republic of Poland a report about the functioning of the Law for the period of time since it becomes effective before December 31, 2004.

Article 53

The Law becomes effective based on regulations described in a separate Law.

Washington D.C., USA

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Poland's Council on Public Benefit Activities: A New Era of Government-C Partnership

Ewa Kulik-Bielicka

Introduction

With the launch of the Council on Public Benefit Activities, Poland has entered a new government-civil society partnership. The Council was created by the Law on Public Activities and Volunteerism ("Public Benefit Law") signed by the President on April 12, 2004 after several months of parliamentary discussion and almost seven years of work. The first draft was prepared. It is the first law that seeks to define the role and position of the Third Sector in the social policy of the Polish state. The Law:

- establishes a basis for cooperation and partnership between the NGO sector and public administration in Poland;
- defines the spheres of tasks carried out by NGOs that are considered by the state to be of special importance for public benefit;
- creates a new category of public benefit organisations which, in exchange for taking on certain tasks and obligations, are granted additional benefits and privileges including the possibility of obtaining 1% of personal income tax, acquiring real estate on a preferential basis and free access to public TV.

The bill also regulates the work of volunteers, offering them, among other things, health insurance, the possibility of health insurance, and reimbursement of certain costs of business travel and per diem.

The Council's Membership and Tasks

Chapter IV of the Public Benefit Law also establishes the Council on Public Benefit Activities which serves as an advisory and opinion-forming body to the minister responsible for security issues.

The Council consists of 20 members appointed by the minister:

- 5 representatives of the central administration: Ministry of Education, Ministry of Finance, Ministry of Justice, Ministry of Economy, Labour and Social Policy, Ministry of Internal Affairs;
- 5 representatives of local government authorities delegated by the local governments to the Joint Central and Local Government Committee;
- 10 representatives of NGOs nominated from among candidates proposed by civil society organisations.

The Council's tasks include:

- issuing opinions on the implementation of the Public Benefit Law and on govern draft laws concerning public benefit and volunteer work, as well as on the proc commissioning public tasks to be performed by NGOs;
- assisting in case of any dispute between the public administration and public b organisations;
- participating in audit procedures concerning public benefit organisations;
- creating mechanisms for informing about standards of carrying out public bene

The Council's term lasts three years, except for the current first Council that was two-year term.

The Public Benefit Council as a Civic Dialogue Institution

The Council on Public Benefit Activities constitutes an institutionalised form of coc between the public administration and NGOs at the national level. Though formall functions are limited to an advisory and opinion-forming role, particularly regardii implementation of the Public Benefit Law, the Council provides a platform for artic interests and concerns of the NGO sector vis- -vis public authorities in an organis within the existing legal framework. In this sense the Council constitutes an impo institutionalised civic dialogue that complements two already existing ones: the S Economic Trilateral Commission, a forum of discussion between public administra unions and private employers organisations, and the Joint Central and Local Gove Committee. The establishment of the Council on Public Benefit Activities expands partner basis to civic organisations: associations and foundations acting for impor and public interest goals.

The main task of the Council is to monitor the implementation of the Public Benef if and how it improves the conditions for the growth of civic organisations and enl cooperation between the public administration and local governments on the one NGOs on the other. The mandate to give an opinion on all laws that concern the s regulated by the Public Benefit Law opens before the Council the possibility of infl creation of laws that enhance the participation of NGOs in the implementation of policy. The Council can check if a given law violates the articles of Public Benefit l especially in the sphere of commissioning public tasks to civic organisations and c amendments to that law. It may also recommend amendments to provisions of th Benefit Law itself if they prove unfavourable to the functioning of the NGO sector.

Initial Experience

In the first months of its functioning (the Council inaugurated its work on Novemt 2003) the Council focused on formulating its stand on the draft Law on Social We the government adopted and introduced to the Parliament before the Council was The act was severely criticised by social welfare organisations as representing the philosophy of thinking about social policy and not responding to the challenges of world. The Council questioned the conformity of the Social Welfare Law with the F Law, since it annulled articles of the latter dealing with commissioning of public te by creating its own terms of support and commissioning procedures. The Council get the Parliamentary Commission to review the Social Welfare Law. The NGO me Council are invited to the Social Welfare Parliamentary Commission where they pi

opinions of organisations active in the social welfare sphere. Parliamentary voting whether their voice has been heard and whether the government backs their posi

The Council has been monitoring the effects of the introduction of the Public Bene NGO-local government relations. On the Council's initiative the Ministry of Econor and Social Policy issued a letter to local governments alerting them to an erroneo interpretation of the Law: some local governments mistakenly believed that the L them to commission public tasks exclusively to public benefit organisations (orgai may apply for such a status beginning in January 2004). The members of the Cou the NGO-Local Government Working group prepared a document directed to local governments at all levels (commune, county, voidvodship) which elaborates on th the Law devoted to cooperation between NGOs and local governments, providing explanation and examples of different forms of such cooperation.

The NGO part of the Council does not formally represent the non-profit sector sin members were not elected by the non-profit community but nominated by the Mi Economy, Labour and Social Policy from among the proposed candidates. Nevert Council is looked upon by the public administration as a body that – given the lac NGO representative structure at the national level – may fulfil such a function. In Minister of Economy, Labour and Social Policy as well as representatives of other involved in the preparation of operational programs for European Union structura pressed by the need to find candidates for the funds' various steering and monito committees, turned to the Council to nominate members from the social partners Council worked out the nomination procedure that involved a public call for subm candidates by civic organisations interested in participating in the work of the cor and gathering support for their candidates in the NGO community. The Council in extraordinary session selected the candidates for six steering and monitoring corr from more than 200 submissions and recommended them for nomination by the i ministers.

Challenges

Three months of work of the Council on Public Benefit Activities is too short a per determine what the impact of the Council will be in strengthening the role of NGC dialogue. The future will show whether the Council opens channels of communic consultation with wider circles of civic organisations to bring to the table issues of the non-profit community or rather limits itself to voicing its opinion on questions the minister that it advises. The initial experience inspires optimism, especially re range of problems the Council is consulted on. However, it is too early to say whe be equally optimistic about the Council's effectiveness in turning its opinions into policy. The most difficult task is right before the Council – by the end of March in with the Ministry of Finance it is supposed to draft new tax regulations concerning profit sector that become a part of the tax laws starting in 2005. The battle over the tax exemptions for NGOs waged by the Polish non-profit sector in the autumn clearly demonstrated that the discussions will not be easy. The work on taxes car test of the powers of the Council. If it fails to defend the interests of the whole NC against the attempts of the fiscal authorities to eliminate the tax exemptions for s purposes and to maintain tax reliefs on donations for charity purposes at the insig level of 100 USD, it will lose the trust and respect of the civic sector and undermi of the Council's existence.

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