



LEGAL STATUS OF VOLUNTEERS: Country Report Poland

Background to the Project

This is one of a series of 'country-reports' produced by the Association of Voluntary Service Organisations (AVSO) and the European Volunteer Centre (CEV). They aim to provide comprehensive and practical information on volunteers and the law in a number of current and future European Union Member States.

Each country report explores, in a standardised format, some of the key questions that face volunteers and volunteer-involving organisations in relation to their legal positions.

Important: the information contained in each country report is subject to resources and quality of information available. It is also subject to frequent change.

If you wish to comment on any of the country reports, or contribute to their annual updates, CEV and AVSO would be delighted to hear from you.

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GENERAL DEFINITIONS OF VOLUNTEERISM

VOLUNTEERISM: refers to all forms of voluntary activity, whether formal or informal, full-time or part-time, at home or abroad. It is undertaken of a person's own free-will, choice and motivation, and is without concern for financial gain. It benefits the individual volunteer, communities and society as a whole. It is also a vehicle for individuals and associations to address human, social or environmental needs and concerns. Formal voluntary activities add value, but do not replace, professional, paid employees.

VOLUNTEERING (Fr.: bénévolat): can occur informally (for example neighbourly "helping-out"), or within the structures of a non-profit organisation. It is often (but not always) of a part-time nature. It may occur over one day or many years in a range of different fields. It is good practice to ensure that formal volunteers are covered by appropriate accident, health-care and third party liability insurance, that they receive appropriate training and management, as well as the reimbursement of all out-of-pocket expenses.

FULL-TIME VOLUNTARY SERVICE (Fr.: volontariat): refers to specific, full-time project-based voluntary activities that are carried out on a continuous basis for a limited period of time. Voluntary-service activities may occur at home and abroad. It is good practice to ensure voluntary service volunteers are afforded appropriate social protection, such as accident, health-care and third party liability insurance. Volunteers should also receive appropriate training and management, reimbursement of out-of-pocket expenses as well as appropriate accommodation and subsistence allowances as agreed between the volunteer and the non-profit organisation.

I. CONCEPT OF VOLUNTEERISM

Different definitions of volunteerism exist in Poland. One commonly accepted definition is 'an unpaid activity, freely given and for the good of others – beyond family and friends'. For a more detailed exploration of the definition of volunteering in Poland see <http://www.circle-network.org/activity/newcastle2001/poland.htm>.

The recently adopted Law on Public Benefit Activity and Volunteerism (24 April 2003), defines a volunteer as 'a person who voluntarily, and with no remuneration, provides services based on regulations specified in the law' (Article 2.3). Further details of the regulations are provided below.

II. VOLUNTEERISM AND THE LAW

A draft law on Non-Governmental Organisation and Volunteers was presented by a group of Polish Associations and Foundations in 2001 and 2002. After a series of amendments this law was signed by the Ministry of Labour and Social Care and submitted to the Parliament in 2003. The law has been adopted by the Parliament in April 2003 and signed by the President and published in May 2003. It came into force on 29th June 2003.

This law, entitled the Law on Public Benefit Activity and Volunteerism, provides a specific regulatory framework for volunteers and volunteer organisations in Section III.

Within the framework of this law, voluntary activities can be performed on behalf of the following beneficiaries:-

- non-governmental organisations whose statutory goals include the provision of public benefit activities, and who are registered in the State Court Register as such;
- public authorities (excluding those performing economic activities);
- organisations controlled or supervised by public authorities.

It also includes a provision for foreign volunteers, volunteering in the framework of an international volunteer exchange.

The law specifies the need for a written volunteer agreement, if the services provided by the volunteer are implemented over a period exceeding 30 days. For periods of less than 30 days, the volunteer can request a written agreement, and written conformation of the services provided.

A number of rights and obligations are specified within the law regulating the relationship between beneficiaries and the volunteers. According to the regulations organisations benefiting from volunteer services must:

- ensure safe and hygienic work conditions and comprehensive information on potential risks and risk protection;
- cover travel and other expenses incurred by the volunteer in connection with their service;
- provide a 'per diem' for subsistence costs (these are based on the rules governing employees).
- cover training costs if they are provided in the frame of the volunteer agreement.

(Note that the law also allows that a volunteer can exempt the organisations entirely or partially from these obligations).

With respect to health care, a volunteer carrying out a service in the framework of this law is automatically covered by the general national healthcare insurance. In case of accident while performing a volunteer activity, the individual is entitled to compensation. If a volunteer is providing services for a period of less than 30 days the organisation is obliged to provide accident insurance.

There is also a provision for volunteers sent by a Polish organisation to serve as a volunteer in another country. In these cases, the volunteer is entitled to benefits and reimbursements of cost '*generally acknowledged for the situation*' (for example board and lodging) unless the international agreement states otherwise.

For further information visit www.fip.ngo.pl ; www.badania.ngo.pl ; www.ngo.pl

The application of this law is very wide, and includes volunteer activities in all areas of public benefit. In fact the law lists 24 fields of work ranging from social care to the protection of consumer rights, and includes a separate provision for the further extension of these tasks. Note that the promotion and organisation of volunteerism is listed as one of the field of action, as well as activities for the sake of European integration and the development of relations and cooperation among nations.

Despite the wide application of the law, volunteering may still take place outside the law within organisations that do not fulfil the criteria required to be beneficiary. Under these circumstances, the following general legal framework would apply.

1. Reimbursement of expenses and other necessary economic support provided to volunteers: their labour, tax and social security law implications

Where the recently adopted Law is not applicable, the **reimbursement of expenses** connected to a volunteer's activity is at the discretion of the hosting organisation. Furthermore there are no clear legislative provisions concerning taxation of the payments received by the volunteer. This means that it is up to the discretionary decision of the Polish Finance Ministry. Up to now, the usual practice has been that pocket money is not taxable, but the matter is solved on a case-by-case basis. On the other hand host organisations are not obliged to pay social contributions for volunteers.

Volunteers who carry out the European Voluntary Service (from now on EVS) receive pocket money, board and lodging, supported by a grant from the European Commission. This is not normally subject to taxation.

2. Welfare protection of volunteers

a) Volunteer insurances

Outside the framework of the law, the protection of volunteers against risks of accident, illness and third party liability related to their volunteer activity depends on the organisation. If the organisation does not offer insurance, the volunteer should provide it for his or her personal and others security. The EVS program provides each volunteer with a private insurance plan through the sending organisation.

Following the civil code (art. 430), volunteers and organisations are responsible for any harm caused to third parties. The volunteer is also responsible for any damage caused to the organisation. In case of accident during work time, it is unclear who is responsible and who pays the expenses in case of medical treatment and rehabilitation of the volunteer.

b) Entitlement of volunteers to Public Health and Social protection

The health care system in Poland is regulated by Act 23.01.2003 on common health care insurance in the National Health Fund. In this sense health care is available for Polish nationals residing in Poland and foreigners residing in Poland under a long-term visa with right to work and a permanent or temporally residence card. Foreign students and clergy can be insured freely. Article 6 and 7 regulates the categories of individuals covered by the system. Children are automatically covered until they are 18 or up to 26 years if they are full time students.

Volunteers coming from abroad have no coverage in Poland. Therefore volunteers need to pay for any medical treatment and medication. Poland has several agreements concerning urgent medical care with certain countries including: Albania, Austria, Belgium, Bulgaria Czech Republic, France, Greece, former Yugoslavia Countries, Luxemburg, Germany, Russia, Slovakia, Hungary, Sweden and United Kingdom.

Concerning social protection, Polish nationals entitled to receive unemployment benefits even while volunteering, so long as they demonstrate they are looking for a job and available to start. If an individual chooses to volunteer abroad, he/she automatically suspends their right to benefits until their return.

Concerning family allowances, volunteers going abroad longer than three months lose the right to receive family allowances. To re-start the payment, is necessary to submit a new application to a parent's employer when the volunteer has returned.

For further information contact www.msz.org.pl

3. Volunteer mobility

There is no specific provision regarding volunteers in the immigration legislation. Owing to this absence they will be subject to general legislation by default.

Foreign volunteers, whose service is shorter than three months, are obliged to apply for a temporary residence permit to the corresponding country consulate or regional office. The volunteers should generally attach documents about the voluntary service. The authorities may request proof that the individual has sufficient funds to cover their travel to, within and from the country, living expenses, and that he/she has a permit to enter another country or to return to the country of origin if such a permit is required.

The residence permit is for a period of no more than two years and it does not permit the volunteer to work in a different field. If a volunteer does not arrange the corresponding residence permit, the Polish authorities can send them back to their country of origin and enforce a fine of between 5 and 1250€

The above rules are not applicable in case of international volunteers who provide services based on Polish international institution agreements.

Polish volunteers that go abroad to perform a voluntary service, must fulfil the necessary requirements of the destination country. There is no a unique rule for entry and stay.

III) POLITICAL ACTION PLANS FOR THE PROMOTION OF VOLUNTARY ACTIVITIES

The final adoption of the Law on Public Benefit Activity and Volunteerism in April 2003, follows some six years of discussion and preparation of drafts by NGOs and government. The UN designated International Year of Volunteers in 2001 served to raise the political recognition of volunteers and its social importance. For example, the Minister for Labour, submitted the draft law to the government on 5th December 2001 (International Volunteer Day).

However, aside from the adoption of the law, there is no specific political initiative to promote voluntary activities in Poland.

IV) FINAL REMARKS

There are about 30,000 non-profit organisations active in Poland. About 87% of them work with volunteers, and some 60% do not employ any staff, depending entirely on the efforts of volunteers. There has therefore been very strong support within the Third Sector for a regulation to legalise the work of volunteers.

However, despite these developments it is important to recognise that volunteering is still not particularly widespread in Poland. A study on Polish Volunteerism and Philanthropy coordinated by the KLON/JAWOR Association and published in December 2001 revealed that only 10% of the 1000 adults surveyed had been volunteers. It is also interesting to note that the survey did not refer to 'volunteers' or 'volunteering' because some 40% of Poles do not understand the term. This low level of participation and recognition can be attributed in part to the country's legacy of 'compulsory volunteering' organised under the previous Communist regime, and in part to its economic and social situation.

The adoption of the law is undoubtedly a significant step forward in the wider promotion of volunteering within Polish society. It should also serve to strengthen the development of, and

participation in, civil society organisations. Nonetheless, the exact practical implications of the law will only become evident over the coming months and years.

V) USEFUL CONTACTS

Forum for Non-Governmental Initiatives

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FIP lead the NGO proposals and dialogue with Government concerning the development of the Law on Public Benefit Activity and Volunteerism.

The following volunteer centres operate in Poland.

Regional Volunteer Centre, Lodz

Director: Aleksandra Wasik/Magdalena Korczyk
Address: Skarbowa 28, 91-473, Lodz, Poland
Tel: (48 42) 655 06 11
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Email: lodz@wolontariat.org.pl
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Volunteer Centre, Warsaw

Director: Darek Pietrowski
Address: Nowolipie 9/11 str. 00-150 Warsaw
Tel: (48 22) 635-27-73, fax. 635-46-02
Email: warszawa@wolontariat.org.pl
Website: wolontariat.org.pl/warszawa

Volunteer Centre in Kielce

Director: Malgorzata Misztela
Address: Sienkiewicza 25, 25-007 Kielce, Poland.
Tel: (004841) 0444 160
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Website: www.wolontariat.org.pl/kielce

Klon/Jawor Association

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00-031 Warsaw
Poland
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<http://www.klon.org.pl/>
(responsible for the 2001 survey on polish volunteerism and philanthropy)

International Center for Not-for-Profit Law (ICNL)

Apaczai Csere Janos 17, fl.1

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(provide support to Polish NGOs and government with respect to the drafting of the Law)