

EUROPEAN VOLUNTEER CENTRE
The Voice for Volunteering in Europe



CENTRE EUROPEEN DU VOLONTARIAT
Le Porte-Parole du Volontariat en Europe

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COUNTRY REPORT ON THE LEGAL STATUS OF VOLUNTEERS IN AUSTRIA

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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: 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: 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.

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.

Please note that 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.

ACKNOWLEDGEMENTS

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1. Concept of Voluntary Work in Austria

According to the definition used in the “Volunteers Action Programme“ by the “Österreichischer Rat für Freiwilligenarbeit“ (Austrian Council for Voluntary Work), voluntary work is characterised as an activity that is

1. voluntary, but within a formal framework;
2. for the benefit of the community or a third party rather than one’s own or the family’s or own household’s benefit;
3. work rendered without any relevant consideration in the form of pay for a gainful activity;
4. of a given duration or regularity;
5. non-binding within the scope of (further) training (internship or work within an organisation not in addition to paid work);
6. usually within the scope of an institutional organisation, platform, initiative, group – without obligation as a citizen (community service in lieu of compulsory military service);
7. includes both informal (family, neighbourhood) and formal (groups, associations, institutions, etc.) work.

Voluntary work is according to this definition distinguished from honorary service where individuals are elected to an unpaid office within an institution for a limited period and are accountable for their work in such “office”. This applies both to functionaries in associations and all persons serving in their “office” due to statutory regulations (laws governing the school system, labour law, social insurance laws, etc.), such as head pupils at school, works council members, members of public corporations or political functionaries such as members of local government.

2. Volunteerism and the Law

Austria has no law specifically governing voluntary service. Statutory provisions applicable to volunteers in relief organisations are found in a number of laws at federal and state level (in accordance with the federal structure of Austria): regulations governing voluntary fire brigades and disaster relief organisations respectively are provided in nine state acts each applying to fire fighters and disaster relief workers enacted by the nine states, whereas social insurance issues are regulated in the federal General Social Insurance Act ASVG.

To the extent that no special provisions apply to volunteering, the general laws must be applied, e.g. regarding voluntary social insurance coverage for accidents, illness, unemployment, etc., or for obtaining family allowance and other welfare benefits.

There is an ongoing discussion of whether to encompass all provisions on voluntary work in a single new Volunteers Act.

Existing laws:**State Acts governing voluntary fire fighters:**

- Burgenland: Burgenländisches Feuerwehrgesetz 1994, State Law Gazette no. 49/1994, last amended in State Law Gazette no. 32/2001;
- Carinthia: Kärntner Feuerwehrgesetz, State Law Gazette no. 48/1990, last amended in State Law Gazette no. 60/2002;
- Lower Austria: Niederösterreichisches Feuerwehrgesetz, State Law Gazette no. 4400, last amended in State Law Gazette no. 4400-6;
- Salzburg: Salzburger Feuerwehrgesetz, State Law Gazette no. 59/1978, last amended in State Law Gazette no. 85/2003;
- Styria: Steiermärkisches Landesfeuerwehrgesetz 1979, State Law Gazette no. 73/1979, last amended in State Law Gazette no. 25/1995;
- Tyrol: Tiroler Landes-Feuerwehrgesetz 2001, State Law Gazette no. 92/2001, last amended in State Law Gazette no. 89/2002;
- Upper Austria: Oberösterreichisches Feuerwehrgesetz, State Law Gazette no. 111/1996, last amended in State Law Gazette no. 84/2002;
- Vienna: Wiener Feuerwehrgesetz, State Law Gazette no. 16/1957, last amended in State Law Gazette no. 79/2001;
- Vorarlberg: Vorarlberger Feuerpolizeiordnung, State Law Gazette no. 16/1949, last amended in State Law Gazette no. 27/2005.

State Acts governing disaster relief:

- Burgenland: Burgenländisches Katastrophenhilfegesetz, State Law Gazette no. 5/1986, last amended in State Law Gazette no. 61/2005;
- Carinthia: Kärntner Katastrophenhilfegesetz, State Law Gazette no. 66/1980, last amended in State Law Gazette no. 54/2005;
- Lower Austria: Niederösterreichisches Katastrophenhilfegesetz, State Law Gazette no. 4450, last amended in State Law Gazette no. 4450-4;
- Salzburg: Salzburger Katastrophenhilfegesetz, State Law Gazette no. 3/1975, last amended in State Law Gazette no. 46/2001;
- Styria: Steiermärkisches Katastrophenschutzgesetz, State Law Gazette no. 62/1999, last amended in State Law Gazette no. 63/2001;
- Tyrol: Tiroler Katastrophenhilfisdienstgesetz, State Law Gazette no. 5/1974, last amended in State Law Gazette no. 110/2001;
- Upper Austria: State Law Gazette no. 88/1955, last amended in State Law Gazette no. 92/2001;
- Vienna: Wiener Katastrophenhilfe-und Krisenmanagementgesetz, State Law Gazette no. 60/2003;
- Vorarlberg: Vorarlberger Katastrophenhilfegesetz, State Law Gazette no. 47/1979, last amended in State Law Gazette no. 58/2001.

General Social Insurance Act (Allgemeines Sozialversicherungsgesetz), Federal Law Gazette no. 189/1955, last amended in Federal Law Gazette no. 88/2005.

3. Reimbursement of Expenses

With earnings up to € 10,900 being tax free, volunteers de facto need not pay any income tax on the monetary and non-monetary compensation received by them (pocket money, lodging, board, etc.).

4. Recognition, Facilitation

In 2005 a “Certification of Voluntary Work” called the Austrian Volunteer Passport has been introduced.

Voluntary work rendered as well as the competence and qualifications obtained by honorary work are to be documented and demonstrated properly so as to enable the volunteer/honorary worker to use them as additional qualification in job applications. A preliminary study on the needs and perceptions of all bodies concerned, which comprised non-profit organisations as well as representatives of business and government in its scope, presented a first draft for such a certification. The study also included experience from abroad, especially from Switzerland where such a certification has already been instituted. Responding to the comments made by the Österreichischer Rat für Freiwilligenarbeit, the draft was revised and was issued to Austrian volunteer organisations and their members as of autumn 2005.

Organisations working with volunteers can commission the Austrian Volunteer Passport (Österreichischer Freiwilligenpass) at the Austrian Council for Voluntary Work. Filled in by the organisation for its volunteers, the certificate gives information on the time spent by the volunteer on a voluntary activity, the person’s function within the organisation, the volunteer’s tasks, skills and competences as well as completed trainings.

5. Welfare Protection of Volunteers

As already outlined above, Austria does not have any specific Volunteers Act. Several statutory provisions provide for social protection of volunteers within voluntary service organisations. Except where special provisions are available for volunteers, the general laws governing social insurance and social benefits need to be applied.

Service organisations:

Volunteers working within service organisations (such as voluntary fire brigades, Red Cross, mountain rescue service, avalanche warning commissions) enjoy statutory accident insurance protection for accidents suffered within the scope of training, dry-run exercises and actual operations. This coverage may be extended to other activities performed by members of such organisations within the scope of their sphere of activities as stipulated by law or charter. In the case of voluntary fire

brigades, the accident insurance contribution must be paid by the relevant state, otherwise the organisation (e.g. Red Cross) is responsible for payment; at federal level an additional equivalent amount is paid for each insured person to the Allgemeine Unfallversicherungsanstalt (Section 22a, Section 74a paras 1 and 2, Section 176 para 1 item 7 lit. a and b General Social Insurance Act ASVG).

If a member of a relief organisation suffers an accident in the course of a relief operation, such accident is rated the same as an accident at work (Section 176 para 1 item 7 ASVG). The employer accordingly is obliged to continue to pay such individual's wages/salary same as if s/he had suffered the accident at work. If an employee participates in a disaster relief operation as a member of the fire brigade or ambulance service, the employer is as a rule released from his/her duty to continue payment. Pursuant to the state acts governing fire brigades and disaster relief, members of voluntary fire brigades are compensated for their loss of earnings by the local government.

According to consistent practice of the courts, if an employee is prevented from working due to his/her performing services of public interest within the scope of disaster relief, the employer is not permitted to assert any breach of contract on the part of the employee, including any consequences (dismissal, damages, etc.).

Voluntary work as a full-time job:

Full-time voluntary work is available for youths within the scope of the "voluntary social year" and the "European Voluntary Service", where appropriate insurance coverage is usually provided.

For the "voluntary social year" (social workers in care facilities for the old, children, refugees, homeless or disabled) and the "voluntary ecological year" (work in an environmental project or on an organic farm), the sending organisation provides for accident, old-age pension, health and unemployment insurance and grants free board and lodging, pocket money amounting to € 168 per month and a travel allowance of € 7.30 per month.

With work for the "Österreichische Friedensdienste" (Austrian Peace Services) and "Dienste im Ausland" (Services Abroad), which involves project work in a politically difficult environment and training of non-violent conflict solutions, and the "Gedenkdienst" (confrontation with Austrian history and Holocaust responsibility), financing – depending on the subsidy situation – is undertaken by the sending organisation and the local deployment agency, with a large part contributed by the youths themselves.

For the "European Voluntary Service" organised by the European Commission (extra-school education, improving employability of disadvantaged youths), the European Commission provides accident and liability insurance (see also JUGEND - EuroTech Management, Vienna, Austria, Weblink: <http://www.youth4europe.at>).

6. Volunteering Abroad

Social protection:

Participation in the EVS programme involves a change of status within the Austrian social security scheme. All benefits are suspended for the time of the voluntary service activity abroad. Upon return to Austria these benefits can be reapplied for, depending on the actual status, i.e. “student”, “member of family without own income”, “unemployed”, etc.

Only recipients of family allowance are granted the E111 form for free. Issued by the local health authority (Gebietskrankenkasse), the E111 form covers immediate necessary medical care during temporary stays in other European Union Member States. Individuals voluntarily paying the minimum amount (about € 50 per month) to the local health authority are entitled to this form.

Unemployment benefit (“Arbeitslosengeld”):

Payment of unemployment benefit (and of certain income support allowances) is similarly suspended for the time of voluntary service activity abroad. Volunteers have to inform their AMS (Labour Market Service) consultant at the local job centre of their participation in an EVS activity abroad. Upon returning to Austria, they have to contact their AMS consultant again to file for unemployment benefit which they can do for a period of a three years.

Family allowance (“Familienbeihilfe”):

Upon leaving Austria, Austrian volunteers lose their status as a “family member within the training or formal education field without own income”. Therefore, they are not entitled to family allowance while on EVS abroad. If they return to the formal education or training field after coming back to Austria, they have to reapply to receive the family allowance.

Student grants, orphan pensions and similar child related benefits:

Receipt of family allowance is a prerequisite for the claim to some other grants and subsidies such as the free E111 forms, student grants, orphan pensions, etc. While family allowance is suspended, such other grants are therefore suspended as well. Upon returning to Austria, the volunteer has to notify the end of the voluntary service activity and his/her new status to all the authorities s/he received benefits from in the past.

Insurance:

The European Voluntary Service Group Insurance Plan covers the risk of accident, sickness, death, permanent disability, repatriation and third party liability.

7. Foreign Volunteers in Austria

Right of residence:

Volunteers of EU nationality:

EU citizens do not require any visa for entering Austria, but need to have sufficient means for living and be covered by a health insurance scheme valid in Austria.

Volunteers of non-EU nationality:

The visa regulations applicable for such states are specified on the internet site of the Austrian Ministry of the Interior (www.bmi.gv.at); appropriate health insurance coverage is one of the prerequisites for obtaining a visa.

Municipal registration:

Within three days of arrival, municipal registration at the Vienna City Council ("Magistratisches Bezirksamt") or the Local Council ("Gemeindeamt") is required.

Work permit ("Beschäftigungsbewilligung"):

Foreigners always require a permit under the Foreign Employment Act (AuslBG; Section 3 para 1). For this, a wider definition is used which, i.a., includes work in an "employment-assimilated" status or in a training relationship (Section 2 para 2 of the AuslBG). Accordingly, granting monetary or non-monetary compensation (e.g. pocket money, lodging, board) to a volunteer suffices to create the need for a work permit. However, activities within the scope of the EU training programmes (such as the European Voluntary Service) are exempt from this requirement (Section 1 para 2 lit j AuslBG). EU and Swiss citizens are anyway exempt in general, whereas citizens from the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia still require a permit, due to the transition regulations for EU enlargement (Section 32a AuslBG).

National Health System:

Any individual not covered by the Austrian obligatory insurance system for all employed and self-employed persons and certain of their family members may opt to take out a voluntary health insurance.

Nationals of an EU Member State who benefit from the social security scheme in their country are entitled to an E111 form. This E111 form gives access to urgent medical care in Austria. First, volunteers have to register with the local health authority ("Gebietskrankenkasse") of the region where they live. Once they are registered, they may use the National Health Service.

8. Governmental Action for Promotion – From Past to Future

On 28 October 2003, the „Österreichischer Rat für Freiwilligenarbeit“ (Austrian Council for Voluntary Work) held its constitutional meeting at the Federal Ministry for Social Security, Generations and Consumer Protection. Drawing its authority from a Council of Ministers decision of 17 June 2003, the Council acts to represent the interests of volunteers and their organisations, to provide a platform for their networking and to advise the federal government in issues of volunteering. The Board is chaired by the Federal Minister for Social Affairs, Generations and Consumer Protection. Its 45 members are appointed by federal ministries, state governments, the Austrian Association of Cities and Towns, the Association of Austrian Municipalities, interest groups and volunteer organisations from all walks of life, thus representing the multifaceted volunteering culture in Austria.

Acting upon the needs and requirements analysed by the working groups during the 2001 International Year of Volunteers and summarised in the “Volunteering Manifest”, four committees developed specific recommendations in a “Volunteers Action Programme” which were unanimously accepted by the Council in its second meeting on 20 October 2004. This Action Plan consists of three priority levels. Initially it is necessary to develop a legally valid definition of voluntary work and honorary office. Based on this, it is then possible to improve the legal protection for voluntary commitment, especially by liability and accident insurance, but also within the scope of labour law. Once the recommended measures to improve the framework of voluntary work have been implemented, an image campaign is to be run to give a boost to volunteerism, aiming to gain new activists among the young and old citizens of Austria.

At present, a discussion is under way on whether to summarise all regulations affecting voluntary work in a new Volunteers Act.

The documents referred to above and further information may be obtained at: www.freiwilligenweb.at.

9. Contacts

The Austrian Volunteer Council

www.freiwilligenweb.at

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