

# Comparative study of the laws affecting Volunteering and Voluntarism

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August 2001*

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## **I. Introductory remarks**

The following study has the purpose to present and assess in a comparative manner a **selected number** of regulations and practices, governing Volunteerism and Volunteering. Considering the fact that at the present moment **no internationally recognized legal standards** for regulation of volunteering and volunteerism **exist**, the attention will be concentrated upon **some sample laws and practices, which differ from country to country.**

### **Brief history of Volunteering**

The right to volunteer is regarded as an integral part of freedom of expression and freedom of assembly and association. According to the French and Latin roots of the word, volunteering may be seen as a freely chosen activity, profoundly attractive in practice for the volunteer.

Although deeply rooted in the late XIX Century, modern volunteerism sprang up in 1920s, when the Service Civil International was established as a means of building friendships among the young people of different European countries. In the post World War I environment and during the severe economic crisis that followed in 1929, it served also as a means of giving unemployed young people something socially useful to do, as well as a bed and food.

The role played by the volunteers had a tremendous impact on the reconstruction of Europe, and the establishment of cross-border friendships. To ensure that volunteers will not be used as Cold War “soldiers”, the creation of a UN corps of volunteers was advocated and 1970s was initiated the UN Volunteers program. Volunteering grew with the great support of UNESCO and its Coordinating Committee for International Voluntary Service (created in 1948). Emancipation from colonial rule gave birth to national volunteer movements throughout Asia, Africa and Latin America.

### **I.1. Volunteer-Definition**

Issue: *The establishment of a legal definition of volunteer is crucial for:*

- *Recognition of volunteer legal status*
- *Providing legal protection and benefits parallel to those ensured for employees*
- *Differentiation from other forms of labor*
- *Limit the illegal practices stemming from diverse understandings of volunteer labor*

Discussion: The national perception of who qualifies as a volunteer varies widely due to the different historically and culturally developed legal traditions. Most broadly a volunteer can be

regarded as an individual<sup>1</sup>(only exceptionally below the age of 18) with full legal capacity, who by free choice contributes his/her time for performance of a volunteer activity<sup>2</sup> with no expectations of reward from the beneficiary organization<sup>3</sup>. Though the existing diversity and wide range of definitions<sup>4</sup>, the following elements may be considered as basis of volunteer definition<sup>5</sup>:

***A/ Limited expectation of financial or in-kind compensation***

Volunteering cannot be regarded as a purely altruistic (unpaid public benefiting) activity due to the element of reciprocity it comprises. A volunteer is distinguishable from paid work by the fact that he/she does not perform the voluntary activity primarily for financial gain, and any compensation received should amount to less than the market value of the work provided to the beneficiary organization.

Generally, the beneficiary should reimburse volunteers for all legitimate expenses incurred from the voluntary activity. In any given country compensation varies and may include: costs for travel, meals, uniforms; training or supplies directly linked with the activity performed; health, liability, pension and other insurance, paid either by the beneficiary organization (in the case of full-time volunteering) or by State (in the case of volunteering full-time student, minor, unemployed);

*Examples*

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<sup>1</sup> Juridical persons are excluded from the scope of this notion

<sup>2</sup> See Part II for definition

<sup>3</sup> See Part III for definition

<sup>4</sup> For example: **Edmundo Werna** defines it as an activity focusing at least partly on the ethical or ideological motivations and satisfactions relating to offering individual and group service to society, in ways that often require at least a degree of sacrifice; **Van Til (1998)** defines volunteering, as a helping action of an individual that is valued by him/her and does not aim directly at a material gain or is not mandated/coerced by others and is thereby different from work, slavery or conscription.

<sup>5</sup> See Smith J. Davis, *Volunteering and Social Development: A Background Paper for Discussion at an Expert Group Meeting, 2001*, available at [www.iyv2001/iyv\\_eng/policy/supporting\\_docs/soc\\_dev/soc\\_doc.htm](http://www.iyv2001/iyv_eng/policy/supporting_docs/soc_dev/soc_doc.htm)

<b>Australia:</b> Volunteer work is unpaid and does not substitute for paid work <sup>6</sup> .
<b>France:</b> A volunteer is anyone who helps a non-governmental organizations or association without receiving any form of financial support <sup>7</sup> .
<b>Spain:</b> A volunteer may not receive compensation for his/her services, but must be reimbursed for expenses (including training and equipment) undertaken during the volunteer service and must be covered by accident and health insurance <sup>8</sup> .
<b>United Kingdom:</b> Any worker, employed by a public benefit/not-for-profit organization, who does not receive monetary payments other than reimbursement for actual costs incurred and any in-kind benefits other than housing or subsistence is exempted from the minimum wage <sup>9</sup> .

### *B/Free-will*

The volunteer's decision should not be the result of coercion or mandate, but rather a reflection of individual motivation to perform voluntary activities, requiring a combination of experience, skills, and knowledge (but not of financial resources) at a specific time and at a particular place. The volunteer should be free to define the scope, beginning, and termination of these activities without negative repercussions. The pure "voluntariness" concept cannot be observed in absolutely all interactions. In some, the volunteer's self-motivation may be combined with peer pressure or social obligations, which do not amount to force or mandate.

#### *Examples*

<b>Australia:</b> Volunteering is always a matter of choice <sup>10</sup> .
<b>Poland [Draft]:</b> A volunteer is a person, who on a voluntary basis performs unpaid services based on the rules put forward in the law <sup>11</sup> .

### *C/Public Benefit Nature*

The activities performed by the volunteer should provide benefits to identifiable third parties other than the volunteer him/herself or volunteer's immediate e.g. family or friends. This approach differentiates between volunteering (object of regulation and protection) and leisure activities (e.g. playing a football).

#### *Example*

<b>Australia:</b> Volunteering is a legitimate way in which citizens can participate in the activities of their community addressing human environmental and social needs. Volunteering benefits the community and the volunteer <sup>12</sup> .
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<sup>6</sup> See Model code of practice for organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

<sup>7</sup> See The Guide to Volunteering, available at [www.jeunesse-sports.gouv.fr/benevole/index.html](http://www.jeunesse-sports.gouv.fr/benevole/index.html)

<sup>8</sup> See Law on Volunteerism (Spain, 1996) Article 3 and 6

<sup>9</sup> See National Minimum Wage Act (UK, 1998) Chapter 39 available at [www.legislation.hmso.gov.uk](http://www.legislation.hmso.gov.uk)

<sup>10</sup> See Model Code of Practice for Organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

<sup>11</sup> See Draft Law on NGOs and Volunteers (Poland), Article 7

<sup>12</sup> See Model Code of Practice for Organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

**Convention on the Promotion of a transnational long-term voluntary service for young people:** A volunteer is a person legally residing in the territory of one member state and is legally presented in the territory of another continuously (min 3, max 12 months) to perform full-time voluntary service activity<sup>13</sup>.

#### *D/Organizational setting*

Volunteers' free contribution of time may have two main forms: formal (organized participation in formal projects), which requires separate statutory regulation, and informal (one-to-one, e.g. helping a neighbor), separate regulation of which is considered unnecessarily burdening.

##### *Example*

**France:** Benefits and protection on the territory of France and French territories are given only to volunteers working for registered non-for-profit or governmental beneficiaries, but elsewhere they receive the same treatment regardless the type of beneficiary<sup>14</sup>.

**Poland [Draft]:** The Volunteer Law applies in cases of registered non-governmental organization or non-commercial administrative unit/sub-unit of the Government beneficiary of volunteer labor. The commercial or other entity beneficiaries of volunteer labor fall under the regulation of employment and labor laws, while the individual persons-beneficiaries are not separately regulated<sup>15</sup>.

#### *E/Types of Activities*

The altruistic nature of volunteerism requires volunteers to engage in activities benefiting the public in whole or in part, but neither in for-profit or in commercial projects, nor to occupy normally paid or compensated positions.

##### *Examples*

**Australia:** Volunteers should neither be placed in positions previously held by paid staff, nor asked to take up additional work during disputes or paid staff shortage, nor to perform a for-profit activity<sup>16</sup>.

**The Netherlands:** The volunteer's activity should be additional to the general activity of beneficiary, which means that the latter should not encounter any serious problems in case in case of volunteer decision to terminate the activity<sup>17</sup>.

#### *F/Level of Commitment*

The level of volunteer's involvement is an additional threshold for defining what type of volunteering should be recognized under law and given statutory protection. That leaves outside

<sup>13</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 9, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>14</sup> See Draft Law on the Institutionalization of Civilian Voluntary Service (France), No.458

<sup>15</sup> See Draft Law on NGOs and Volunteers (Poland), version 8 of the Forum for Nongovernmental Initiatives, 2001

<sup>16</sup> See Model Code of Practice for Organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

<sup>17</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

the legal framework all occasional and sporadic acts, which though voluntary by nature do not require separate regulation.

*Example*

**Portugal:** Volunteer services should be substantial and performed on a regular basis<sup>18</sup>

### **I.3. Rights and Duties of Volunteer**

*Issue:* Volunteers possess rights and duties towards the beneficiary that are correlatively related to the nature of activity performed.

*Suggested list of rights must include, at minimum, the following:* right to healthy and safe working conditions, non-discriminatory treatment, generally equal to paid-staff, adequate coverage for liability, social and health insurance, other benefits according to the law and written agreement, training, respect of these rights by beneficiary, and other similar like protections.

*Examples:*

**Australia:** Volunteer has the rights to: work in a healthy and safe environment, employed with due respect to anti-discrimination and equal opportunity laws, adequately insured for risks, given adequate information for the beneficiary, reimbursed for the out of pocket money expenses incurred on the behalf of the beneficiary, have a job description and agreed working hours, provided with orientation and training, required for the activity performed<sup>19</sup>.

**Convention on the Promotion of a transnational long-term voluntary service for young people:** A full time inter-member states exchange young volunteer must be provided with board, lodging and sufficient amount of pocket money, must be given adequate opportunities for development and at least one free day per week<sup>20</sup>.

**The European Commission: Youth Program:** The volunteers give their time and efforts for a project benefiting the community in exchange of an opportunity to practice their skills, gain cultural and social capital. They are responsible for the practical tasks assigned to them and have a general obligation to contribute to the beneficiary and community<sup>21</sup>.

**The Netherlands:** The beneficiary reimburses expenses like phone calls, stamps, copies and public transport expenses that are linked to the volunteer work<sup>22</sup>.

*Suggested list of duties must include, at minimum, the following:* to perform his/her duty with the due care, to act reasonably and within the scope of authority given by the beneficiary, to avoid self-dealing and conflict on interests, to obey law, to respect beneficiary's right to confidentiality, not to discriminate and not to assault, and other.

<sup>18</sup> Law 71 (Portugal), 1998

<sup>19</sup> See Model Code of Practice for Organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

<sup>20</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 9, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>21</sup> See <http://europa.eu.int/comm/education/youth/program/action2.htm>

<sup>22</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

*Example*

**Poland [Draft]:** The volunteer should respect all the duties envisaged in the written agreement<sup>23</sup>.

**Portugal:** The volunteer must respect the bylaws and rules of the beneficiary, inform when terminating services and act on the behalf of beneficiary only upon proper authorization<sup>24</sup>.

#### **I.4. Liability**

*Issue:* Law has to define clearly volunteers' liability for failure to perform duty or for cost of accidents, loss or injures (including the cases arising out of willful or intentional acts outside the scope of volunteer authority according to volunteer-beneficiary agreement) and to bar claims for negligent acts within the scope of volunteer's authority.

*Example*

**USA:** Negligence claims against volunteers who acted within the scope of their responsibilities in a non-profit organization or government agency, properly licensed, certified or insured according to law are barred<sup>25</sup>.

#### **I.5. International volunteering (by non-EU nationals/non-nationals)**

*Issue:* A special treatment, observing the right of free movement, should be provided to volunteers without citizenship or non-EU nationals in the case of volunteering within EU while performing voluntary activities abroad.

*Discussion:* Establishment of a more favorable regime for obtaining a visa when necessary or establishment of "volunteer visa" granted to volunteers upon beneficiary's request and guarantees according to the immigration laws and international agreements.

*Example*

**Canada:** Non-citizens may perform volunteer activities without a working visa<sup>26</sup>

**Convention on the Promotion of a transnational long-term voluntary service for young people:** State-Members should reduce the administrative barriers restricting volunteers' mobility and shall grant a residence permit to volunteer who presents an ID and valid contract for performance of voluntary services<sup>27</sup>.

**France:** The Government will provide Volunteers performing activities abroad social assistance upon return<sup>28</sup>.

**USA:** Volunteers participating in the US Government approved international voluntary service program are considered employees of the Federal Government<sup>29</sup>.

<sup>23</sup> See Draft Law on NGOs and Volunteers (Poland), version 8, FIP

<sup>24</sup> See Law No 71 (Portugal), 1998

<sup>25</sup> See The Volunteer Protection Act, 42 USC (1997)

<sup>26</sup> See Volunteers and the law: A guide for volunteers, organizations and boards, available at [www.publiclegaled.be.ca/volunteers/volthree.htm](http://www.publiclegaled.be.ca/volunteers/volthree.htm)

<sup>27</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 9, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>28</sup> See Decree No 95/94 (France)

<sup>29</sup> See Peace Corps Act, 22 USC (2001)

## I.6. Insurance

*Issue:* Insurance law should maintain a policy that encourages volunteering.

*Discussion:* Generally most of the countries laws provide for health, accidents and civil liability insurance. However some of them have more or less favorable policy towards volunteers.

*Examples*

<b>Convention on the Promotion of a transnational long-term voluntary service for young people:</b> A full time inter-member states exchange young volunteer must be insured for <i>health, accident and civic liability</i> <sup>30</sup> .
<b>Germany:</b> Pension insurance is available in a voluntary form, paid either by volunteer or beneficiary (the latter is seldom used) <sup>31</sup> .
<b>Luxemburg:</b> Compulsory insurance against <i>accidents</i> applies to any kind of voluntary activity in the social and assimilated sectors <sup>32</sup> .
<b>The Netherlands:</b> The beneficiary should insure its volunteers for <i>physical and material damages</i> occurred during the volunteer work. In case of volunteer causing damages to third party, the latter can claim compensation collectively to the beneficiary (if a commercial entity all board members are personally responsible; if non-profit, board members can be held responsible only if they have been acting illegally or beyond their abilities or mission) and personally to the volunteer <sup>33</sup> .
<b>France:</b> The beneficiary must provide insurance to volunteers for <i>economic hardship</i> caused by injuries occurred during the performance of volunteer activities <sup>34</sup> .

## I.7. Benefits

*Issue:* Volunteering brings benefits, at least *in some countries*.

*Discussion:* Benefits to (1) volunteers – by providing them the essentials of life e.g. food, health care, social security, unemployment benefits, maternity/paternity, education and valuable practice, by enabling them to learn new skills, to gain confidence, self-development, others;(2) Government – by essential economic contributions that add to the overall economic output of the country and at the same time reduces the burden on governmental spending; (3) society – by helping establishment of a strong and cohesive community, increasing the trust and solidarity between citizens<sup>35</sup>.

*Example*

<sup>30</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 11, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>31</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

<sup>32</sup> See Grand Duchy Decree/ Code des assurances sociales (Luxemburg, 1991), Article 90.3.9 and 10

<sup>33</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

<sup>34</sup> See The Guide to Volunteering, available at [www.jeunesse-sports.gouv.fr/benevole/index.html](http://www.jeunesse-sports.gouv.fr/benevole/index.html)

<sup>35</sup> See UNDP Poverty Report (1998) concludes that anti-poverty programs should rely primarily on the “social mobilization”.



**France:** All types of volunteers are included in the social security scheme for up to four years and are provided with training, social insurance, maternity/paternity benefits, stipend and reimbursement of the expenses<sup>36</sup>.

**Germany:** Volunteers do not have right to unemployment benefits in case of termination of work if the activity performed was not subject to social security contributions<sup>37</sup>.

## I.8. Taxation

*Issue:* Tax laws should treat Volunteers' stipends, in-kind compensations and other benefits in a favorable manner.

*Example*

**Hungary:** In-kind altruistic services are tax-exempt<sup>38</sup>.

**Germany:** Only expense allowance and reimbursements of travel costs are tax-free. The tax exemptions available for charitable organization do not apply for volunteers<sup>39</sup>.

**The Netherlands:** If the beneficiary is unable to reimburse to the volunteer the expenses linked with the volunteer activity, the latter may claim tax deduction of the payable amount before the tax authorities if two conditions are met: general benefit to the system beneficiary and chargeability of expenses. If the amount exceeds Dfl 40 per week, both volunteer and beneficiary must show evidence to the fiscal administration<sup>40</sup>.

**France:** Travel costs reimbursements are taxed only in absence of supporting documentation<sup>41</sup>. Under the Draft Law on the Institutionalization of Civilian Voluntary Service, No 458 volunteer stipends will be tax exempt.

**USA:** Payment to volunteers must be treated similarly to employee payments. Consequently, absent an exception in federal/state tax laws, taxes must be withheld. Living allowances, stipends, post-service benefits and in-kind benefits are usually treated as wages<sup>42</sup>. Reimbursement of "out of profit" expenses is not taxable if such expenses are directly related to the voluntary services.

## II.1. Beneficiary of the volunteer labor –Definition

*Issue:* The effective regulation of volunteering requires only legitimate and in accordance to law limitation of volunteers' freedom to choose the entity (no unified practice, different words are used for identifying it, e.g. volunteer organization, volunteer-employer, beneficiary) that will benefit from their labor. In this regard formal volunteering that is predominantly granted legal status is generally restricted to beneficiaries with altruistic or similar purposes.

*Example*

<sup>36</sup> See Decree No 95/94 (France)

<sup>37</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

<sup>38</sup> See Law on the Personal Income Tax of Private Persons (Hungary), 1992

<sup>39</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

<sup>40</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

<sup>41</sup> See The Guide to Volunteering, available at [www.jeunesse-sports.gouv.fr/benevole/index.html](http://www.jeunesse-sports.gouv.fr/benevole/index.html)

<sup>42</sup> See Internal Revenue Code that stipulates that all income from whatever source derived is subject to tax unless specifically excluded, for more info see [www.ed.gov/americanreads/resourcekit/ManageVollunteers/taxation.ht](http://www.ed.gov/americanreads/resourcekit/ManageVollunteers/taxation.ht)

**Canada:** Beneficiary (volunteer organization) is an organization that occasionally or frequently relies on volunteers to offer services to community<sup>43</sup>.

## II.2. Beneficiary of volunteer labor –Typology

*Issue:* Law must enumerate the types of entities that can benefit from voluntary labor.

*Discussion:* Robinson and White (1997) divide beneficiaries of voluntary labor into two big groups depending on the fact whether they serve a public service function or not<sup>44</sup>:

**A/Expressive-**organizations that act to express or satisfy the interests of their members, e.g. recreation and sport associations, social clubs, scientific societies.

**B/Social influence-**organizations that act to achieve a condition or change in the society, e.g. pressure groups, public services organizations.

Other classifications also possible: governmental/nongovernmental, registered/not registered

*Examples*

**Convention on the Promotion of a transnational long-term voluntary service for young people:** Beneficiaries (sending or receiving organizations) are non-profit making and non-governmental organizations undertaking voluntary service for the benefit of the society, youth organizations, local public authorities or another organizations wishing to develop specific voluntary projects, approved by a coordinating body, appointed by the Member-State<sup>45</sup>.

**France:** The managerial functions as President, Treasurer must be assumed by volunteers<sup>46</sup>

**Poland [Draft]:** Volunteer may perform services for NGOs (within the scope of their activity), public administration bodies (except services within the scope of body's economic activities), and sub-units of public administration (except services within the scope of sub-unit's economic activities<sup>47</sup>.

## II.3. Beneficiary of volunteer labor -Rights and Duties

*Issue:* Beneficiaries of volunteer labor possess certain rights and obligation towards volunteer.

*Suggested list of rights must include, at minimum the following:* right to confidentiality, to benefit from volunteer's labor, to be respected, to supervise the volunteer activity etc.

*Suggested list of duties must include, at minimum the following:* to respect and obey law in general, to ensure the rights of the volunteer, to supervise volunteer's work, to maintain non-discrimination and equal treatment policy, to provide the necessary training for performing the

<sup>43</sup> See, Volunteers and the law: A guide for volunteers, organizations and boards (Canada) 2001, available at [www.publiclegaled.be.ca/volunteers/volthree.htm](http://www.publiclegaled.be.ca/volunteers/volthree.htm)

<sup>44</sup> See Roy K., Ziemek S., On the economics of Volunteering: A research study directed by ZEF as a joint initiative with the UN Volunteer Program

<sup>45</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 9, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>46</sup> See 1901 Law related to the association contract

<sup>47</sup> See Draft Law on NGOs and Volunteers, version 8, by Forum for Nongovernmental Initiatives (Poland), 2001

activity, to cover volunteer for risks, to reimburse the costs incurred in connection with the volunteer activity, to provide insurance and benefits, required by law and other.

*Examples*

<b>Australia:</b> The beneficiary has to: employ volunteers with respect to anti-discrimination and equal opportunity legislation and acknowledge their rights; provide volunteers with orientation and training, healthy and safety working conditions, appropriate insurance coverage, clearly define roles and tasks, appropriate level of support and management; opportunity for professional development; acknowledge volunteers contributions; reimburse volunteers for out of pocket money expenses incurred on the behalf of the beneficiary <sup>48</sup> .
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<b>The European Commission: Youth Program:</b> The beneficiary is responsible for the: language and tasks training, personal support, local transport, accommodation and food <sup>49</sup> .
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<b>Luxembourg:</b> The organizing authority must reimburse volunteers the personal expenses linked to the voluntary delivering meals, free of charge, without payment or compensation in kind <sup>50</sup> .
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#### **II.4. Beneficiary of the volunteer labor –Liability**

*Issue:* Beneficiaries should be held liable for injuries caused to third parties by volunteer acting under their control and direction and within the scope of his/her responsibilities when the accident occurred or if beneficiaries' actions contributed to an accident.

*Example*

<b>The Netherlands:</b> In case of volunteer causing damages to third party, the latter can claim compensation collectively to the beneficiary (if a commercial entity - all board members are personally responsible; if non-profit board members can be held responsible only if they have been acting illegally or beyond their abilities or mission) and personally to the volunteer <sup>51</sup> .
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#### **III.1. Voluntary activities-Definition**

*Issue:* Drafting a clear definition of voluntary activities will provide a better understanding in the society and administrative organs when the existing regulation should be applied and will prevent confusions and misuse of volunteers.

*Discussion:* Voluntary activities are expression of individuals' willingness and capacity to freely undertake actions to help others and improve the overall condition of the society. They benefit significantly both individuals and the community (through the respective beneficiary) and work for the improvement of social trust and cohesion.

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<sup>48</sup> See Model Code of Practice for Organizations involving volunteer staff, available at [www.volunteeringaustralia.org/code.html](http://www.volunteeringaustralia.org/code.html)

<sup>49</sup> See <http://europa.eu.int/comm/education/youth/program/action2.htm>

<sup>50</sup> See Governmental Decree (Luxembourg) 1994

<sup>51</sup> See Euro-Volunteer Information Pool, Legal Regulations related to Volunteering (2001), available at [www.euro-volunteer.org/ISSUES/issue2\\_e.htm](http://www.euro-volunteer.org/ISSUES/issue2_e.htm)

### Examples

**Convention on the Promotion of a transnational long-term voluntary service for young people:** A voluntary service means an activity voluntarily undertaken, without remuneration for the volunteer, providing a mutual non-formal education process for the volunteer and the people with whom he/she collaborates<sup>52</sup>.

**The European Commission: Youth Program:** European Voluntary Service means activities that are non-profit making and unpaid, bring an added value to the community, do not involve job substitution or job replacement, last for a definite period of time<sup>53</sup>.

**France:** Voluntary activity must not be considered as a professional one (paid), even when some professionals decide to practice their job as volunteers, e.g. a doctor who helps poor people<sup>54</sup>.

### III.2. Voluntary Activities- Typology

*Issue:* The voluntary sector represents an immense potential in providing welfare services. Though existing variety of activities, carried out by volunteers, not all of them requiring necessitate statutory regulation. Law should identify the activities that classify as such.

*Discussion:* On the basis of the purpose criterion<sup>55</sup> for voluntary activities four types of volunteering can be identified, and they all may be managed (carried out through an organization) or unmanaged (spontaneous or individually initiated):

#### *A/ Mutual aid or self-help volunteers*

In some countries, e.g. Kenya, India, this is the dominant system of social and economic support. This type category is rarely described as a volunteering by the practitioners.

#### *B/ Service to the others*

This type of volunteering is mostly carried out through non-profit and statutory organizations and benefits the society in whole, e.g. teaching or mentoring others.

#### *C/ Campaigning and advocating volunteers*

The leading motive for carrying out this type of volunteering is primarily the desire for social change and social justice, e.g. the environmental movement.

#### *D/ Participation and self-governance*

Volunteers are involved in projects carried out by the Government itself, e.g. sanitation projects or participation as a member of consultative bodies.

#### *Example*

**Brazil:** Voluntary activity must be limited to non-remunerated activities performed by a natural person for any public entity or for a private, non-for-profit organization, the objectives of which

<sup>52</sup> See Convention on the Promotion of a Transnational Long-Term Voluntary Service for young People (Council of Europe, 2000) Article 9, available at [www.cm.coe.int/2000/705/a4.htm](http://www.cm.coe.int/2000/705/a4.htm)

<sup>53</sup> See <http://europa.eu.int/comm/education/youth/program/action2.htm>

<sup>54</sup> See The Guide to Volunteering, available at [www.jeunesse-sports.gouv.fr/benevole/index.html](http://www.jeunesse-sports.gouv.fr/benevole/index.html)

<sup>55</sup> See for more details *Measuring Volunteering: A Practical Toolkit*, available at [www.unv.org/actives/vol/IYVToolkit.pdf](http://www.unv.org/actives/vol/IYVToolkit.pdf)

are civic, cultural, educational, scientific, recreational or social assistance orientated<sup>56</sup>.

**France:** Volunteering has two main forms: part-time (few hours per week, does not have legal status) and full-time - voluntary work in developing countries and voluntary firemen (has legal status)<sup>57</sup>.

**Portugal:** Volunteer activities are those performed in community and social interest and guided by the principles of promotion of a free and active citizenry, solidarity, cooperation, gratuity, responsibility, and harmonization<sup>58</sup>.

#### **IV.1. Volunteer-Beneficiary Relationship-Creation**

*Issue:* The volunteer-beneficiary relationship comes into being after arriving mutual agreement on the volunteer activity and related issues (oral/written). Specifications, provided in the law may be an extremely useful starting point for both parties.

*Example*

**Greece:** The large voluntary organizations as Red Cross or French Doctors, which use volunteers for mission abroad, usually sign an individual contract between them and the volunteer<sup>59</sup>.

#### **IV.2. Volunteer-Beneficiary Relationship-Content**

*Issue:* The written agreement should reflect the terms agreed by the beneficiary and volunteer and should include the following information: 1.Name of the parties, 2.Volunteer's activity- type, scope and location, 3.Rights and duties of both parties, 4. Intended length of activity performance, 5.Working hours, 6.Liability, and 7. Termination.

*Example*

**Brazil:** The agreement signed between volunteer and beneficiary must include: name ID number, address, telephone number of volunteer and name, registration number, address of the beneficiary, description of the volunteer activity, signature of both parties and witness<sup>60</sup>.

**Spain:** The written agreement must minimum include the following: a statement of the altruistic nature of the voluntary activity, list of rights and duties to both parties, description of the volunteer activity, role and time commitment, description of the training designed to assist volunteer in his/her activity, duration and causes for termination<sup>61</sup>.

#### **IV.3. Volunteer-Beneficiary Relationship-Termination**

*Issue:* The volunteer-beneficiary agreement should enumerate in an exhaustive manner the grounds on which it can be terminated

*Discussion:* Such grounds can be mutual agreement of both parties; notice within a reasonable time; previously fixed duration; others.

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<sup>56</sup> See Law on Voluntary Services No. 9608 (Brazil) 1998, Article 1

<sup>57</sup> See The Guide to Volunteering, available at [www.jeunesse-sports.gouv.fr/benevole/index.html](http://www.jeunesse-sports.gouv.fr/benevole/index.html)

<sup>58</sup> See Law No 71 (Portugal) 1998

<sup>59</sup> See Bilateral Agreements (Greece)

<sup>60</sup> See Law on Voluntary Services No. 9608 (Brazil) 1998, Article 2

<sup>61</sup> See Law on Volunteerism (Spain) 6/1996, Article 9

## V. Applicable Laws

### Domestic

#### ■ Employment and Labor laws

*Austria* Federal Law to amend the Federal Law on Community Services (1986) – makes provisions regarding legal person willing to employ and individuals willing to be employed for performing community services. Sums up the duties of the employer towards the community service performer and determines the financial remuneration (available at ILO Library).

*Canada* Minimum Wages and Working Conditions Regulation – exempts from the provisions of the Employment Standards Code persons who work unpaid as volunteers (ILO Library)

*Netherlands* Decree on the tasks of volunteer police officials/94

Decree on the legal position of volunteer police workers/95 – allows volunteer workers, educated and trained for performing the required duties, to be employed as police officers in exceptional cases, defines the legal status of volunteer police force, sets up the minimum hours of hour.

Decree regarding employment of foreigners/95 – asylum seekers and persons with temporary resident permits are given the permission to work as unpaid volunteers.

*UK* National Minimum Wage Act (1998) –volunteers are excluded from the min wage  
Civil Aid Service Regulation (1997), (ILO Library).

Civil Aid Service Ordinance (1997) – creation of Civil Aid Service that will provide services for the benefit of the community (ILO Library).

*Poland* Order of the Council of Ministers concerning voluntary work brigades (1992)

#### ■ Tax Laws

*Hungary* Law on the Personal Income Tax of Private Persons (Act XC, Am. Act LXXV, 1992)

#### ■ Insurance Laws

*UK* Police (Insurance of Voluntary Assistants) Act (1997), available at [www.legislations.hmsso.gov.uk/acts/acts1997/1997045.htm](http://www.legislations.hmsso.gov.uk/acts/acts1997/1997045.htm)

#### ■ Laws on volunteering and volunteerism (where available)

*Brazil* Law on Voluntary Service No 9608 (1998)

*France* Draft Law on the Institutionalization of Voluntary Service No 458 (2001)

Decree 95/94 (1994)- does not address volunteers below the age of 18

*Germany* Law on the Promotion of a Volunteer Social Year (1964) applies only to volunteers from 17 to 27 years old, no legal status to volunteers below the age of 17.

Law on the Promotion of a Volunteer Environmental Year (1993)

*Italy* Law on Volunteerism No 266 (1991)  
*Poland* Draft Law on NGOs and Volunteers, version 8, Forum for Nongovernmental Initiatives, volunteers below age of 18 can perform only fundraising activities  
*Portugal* Law No 71 (1998)  
*Spain* Law on Volunteerism No 6 (1996)  
*USA* Domestic Volunteer Services Act, 42 USC (2001)- regulates volunteer programs  
Volunteer Protection Act, 42 USC (1997)  
National And Community Service Act (1990)

**International Instruments affecting volunteering:**

■ European Union

--*Commission of the European Communities, Recommendation 85/308/EEC on social protection for volunteer development workers*, available at

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31985H0308&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31985H0308&model=guichett)

--*Conclusions of the Council and the Ministers for Youth meeting within the Council of 30 November 1994 on the promotion of voluntary service periods for young people*

Official Journal C 348, 09/12/1994 p. 0002 – 0003, available at

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=41994Y1209\(01\)&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=41994Y1209(01)&model=guichett)

--*The European Commission: Youth Program: European Voluntary Service*, available at

<http://europa.eu.int/comm/education/youth/program/action2.htm>

■ International Labor Organization

--*No international agreement concerning the volunteer labor available*. The ILO Library provides limited information on this issue in a country-by-country manner.

■ United Nations

--*Commission for Social Development (E/CN.5/2001/6): The role of volunteerism in the promotion of social development*

--*UN General Assembly Resolution 55/57: International Year of Volunteers*, available at

[http://www.unv.org/actives/vol/A\\_RES\\_55\\_57\\_engl.pdf](http://www.unv.org/actives/vol/A_RES_55_57_engl.pdf)

--*Convention on the Promotion of a Transnational Long-term Voluntary Service for Young People (March, 2001)* available at <http://www.cm.coe.int/dec/2000/705/a4.htm>

-- *General Assembly Resolution 52/17: International year of volunteers 2001*



-- *Recommendation 1496(2001): Improving the status and role of volunteers in society: a contribution by the Parliamentary Assembly to the International Year of Volunteers 2001*, available at <https://stars/coe/fr/ta/TA01/EREC1496.htm>

-- *Report of the Social, Health and Family Committee: Improving the status and role of volunteers as a contribution by the Parliamentary Assembly to the International Year of Volunteers 2001*, available at <http://stars.coe.fr/doc/doc00/EDOC8917.htm>

■ Others

-- *Universal Declaration on volunteering* (International Association for Volunteer Efforts), available at <http://www.iave.org/ud/cfm>

### Role of State

The effective functioning of volunteer sector requires State participation and support through:

1. Establishment of appropriate infrastructure, either on national or local level. As the experience shows of particular help are state-sponsored schemes for promoting volunteering such as Nepal National Volunteer Development Scheme, US Corporation for National Service and UK Active Community Initiative.
2. Drafting statutory regulation on volunteering. Recently many states deliberate upon the need of national legislation of the subject regarding the increasing number of volunteers and need of protection to these persons like the one given to employees.
3. Signing Bilateral/Multilateral Agreements, which will serve as basis for harmonization of the existing practices, will facilitate the volunteers flow and exchange among the countries and will help establishment of universally recognized standards on volunteering.

### Example

**Germany:** Three-part relationship takes place when a volunteer is commissioned by a social institution to carry out work for a person in need of support legally named “non gratuitous contract for services or works. As the volunteer is socially ensured for this activity and the expenses linked with it are reimbursed<sup>62</sup>.

**Greece:** Pan Hellenic Federation of Voluntary Organizations and Directorate for Development of Volunteering in the Ministry of Health and Welfare have been created<sup>63</sup>.

<sup>62</sup> See Law promoting the voluntary social year (Germany), 2001

<sup>63</sup> See Law for Health and Welfare (Greece), 1998