



INTRODUCTION TO THE RESEARCH PROJECT, DISCLAIMER AND COPYRIGHT

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 range 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 be involved in their annual updates in some form, CEV and AVSO would be delighted to hear from you.

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ACKNOWLEDGEMENTS

This country-report has been produced by CEV volunteers, Annika López-Lotson and Paz Velasco. It was edited by CEV Coordinator, Gail Hurley. We would like to thank them, and also the valuable contributions and comments of Olga Sozanská, HESTIA National Volunteer Centre, Natasa Diatková, Czech Government.

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 (and the State as appropriate).

LEGAL POSITION OF VOLUNTEERS IN THE CZECH REPUBLIC

1. CONCEPT OF VOLUNTEERING IN THE CZECH REPUBLIC

In the Czech Republic, volunteering is generally understood as a deliberate, freely chosen, unpaid activity for the benefit of others. However, the word "volunteering" still has very negative connotations in the Czech Republic, as in many post-communist countries.

When discussing and trying to understand volunteerism in the Czech Republic, or more generally within the countries of Central and Eastern Europe, it is important to view it within the context of the region's recent political history, and the distinct relationship volunteering had with communism.

One important part of the communist ideology was the idea that each citizen should be involved in community improvement and should do something beneficial for society. In this context, people were therefore "obliged" to volunteer, and the decision not a freely chosen one. Often therefore, citizens "volunteered" with feelings of

distaste and distrust. Indeed, the former regime actually used “volunteerism” as an integral part of its strategy to compensate for the absence of the private, commercial sector. Unfortunately, this confusion between the “proletarian altruism” (Fri et al., 2001) of the past and the present concept of volunteering, coming from one's own free and personal choice has made present day efforts to promote volunteering more difficult. After thirteen years of transition, things are still not easy.

“There are still vestiges visible in the Czech people attitudes towards volunteering. Most of the people think that volunteering is a poor substitution for the failing state interventionism or because of incapable public services. According to 70% of survey respondents, there would be no need for volunteers, if the state fulfilled its duties”
(Fri et al., 2001).

However, slowly attitudes are changing in the Czech Republic, and the 1990's saw significant progress in its development. This was then consolidated with the United Nations International Year of Volunteers' 2001, which provided the catalyst for the development of the Czech Republic's first law on volunteerism.

2. VOLUNTEERS AND THE LAW

The legal position of volunteers in the Czech Republic and the *Czech Law on Volunteerism (zákon o dobrovolnické službě)* are quite unique among the former communist countries of Central and Eastern Europe.

A. THE CZECH LAW ON VOLUNTEERISM OF 2002/3

The United Nations International Year of Volunteers' 2001 provided a catalyst for both official recognition of, and support for volunteerism. During the International Year, the Czech Government lent significant support to its further development within the country. Among other initiatives, such as the organisation of the Conference on “*Volunteering and Donorship – The Restoration of Human Virtues*”, in Kromeriz, which aimed to promote and support ideas of volunteerism in society in cooperation with the media and local and state authorities, the Czech Government commissioned the preparation of a law on volunteerism. It was passed by the Czech Parliament on 23 March 2002 and signed by the President on 15 May 2002. It entered into force on 1 January 2003. The Czech Law on Volunteerism covers a completely new area of law for the Czech Republic.

The Basic Principles Underlying The Czech Law On Volunteerism

The Czech Law on Volunteerism of 2002 (zákon o dobrovolnické službě) was not conceived as a framework law for volunteerism: the law defines only some forms of voluntary activity, and specifies the conditions under which the Czech State will support them. It does not therefore aim to regulate all forms of volunteerism: other forms of voluntary activity may still take place outside the scope of application of this law.

The fundamental element is to promote the development of a wide range of voluntary activities and the social protection of volunteers performing these activities. This means that, under the law, responsibilities regarding the engagement of volunteers

must be met by the non-profit organisation that sends the volunteer on his/her volunteer assignment(s).

The law foresees the existence of a distinct system, and it is only volunteers that volunteer within the framework of this system that will receive the direct support and protection of the government. This system is based on three pillars:

1. “Volunteer” (the person engaged in the voluntary activity);
2. “Sending organisations” (the organisation that is responsible for the volunteer regarding contractual arrangements etc. and the organisation that is a partner of the Czech State);
3. “Hosting organisations” (the beneficiary of the voluntary activity).

The law stipulates an obligation of all three parties to enter into a mutual contractual relationship.

Classification Of Volunteer Activities Under Czech Law On Volunteerism

Under the law, voluntary activity is classified according to:

- Place: “domestic” – within the Czech Republic - or “international” – outside the Czech Republic.
- Time: “short-term” – up to 3 months - or “long-term” – over 3 months.

The Material Scope Of Application Of The Czech Law On Volunteerism – The Legal Definition Of “Volunteer Activities” In The Czech Republic

Under the Czech Law on Volunteerism, there are certain areas of activity that are mentioned under Paragraph Two. These activities relate to:

- The provision of asocial care;
- Ethnic minorities and immigrants;
- Drug-addicts;
- Seniors;
- Leisure activities of youth and children;
- Charitable work;
- Environmental protection;
- The protection of cultural heritage.

The law also foresees participation by Czech citizens in international voluntary service programmes as part of its foreign policy, for example the European Voluntary Service (EVS) Programme of the European Commission.

On a practical level therefore, it will be difficult for volunteers to fall outside the law due to the *nature* of the voluntary activity they undertake. Instead, they will fall outside the scope of application of this law if they volunteer within an organisation that is not *accredited* by the Czech State. This is explained in detail below.

The Personal Scope Of Application Of The Czech Law On Volunteerism - The Legal Definition Of “Volunteer”, “Sending Organisation” And “Hosting Organisation”

The application of the Czech Law on Volunteerism is the responsibility of the Ministry of the Interior, Crime Prevention Department within which a Department on Volunteer Service was established in 2002. This Department arranges the accreditation of “sending” NGOs, financial support to these organisations, the running of the public list of accredited “sending” organisations, their monitoring, financial inspection and evaluation etc. It is only within this system that volunteers (or non-profit organisations) will benefit from social protection or financial assistance. The criteria to become part of that system is set out below.

Legal Definition Of A “Volunteer” In The Czech Republic

The Czech Law on Volunteerism defines a “volunteer” as a physical person, aged over 15 years old if s/he is volunteering in the Czech Republic, or older than 18 years if s/he volunteers overseas. S/he may be employed/unemployed, in education, retired etc., and the voluntary activity must be based on his/her competencies and skills.

Legal Definition Of “Sending Organisation“ In The Czech Republic

The definition of “sending organisation” is crucial because the sending organisation is the principal partner of the Czech State. Only those sending organisations that are officially accredited by the state will benefit from the application of this law, and the accompanying financial assistance. Accreditation is granted for a period of three years, which is renewable upon submission of a fresh application. The “accreditation committee” consists of representatives of the Ministries of Foreign Affairs, Education-Youth-Sport, Interior, Work and Social Affairs, Environment, Health, Culture, Finances and Government Council for NGOs.

The “sending organisation” is defined strictly by the Czech State as a non-profit organisation that selects, registers, insures and trains volunteers, as well as signs a contract with them for the performance of volunteer activities with an appropriate “hosting organisation”. This agreement shall reflect the specific terms of execution of the volunteers’ tasks, in particular conditions regarding accommodation and food, insurance and health-care, evaluation of the volunteers’ activities, etc. This organisation must be registered in the Czech Republic. The law also specifies in what circumstances accreditation can be withdrawn and what happens to volunteers in such cases (the volunteer is transferred to another accredited sending organisation).

Accreditation entitles sending organisation to receive state financial assistance, which is intended mainly to help pay for:

- Contributions to the volunteers’ pension;
- Health-care, injury and third-party liability;
- A contribution towards volunteers’ travel expenses;
- Expenses connected to the cost of registering, training and organizing volunteers and voluntary activities.

This financial support may amount to up to 70% of these costs. The Grant Committee decides these cases. It consists of representatives of the Ministries of Foreign Affairs, Education-Youth-Sport, Interior, Work and Social Affairs, Environment, Health, Culture, Finances and Government Council for NGOs.

Further Support To Long-Term Voluntary Service

In order to facilitate engagement in long-term voluntary activity, the law also foresees the following measures:

The period of voluntary work undertaken is considered an activity equal to employment for the purposes of participation in the unemployment support scheme:

- The length of time the person volunteers is taken into account for the purpose of state pension;
- Health-care insurance is covered by the Czech State for those involved in voluntary service activities;
- Money intended for the development of voluntary service activities is exempt from income/donation taxation. (Frištenská, 2002: 3-4).

Legal Definition Of “Hosting Organisation“ In The Czech Republic

The “hosting organisation” is a legal person that will benefit from the volunteer activity, who is able to sign a contract with the “sending organisation,” and who is able to fulfil all the requirements as stated in the contract. It is not necessarily an NGO, and can be a hospital, school, municipality, the state etc.

Contents Of The Volunteer Agreement

Under the Czech Law on Volunteerism, a framework for the volunteer agreement is published, which includes a part that outlines the main features of the voluntary activity. The volunteers’ tasks must then correspond by law to these characteristics. The agreement must be in writing in all cases of international voluntary activity, and in cases of long-term voluntary activity carried out within the Czech Republic. It may be in oral or written form in the case of short-term voluntary activity carried out in the Czech Republic.

Agreements for short-term volunteering

Whether in written form or orally, short-term volunteer agreements must specify:

- The place, content and length of the voluntary activity;
- The tools that are required to perform the activity.

Where applicable, volunteers must submit a fresh police report (not older than three months) indicating that s/he is not in ex officio registration, as well as information about his/her state of health.

Agreements for long-term and international volunteering

Long-term written agreements, which are signed between the volunteer and the sending organisation, must include:

- The name and address of the volunteer and the sending organisation;
- The contents of the pre-departure training, which must include information on possible risks connected with the health or life of the volunteer;
- The place, content and estimated length of the voluntary activity;
- Any food and accommodation provided to the volunteer, as well as his/her obligation to return any monies paid, or other benefits in-kind should s/he leaves for unjustified reasons;
- Other specific financial information, for example who covers travel, insurance, pocket money, working tools, etc;
- Hours of work and any entitlement to holiday;
- The social security conditions under which the volunteer is covered.

Those who volunteer on a full-time basis (defined as minimum 20 hours per week) and who fall within the scope of application of this law are entitled to state health-care insurance and social welfare protection, for example the state is able to cover compulsory pension contributions.

Inter-relationship between the Law on Volunteerism of 2002 and other laws in the Czech Republic

The appendix of the Czech Law on Volunteerism lists all the laws that are affected by its content:

- The Employment Code: the length of time spent volunteering full-time (over 20 hours per week) will be considered a period of employment for the purposes of receiving state welfare payments;
- Social Welfare: the pension insurance code – the length of time spent volunteering over 20 hours per week will be taken into account for the purposes of receiving compulsory pension contributions;
- Public Health-Care Code: health-care of volunteers is paid in large part by the State;
- Exemption from income tax and tax on donations.

Note however that for those volunteers and volunteer-involving organisations that fall outside the scope of application of the Czech Law on Volunteerism, the provisions in the above-mentioned laws on employment, taxation etc. remain applicable.

B. VOLUNTEERS “WITHOUT LAW”

Volunteers who are not covered by the Czech Law on Volunteerism.

Reimbursement Of Expenses And Other Necessary Economic Support Provided To Volunteers: Tax, Social Security And Labour Law Implications

Czech citizens who volunteer through organisations other than those accredited by the government, and volunteers coming to the Czech Republic from abroad, have no legal

right to be reimbursed for their out-of-pocket expenses, or to be granted accommodation, board or pocket-money in the case of full-time volunteers. In these cases, it is up to the volunteer and the volunteer-involving organisation to reach an agreement, with all the potential risks this entails.

In addition, any volunteer that receives subsistence support and who falls outside the scope of application of the Czech Law on Volunteerism may be legally considered an “employee” in the Czech Republic and any allowance therefore subject to taxation. Host organisations may also be regarded as employers and therefore bound to contributions on any pocket-money, board and lodging offered to volunteers.

Welfare Protection Of Volunteers

Protection Of Volunteers At Work

Volunteers falling outside the scope of application of the Czech law, have no legal right to be insured.

Volunteers And State Social Welfare Benefits

In contrast to the protection offered to volunteers falling within the scope of application of the Czech Law on Volunteerism, Czech volunteers who volunteer at home or overseas through organisations others than those accredited by the government are not entitled to specific social welfare protection because of their status as “volunteer”. In the case of volunteering abroad, volunteers must continue paying contributions on a voluntary basis to retain entitlements to for example, pensions insurance.

Voluntary Service Abroad And Family Allowances

Young volunteers leaving the Czech Republic to volunteer outside the framework of the Czech Law on Volunteerism, are no longer considered a family member in the parental household, or as participating in formal education. Volunteers’ families are therefore not entitled to family allowances during the period the young person volunteers abroad. Once returning to the Czech Republic and to formal education or training, they must reapply to receive family allowances again.

Other grants and subsidies, such as orphans' pensions, are also suspended.

Voluntary Service Abroad: Unemployment Allowances and Health-Care

The unemployed must inform the local employment centre of their intention to leave the Czech Republic to volunteer. For those volunteering outside the framework of the Czech Law on Volunteerism, unemployment benefits will be suspended, however the person will not lose the right to receive these entitlements when they return to the country. Upon their return to the Czech Republic, they must again contact the employment centre to submit their claim to receive unemployment benefits again.

Volunteers From Abroad: The Right To Stay And Volunteer In The Czech Republic

Volunteers and Work Permits

In the Czech Republic, volunteers coming from abroad need work permits because, for the purposes of immigration, there is no such legal category as “volunteer”. Full-time volunteers coming from abroad are considered employees. Work permits can only be obtained by the employers, i.e. the sending organisation, at the local employment centre.

Residence Permits

Volunteers coming from abroad and staying longer than three months in the Czech Republic need residence permits. In order to receive a residence permit, volunteers must present a work permit, among other documents.

Visas

Those who need a visa to enter the Czech Republic and who intend to participate on a full-time voluntary service programme, work permits and other documents are also required. For detailed and up-to-date information about visas consult:

<http://www.mvcr.cz/inf-turi/Bezviz.html>

3. GOVERNMENTAL ACTIONS FOR THE PROMOTION OF VOLUNTEERISM IN THE CZECH REPUBLIC

The United Nations International Year of Volunteers’ 2001 provided an important catalyst for governmental recognition of, and support for, volunteering. The decision to formulate the Czech Law on Volunteerism is one example of this. Prior to this, the 1990’s had seen citizen’s involvement in spontaneous voluntary activities increase, but without any formal recognition or adjustments to the law. More recently, the Czech Government has identified and prioritised the development of certain volunteer programmes for the purposes of promoting social inclusion, for example the involvement of the unemployed in volunteering.

“Volunteering of Unemployed People” Programme

From 2000, the Czech Ministry of Labour and Social Affairs has provided assistance for the development of volunteer projects involving unemployed people. Through the so-called “*Volunteering of Unemployed People*” Programme, (*dobrovolnictví nezaměstnaných*) the unemployed are allowed to perform volunteer activities without losing entitlements to any social welfare payments they may receive, and thereby help themselves, as well as the organisation for whom they volunteer. The aim of the project is to enable a wide group of unemployed people to improve their situation through being involved in volunteering.

4. FINAL REMARKS

The Czech Law on Volunteerism is an important step forwards in providing a supportive environment for the development of volunteerism in the Czech Republic. It ensures financial support and social protection to those volunteers and organisations which fall within the scope of its application. Many of these organisations would

probably not be able to afford to involve volunteers were such support not available as many NGOs in the Czech Republic operate with extremely limited financial resources. In addition, it is very difficult to fall outside the scope of application of the law because of the *nature* of the voluntary activity undertaken as most areas of action are defined within the law. However those that volunteer for non-accredited organisations are not recognised by any law in the Czech Republic, and volunteers therefore subject to general rules on employment, taxation etc..

Some may argue that the Czech Law on Volunteerism aims to overly regulate the volunteer environment in the Czech Republic, which takes away from the very spontaneous, needs driven nature of voluntary action. However the law came into effect only very recently and it may be some time before we become fully aware of all its practical implications and possible drawbacks. It is expected that the law will be amended once practical experience of its application has been obtained.

5. USEFUL CONTACTS

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(Information Last Updated: July 2003)

Further Information:

The “*Legal Status of Volunteers Project*” has been jointly managed by the *European Volunteer Centre (CEV)*, and the *Association of Voluntary Service Organisations (AVSO)*. For further information, please contact Project Managers, *Gail Hurley (CEV)* and *Jana Hainsworth (AVSO)* on:

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