



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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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 FRANCE

1. CONCEPT OF VOLUNTEERING AND A VOLUNTEER IN FRANCE

The terms "*bénévolat*" and "*volontariat*" are both used in France to describe voluntary activity. Non-profit organisations and associations generally have their own traditions regarding the use of these two terms. Some consider that "*bénévolat*" and "*volontariat*" refer to specific forms of voluntary engagement, while others use the two terms inter-changeably.

Officially, the two terms are defined: "*bénévolat*" is supported and promoted as the free engagement of the individual citizen for non-remunerated purposes, outside the framework of family, school, professional or legal relations and obligations.

"*Volontariat*" is the engagement of the citizen of a more formal nature (for example, through the structures of a non-profit organisation), is for a specific duration and some form of professional training is usually involved. *Volontaires* must be over 18 years old. *Bénévolat* is characterised as a non-professional activity because anyone may do it irrespective of age, competencies etc. and because no remuneration is offered to the

individual. Volontariat however poses a distinct set of “difficulties” in France. These include the rights (or not) of volunteers to receive certain indemnities and advantages during the period of their engagement, certain social protection for example pension rights etc. In this context, only certain forms of volontariat are recognised and covered by any specific legal framework in France.

2. VOLUNTEERS AND THE LAW

The *French Association Law of 1901* (“*loi du 1er juillet 1901 relative au contrat d’association*”) established the legal basis for the creation of “associations”. The law does not state how an association should be organised, but does give citizens the fundamental freedom to get together, for purposes other than the sharing of profits (financial profits). Within the law, the voluntary engagement of individual citizens is promoted for its social benefit and associations are exempted from commercial taxes in as far as they have a “gestion désintéressée”. Managerial functions, such as the Presidency, Treasurer, General-Secretary etc. were traditionally assumed by volunteers however these functions may now be remunerated to certain limits.

Specific Measures in Relation to Bénévolat

National Council of Associative Life

In 1983, the *National Council of Associative Life* was established (*Conseil National de la Vie Associative – CNVA*). As a Governmental consultative council, the CNVA make proposals in order to develop associative life, and has taken measures to facilitate, develop and protect individuals’ engagement in bénévolat, for example the training of bénévoles, granting of time-off from work for the purpose of representation within non-profit organisations, information and advice networks, fiscal measures, recognition of voluntary work and the competences acquired for the purpose of obtaining professional diplomas, social protection measures.

Volunteer Employees Under The French Law Of 7 August 1991: Special “Representation Days Off” for Volunteers (Bénévoles)

In order to facilitate the participation of volunteers (bénévoles) in official councils where associations are called to work with the public authorities, the *Law of 7 August 1991* (*Loi “relative au congé de représentation en faveur des associations et des mutuelles et au contrôle des comptes des organismes faisant appel à la générosité publique”*) was created. It provides the legal framework allowing employees to take up to nine days off per year for this function, which can be divided into half-days. The employer should give these free days but is not obliged to pay the employee for the time s/he is away from their normal employment duties. For the hours the employer does not pay, the associative representative receives a standard grant.

This measure concerns employees, mostly those working within large firms. Employees must ask their employers at least 15 days in advance in order to be available to participate in company business. The employer can deny authorisation if s/he considers it is prejudicial for the company however reasons must be given by the employer for this refusal. In addition, the employee must be notified within four days of submission of the request whether permission has been granted.

Specific Measures in Relation to Volontariat

As stated before, only some forms of volontariat are officially recognised in France, for example, *volunteers for international solidarity* (“*volontariat pour la solidarité internationale*”), *volunteer firemen* (“*sapeurs pompiers volontaires*”) and *voluntary civil service* (*volontariat civil*). Specific legal frameworks apply to these categories of volunteer, which are looked at below in turn.

Decree Of 15 March 1986 On “Voluntary Organisations And Volunteers For Development” And Decree Of 30 January 1995 On ‘Volunteers And Volunteer Associations For International Solidarity’

Since the 1960s, non-profit organisations in France have been sending volunteers overseas for the purposes of international development and humanitarian assistance. The *Decree of 15 March 1986 on “Voluntary Organisations and Volunteers for Development”* (*Décret du 15 mars 1986 “relatif aux associations de volontariat et aux volontaires pour le développement”*) however brought the first official recognition of volontariat and of volunteers’ rights, particularly in terms of social protection.

The Decree was later updated by the *1995 Decree on “Volunteers and Volunteer Associations for International Solidarity”* (*Décret du 30 janvier 1995, “relatif aux volontaires et aux associations de volontariat pour la solidarité internationale”*). It defines the indemnities that must be guaranteed by organisations to volunteers and also guarantees financial assistance from the State for the management, social protection and reintegration of volunteers for international solidarity.

Around 26 French organisations are officially recognised by French Ministry of Foreign Affairs in the framework of the 1995 Decree. After a careful recruitment, selection and training process (around 2,000 volunteers are supported each year), volunteers are sent overseas for a period of on average two years. They are mainly sent to countries in Africa, but also to Asia, South America, the Middle East and to Central & Eastern European countries. While in the field, volunteers receive a subsistence allowance, accommodation, board and cover for illness, maternity, invalidity, death, and accident at “work”, illness, old age and repatriation. On their return, volunteers receive support to help facilitate their reintegration at home.

The 1995 Decree and its four regulations (Arrêtés) of 2 May 1996, developing its contents can be found at: <http://www.legifrance.gouv.fr/>

Alternatively, visit CLONG-Volontariat (Comité de Liaison des organisations Non Gouvernementales de Volontariat):

<http://www.coordinationsud/org/membres/clongv.html>

1996 On Volunteering Within The Fire Brigade

Around 85% of fireman within the French Fire Service are volunteers, which amounts to a figure of some 203 000 out of a total of around 240, 000 firemen (2002). They

have enjoyed a recognised legal status since 1996 (*loi no 96-370 du 3 mai 1996 « relative au développement du volontariat dans les corps de sapeurs-pompiers »*). Fireman receive financial “compensation” of between €6.66 and €10.01 per hour while they are “on the job” or participating in any necessary training. They also receive an annual allowance of €306, 15 once they have completed 20 years of fire service.

The work of the “sapeurs pompiers volontaires” (volunteer fireman in France) is essentially one to guarantee equality before the emergency services, particularly in rural areas. The law states that sapeurs pompiers must volunteer on a part-time basis only, in addition to professional employment or studies.

The *Decree of 1999 (Décret du 21 décembre 1999 “relatif aux sapeurs pompiers”)* completes the legal framework.

The Law Nr 2000-242 Of 14 March 2000 On “Voluntary Civil Service”, Concerning Civil Volunteers As Established In Article L. 111-2 Of The Code Of National Service And The Different Measures Relating To The Reform Of National Service

In 1996, France abolished obligatory military service for young men, and in 1997 established an alternative structure to support the full-time voluntary service of young women and men (aged between 18 and 28), in three separate areas:

1. Civil defence and security;
2. Social cohesion and solidarity;
3. International co-operation and humanitarian aid.

Volunteering in the Army (le volontariat dans les armées)

Volunteering in the army is open to all young people between 18 and 26, for periods of between 1 year and five years. More than 14, 000 volunteers (a fifth of which are women) formed part of the armies, largely part of the Gendarmerie (la Gendarmerie), in 2001. Volunteers in this context receive board and lodging and a monthly indemnity of between €94 and €21 per month (January 2003).

Note:

The “adapted military service” (service militaire adapté - SMA) was established in the 1960s to facilitate the social and professional integration of young people from the French overseas departments and territories. Youngsters obtain professional training in a military environment. They are officially recognised as military volunteers.

For further information, see the site of the Ministère de l’Outre-Mer:

<http://www.outre-mer.gouv.fr/outremer/front>

Law on Voluntary Civil Service or 'Volontariat Civil'

Law on Voluntary Civil Service or 'Volontariat Civil' (Loi no 2000-242 du 14 mars 2000 “relative aux volontariats civils institués par l'article L. 111-2 du Code du

Service National et à diverses mesures relatives à la réforme du service national”) gives French, EU or EEA Nationals the opportunity to volunteer for periods of between 6 and 24 months. It was followed by the Regulation of 27 December 2002 in relation to civil volunteering, social cohesion and solidarity (*Arrêté du 27 décembre 2002 « relatif au volontariat civil, de cohésion social et de solidarité »*).

“Civil volunteers” as they are known are under the authority of the relevant State authority (for example the Ministry, Embassy of France, Prefecture of France). This authority then completes all the necessary paperwork with the body that is welcoming the volunteer (organisation, business...). Volunteers receive an indemnity of €64 per month exempt from taxation and social security contributions, as well as insurance for health care (December 2002). They are entitled to 2,5 days holiday per month (as employees) and the length of time spent volunteering is taken into account in relation to pension entitlements. These costs are met by the host organisation, which may then apply to the French State for reimbursements in relation to monies paid for the social protection of the volunteer. The period of time spent volunteering may also contribute towards obtaining certain further education certificates or professional titles.

Overseas Civil Volunteers In The Field Of International Cooperation

Important measures have been taken by the French State to encourage well-qualified young people to volunteer as civil volunteers in a foreign country (European countries included). CIVI (International Civil Volunteering) was created jointly by the French Ministry of Foreign Affairs, Ministry of Economy, Finance and Industry, Secretary of State for External Commerce and UBIFRANCE (agency for the international development of businesses). It promotes volunteering as an international professional training experience and an expression of solidarity. Around 5, 000 posts are open in total within different structures, such as Cultural and Research Institutes. Volunteers are awarded a monthly indemnity of between €1, 100 and €3, 100 (December 2002).

The objectives of the programme are clear: to reinforce the economic, social, scientific and cultural development of France while facilitating the mobility and access to the labour market of young people. However the programme has generated some tensions. Some consider the programme is not in fact volunteering but instead a remunerated overseas training period for young people and an opportunity for French businesses overseas to gain skilled young people at a fraction of the cost.

For further information, see: www.civiweb.com

Civil Volunteering In The Field Of Civil Defence And Security (Volontariat Civil Dans Le Domaine De La Prévention, De La Sécurité, Et De La Défense Civil)

In 1996, just over 900 people conscripted for national service were extra firemen over 10 months, yet since 2001 civil volunteers have almost entirely replaced these people (131 in 2001). Civil volunteers in this field differ from volunteer fireman in that their volunteer activities are carried out full-time over a specified period of 6-24 months.

Volunteer Technical Assistance to the French Overseas Departments and Territories (le volontariat à l'aide technique dans les DOM-TOM)

Created in 2001 to replace the 'service of technical assistance', 'le service de l'aide technique', this volunteer programme is intended to offer specialised technical assistance to the French Overseas Departments and Territories (DOM and OCT). It concerns highly qualified young people in the fields of science, economics, administration, sanitation, society, education and culture.

Volunteering For Social Cohesion And Solidarity In France (Le Volontariat De Cohésion Sociale Et De La Solidarité En France Métropolitaine)

In the framework of the civil volunteer programmes created after the abolition of compulsory military service in France, the country has developed a volunteer programme for social cohesion and solidarity in France. It is the only civil volunteer programme that really concerns non-profit organisations in France, and the only programme in which any young person, irrespective of formal qualifications and competences, can take part. The difficulty is however, that the term, "civil volunteer" in France conjures up images of "full-time and long-term". This programme instead offers a more flexible engagement for young people. However, issues of financing this programme have not been resolved. The cost of a civil volunteer for many organisations in France is just too high without any accompanying financial measures offered by the State. These "volontariats civils" in France will begin in autumn 2003 and the "circulaire" stating the working modalities of the programme was published in September 2003.

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

Voluntary Civil Service

Those performing voluntary civil service are, according to Law n°2000-242 of 14 March 2000 on civil volunteers, entitled to receive a fixed monthly allowance, exempt from any form of tax or social-security contribution. A Decree fixes the sum of this monthly allowance, which cannot exceed 50% of the remuneration inherent to the brut index 244 of public function. The law also foresees a complementary allowance in-kind (lodging, food, local transportation etc.) free from taxation. Civil volunteers must also be provided with an equipment allowance to meet the needs of their mission. The volunteers' travel and expatriation costs are also reimbursed.

Civil volunteers are covered in case of illness, maternity or inability under the general regimen of social security. In cases of accident or illness occurring whilst volunteering, provisions from the IV book from the "Social Security Code" are applied.

Those who volunteer for recognised international development volunteer programmes are also awarded special coverage, in particular in relation to coverage by the "mutual society" "société mutuelle". They are also awarded a payment upon return to help them "reintegrate" into French society.

European Voluntary Service Programme (EVS)

The French authorities (in the same way as the European Commission), have always maintained that the welfare protection of volunteers taking part in the European Voluntary Service Programme (EVS) of the European Commission should be ensured by the state of the country in which the volunteer is living. Therefore, all volunteers going to France from another European Union Member State and all French volunteers going abroad must have an E111 form.

In relation to the indemnification the volunteers receive while participating in the EVS Programme, it is not considered as remuneration or as a labour activity. Allowances the volunteer may receive, such as for lodging, food or transportation, are therefore exonerated from public contribution.

Welfare Protection of Volunteers

Volunteerism, Unemployment Benefits and Pensions

Those who are unemployed and in receipt of unemployment welfare benefit are permitted to volunteer provided two conditions are met. Firstly, the voluntary activity should not replace a paid job. Secondly, the volunteer must show that they are still dedicating most of their time to looking for a job. This is essential: the volunteer must prove that his/her time spent volunteering does not prevent him/her from looking for, and/or finding a job.

Should a person contribute as a civil volunteer for at least six months, this time is taken into account in order to calculate pension entitlements. Otherwise, volunteers do not enjoy any pension entitlements and must make contributions themselves.

Insurance of Volunteers

Under the *Law of 27 January 1999 (loi de 27 janvier 1993 “relatif a l’assurance des bénévoles dans le cadre de leurs activités associatives”)*, organisations are obliged to insure their volunteers against accidents or illness resulting from the performance of the voluntary activity. This law creates a collective liability.

Volunteers From Abroad: The Right To Stay And Volunteer In France

Volunteers and Work Permits

European Union and European Economic Area citizens are permitted to volunteer in France, but they need a resident permit if they are staying more than 3 months in France.

Volunteers and Visas

Volunteers coming from countries outside the European Union or the European Economic Area may need to present a visa in order to be able to come to France to volunteer. Different rules are applied to nationals from different countries.

Asylum seekers and refugees can volunteer without restriction in the same way as all other citizens.

4. GOVERNMENTAL ACTIONS FOR THE PROMOTION OF VOLUNTARY ACTIVITIES IN FRANCE

National Council for Associative Life (“Conseil National de la Vie Associative”)

In 1983, the National Council for Associative Life (“Conseil National de la Vie Associative”) was created as an advisory body to the French Prime Minister on issues concerning associations. The Council is made-up of representatives of various associations, appointed by the different Ministries depending on the sector. As mentioned at the beginning of this paper, the National Council for Associative Life has presented the national government with a range of suggestions on support for, and promotion of, volunteering. These measures have included fiscal incentives, support for sabbatical leave during one’s working life, accumulation of retirement credits through volunteer work, credit for volunteer work in secondary and higher education studies, and of course, a significant increase in the national fund for the development of the associative life (FNDVA - fonds nationaux pour le développement de la vie associative) as well as the creation of other similar funds in each region of France.

“Assises Nationales de la Vie Associative”

In February 1999, the government of France organised a national conference entitled “Assises Nationales de la Vie Associative.” Around 3,000 representatives of associations, academics, government agencies and parliamentarians from all over the country attended. All major issues relating to the voluntary sector, volunteering, and the measures needed to stimulate them were discussed. However up until now (2003), except for two or three minor measures in relation to volunteering in the youth and sports domains (credits awarded towards diplomas), and some free time given to civil servants to attend board meetings of certain associations, nothing concrete has emerged from these discussions.

French-German Declaration on Civil Voluntary Service

In order to strengthen bilateral co-operation between France and Germany, both countries signed a joint Declaration to promote transnational civil voluntary service during a Summit in Vittel, France on 10 November 2001 (*“déclaration sur le volontariat civil”*). The objective of the Declaration is to open up new youth volunteer exchange opportunities, using French and German laws on civil voluntary service already in place: the 2000 French Law on Civil Voluntary Service and the German Law for a Social or Ecological Voluntary Service Year. The scheme is also open to young people from other European Union Member States.

From the German perspective, conscientious objectors may serve in a recognised voluntary service organisation in France, which is involved in the promotion of social cohesion and solidarity, or in the field of international development and humanitarian aid. On presentation to the German authorities of a certificate as proof of voluntary service undertaken in France, volunteers are exempt from carrying out civil service in Germany (Article 14b of the Civil Service Law).

However it is difficult to predict the practical impact of this Declaration. The legal frameworks for civil voluntary service in France and Germany are very different, and there would seem to be many practical and administrative obstacles to its implementation.

Youth Policies 2003: Promoting Youth Volunteering In Holiday And Leisure Centres

The objective of the Youth 2003 programme is to facilitate, promote and support young peoples' volunteering in holiday and leisure centres. This activity, it is believed will enhance integration and equality of young people, and develop initiative and creativity.

The policy aims at a more "rounded" view of education by taking into account not just formal school time but also social and leisure activities.

The national youth policy has four main objectives:

1. To protect and to offer educative and qualitative leisure.
2. To inform and to orient.
3. To encourage participation and responsibilities in young people.
4. To initiate new youth initiatives and projects.

During 2003, the creation and development of new youth organisations and associations will be encouraged and supported by the State (via credits from the FNDVA). In addition, organisations and associations will be invited to facilitate the greater participation of young people in their work, and to encourage them to take on greater responsibilities. For further information, see:

<http://www.education.gouv.fr/presse/2003/engagement/enviedagirdp.htm#3>

4. FINAL REMARKS

Many organisations and associations in France owe a great deal to the efforts of bénévoles and volontaires, and believe that the needs of a third sector will be met, in large part, by political recognition of, and support for, bénévolat and volontariat. Lobbying efforts are therefore underway by both regional and local volunteer bureaux to encourage the development of a legal framework that is more inclusive, both in terms of the rights and duties of volunteers and the organisations for whom they volunteer.

In relation to the new "civil volunteer" programmes, many non-profit organisations have been quick to point out the difficulties and limitations of them for associations in France. Firstly, the allowances awarded to volunteers make it impossible for NGOs with limited financial resources to host civil volunteers. Secondly, they consider the selection criteria for civil volunteers (E.U. nationals under 28 years of age) exclusive rather than inclusive.

Instead, many have asked for:

- Clarity in the distinction between voluntary service, professional training and enterprise-based work;
- A comprehensive legal framework for voluntary service in France, which would allow voluntary service organisations to continue developing programmes outside the framework of national civil service.

5. USEFUL CONTACTS

CEV Members

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Website: <http://www.benevolat.com>

AVSO Members

Compagnon Bâisseurs (France): see: <http://www.avso.org>

European Diaconical Year Network: see: <http://www.timeforgod.org/edyn.htm>

Service Civil International (SCI): see: <http://www.sciint.org/>

Other Useful Resources

For further information on civil voluntary service in France, contact: “Comité de Co-ordination pour le Service Civil” (CCSC), 16 Rue Jean Giono, F 91 000, Evry, France, Tel: 33 1 64 97 83, Fax: 33 1 60 78 28 61

“Comité de Liaison des ONG de Volontariat” (CLONG - International Solidarity Volunteers), E-mail: <http://www.coordinationsud.org/membres/clongv.html>

“Conseil National de la Vie Associative” (CNVA), Website: <http://www.vie-associative.gouv.fr/>

“Cotravaux” (coordination pour le travail volontaire des jeunes), 11 rue de Clichy, F 75009 Paris. Website: cotravaux@club-internet.fr

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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*

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