

DRAFT OF THE LAW ON VOLUNTEERING

I. GENERAL PROVISIONS

Article 1.

(1) This Law shall regulate contract on voluntary work (volunteerism), rights and obligations of the providers of the volunteer services (volunteers), rights and obligations of the organizer of volunteer services, legal status of volunteers as well as other issues pertinent to organized (formal) volunteering.

(2) This Law shall not apply on the voluntary fire brigades, nor shall it apply on accidental and sporadic volunteering (informal, ad-hoc volunteering).

(3) Authorised bodies in Bosnia and Herzegovina may encourage volunteerism as a public interest activity that provides for active citizen participation, development of the human resources, improvement of the quality of life, and strengthening of solidarity between the citizens.

COMMENT: Further consultations are necessary to determine whether terminology used in the Draft (in local language) is appropriate or not: voluntary work, provider of the voluntary services (volunteer), organizer of the voluntary services and user of the voluntary services. The Draft will be amended subsequently when the agreement on the terminology issue is reached.

Article 2.

(1) Pursuant to this Law, volunteerism refers to provision of services that are not forbidden by the law, provided for the well-being of an individual or for the common good of the society, which are performed by freewill and without payment.

(2) The work of unpaid trainees – apprentices - (voluntary work) that is regulated by the labour law provisions shall not be considered as voluntary work.

Article 3.

(1) Pursuant to this Law, a volunteer is an individual that is, by virtue of a contract with an organizer of the volunteer services, obliged to perform voluntary work.

(2) Citizens from neighbouring countries and the European Union shall not be required to obtain a work permit in order to provide volunteer services in Bosnia and Herzegovina.

COMMENT:, Paragraph 2 of Article 3 shall be further discussed as there are some limiting provisions of the Law on Movement, Residence and Asylum which this Law cannot render out of force.

Article 4.

(1) The volunteer contract with a minor older than 15 may be entered into following a written consent by his/her legal representative.

(2) Labour law provisions that regulate the type and manner of employment of minors shall accordingly apply to minors conducting voluntary work.

Article 5.

The organizer of voluntary services shall be a not-for-profit legal entity (association, foundation, institution or any other non-profit legal entity) that has entered into a contract with a volunteer.

Article 6.

The beneficiary of voluntary services is an individual, non-profit legal entity or community that benefits from those services. The organizer of the voluntary services may at the same time be a beneficiary of those services.

ALTERNATIVE: omit Article 6

II. CONTRACT ON VOLUNTEERING

Article 7.

Provisions on obligation shall accordingly apply on issues that are not specifically regulated by the volunteer agreement.

Article 8.

(1) A contract on volunteering shall be in written form.

(2) The contract shall consist the following: 1. the name and place of business of the organizer of the volunteer activities; 2. the name and surname and the residence of volunteer; 3. the date of expiration of the contract; 4. place of volunteering; 5. a short description of the volunteer services and conditions of volunteering; 6. reimbursement for the transportation costs, food, accommodation, training, as well as some legitimate allowances for the expenses that might occur while providing voluntary services; 7. rights and obligations of parties to the contract that are not prescribed by this Law.

(3) The contract on volunteering that does not stipulate the expiration date shall be deemed to be concluded for an indefinite period of time.

(4) The contract on volunteering may also contain other information pertinent to provision of voluntary services.

Article 9.

(1) A contract shall be terminated:

- by the mutual consent of the parties,
- by the expiration of the stipulated period of duration,
- by notice of dismissal,
- by other ways foreseen in the contract and general provisions of obligations.

(2) A volunteer may terminate a contract at any time, without stipulating a reason, except if it would cause a sustainable and irreparable damage to the organizer of voluntary services.

(3) If the contract does not prescribe otherwise, the organizer of voluntary services may terminate the contract if a volunteer is in material breach of his contractual obligations.

III. VOLUNTEERS' RIGHTS AND OBLIGATIONS

Article 10.

(1) A volunteer has the right:

- to be notified about risks associated to services that he/she provides,
- to be provided safe working conditions, in accordance with nature of services that he/she provides,
- to be notified on rights that he/she can exercise pursuant to law and general acts of the organizer,
- to an equal status as other employees or individuals who work for the organizer of the voluntary services and are paid for their services,
- to be appropriately trained, in order to improve the quality of services, if the nature of the services require so,
- to be absent from work for a justified reason,
- to possess a volunteer card (Article 11.).

(2) A justified absence from work referred to in Paragraph 1. line 6 of this Article shall be calculated as the time spent at volunteer work.

ALTERNATIVE: omit Paragraph 1, line 6 and Paragraph 2, or more precisely determine what shall be considered as justified absence, safe for *vis major* cases.

Article 11.

(1) A Minister that has competence in the judiciary matters shall decide on the content, the manner of issuance and entering the data into the volunteer card, the procedure for replacement and issuance of a new volunteer card, its form and sale procedures.

(2) The organizer of the voluntary services shall enter the following information into the booklet: the time spent in volunteering (start date, duration period, end date), a short description of the services that volunteer provided, as well as the training and skills gained during the period spent in volunteering.

Article 12.

In the case a volunteer provides more than 20 working hours per week, provisions regulating employment relations shall be applied accordingly on issues relating to duration of voluntary work, paid leave, unpaid leave and work protection.

COMMENT: the number of hours provided per week could be further discussed.

Article 13.

The provisions that regulate pension insurance of trainees shall apply accordingly in case of injury at work or professional disease of volunteers.

Article 14.

The contract on volunteering shall not have any impact on the rights that a volunteer may exercise arising from his/her unemployed status.

Article 15.

A volunteer is obliged to:

- provide voluntary services as set forth in law and the contract as well as the instructions provided by the organizer of the volunteer services,
- provide services in accordance with the rules of the profession and professional ethics, in cases when providing voluntary services requires professional knowledge,
- provide services in person,
- keep confidential secret business information received while providing voluntary services,

- manage, in good faith, the means he/she is entrusted with while providing voluntary services,
- take part in training designed to improve the quality of the services.

IV. PUNITIVE PROVISIONS

1. Fines

Article 16.

(1) A fine ranging from _____ up to _____ KM shall be levied on the organizer of the voluntary services who:

- fails to notify a volunteer about risks associated with services provided,
- fails to provide safe working conditions, in accordance with the nature of services provided,
- fails to notify a volunteer in writing about the rights he/she enjoys according to law, other regulations and general acts of the organizer,
- fails to treat a volunteer equally with other employees or those who work for the organizer of the voluntary services and are paid for their work,
- fails to provide adequate training designed to improve the quality of the services, if the nature of services requests so (Article 10, Paragraph 1, line 1-5 of the Law),
- fails to enter information into the volunteer card regarding the time of volunteering, (start, duration, end time), description of services that the volunteer provided, the training and skills that the volunteer gained during the volunteering period (Article 11, Paragraph 2 of the Law), or who enters false information into the volunteer card.
- fails to maintain records about volunteers, in accordance with the Law and regulation of the relevant ministry (Article 17. of the Law).

Alternative (to add new paragraph): If the fined organizer of voluntary services does not enter the information into the volunteer booklet prescribed by this Law, the authorized body shall introduce temporary or permanent measures to forbid that entity to organise voluntary services.

(2) A fine for violation of Paragraph 1 of this Article, ranging from _____ up to _____ KM, shall also be levied on the responsible person of the organizer of the volunteer services.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 17.

A Minister that has competence in judiciary matters shall issue a regulation detailing procedures for keeping the record of volunteers, within the three-month period after the Law enters into force.

Article 18.

This Law shall enter into force eight days after being published in the Official Gazette of Bosnia and Herzegovina.

COMMENT: Article 18. is based on the assumption that this Law will be adopted at the state level. If that will be the case, it is critical that transitional and permanent provisions establish the state and the entity bodies that will be in charge of supervising the implementation of the Law.