



LEGAL STATUS OF VOLUNTEERS: Country Report Italy

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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ACKNOWLEDGEMENTS

This country-report has been produced by Natalia Del Cid, an EVS volunteer hosted by AVSO. It was edited by AVSO Coordinator, Jana Hainsworth. We would like to thank them and also the valuable contributions and comments of Licio Palazzini (Arci Servizio Civile) and Massimiliano Viatore (AFSAI).

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

Two different volunteer concepts can be found in Italy. The first are ‘*development volunteers*’, those who participate in development programmes for international cooperation, the second are ‘*part-time volunteers*’ where the activity is carried out personally, spontaneously and regularly with a non-profit purpose. These kind of volunteers usually act at a local level and are students, workers or retired people.

II) VOLUNTEERISM AND THE LAW

In Italy, several laws exist to regulate volunteerism

- ▶ Law no. 266/1991 on volunteering
- ▶ Law 381/1991 on social co-operatives
- ▶ Law 49/1987 on Co-operation to Development Voluntary Service
- ▶ Law on National Voluntary Service of March 2001 no. 64
- ▶ Law to promote Social Organizations no. 383/2000

II.1 Law no. 266/1991 on volunteering

The Italian Law on Volunteering of 1991, while compulsory, is only a framework and it is the duty of the regional councils to legislate in their territory. The regional authorities have basically established similar regulations following the national law.

This law (and the regional laws that have followed it) carefully acknowledges the work of volunteering organisations. However, it does not concern the individual volunteer. However, this law has encouraged volunteerism in Italy, since voluntary action is acknowledged as a fundamental part of civics' life. It recognises volunteer work itself and the role of volunteering organisations in building and improving civil society. Specifically it defines the main features of voluntary activities and regulates the relationship between government and volunteer groups.

Under the law, voluntary activities are considered any action carried out personally through the association to which the volunteers belongs, spontaneously, freely, unpaid, regularly given (typically a few hours per week) and performed with the aim of reducing social discomfort. This concept would correspond to the activity of 'pure' volunteers as traditionally understood.

The legal framework establishes in Article 2 the characteristics of voluntary organisations and employment rules. The law states that volunteers cannot have any other tie through employment or self-employment, to the organisation in which they are involved. This sets defined boundaries between paid and volunteer tasks and seeks to protect staff members. It specifies that voluntary organisations can hire workers or make use of self-employed services only within the limit of what is necessary for their regular operation, or for certain necessary qualified or specialised functions. Volunteers are not active in economic life. This measure helps to safeguard the philosophy lying behind volunteer activities, as it guarantees that volunteering projects will not be launched only with the aim of supporting employees. Besides this, the Law on volunteering clearly specifies that the volunteers cannot be considered as employees. This fact eliminates any kind of obligation on the part of the volunteers' organisation to cover any social contribution for the volunteer or to pay taxes to national or local authorities.

The law 266/1991 requires the organisations to provide a budget and insurance cover for the volunteers. No payment is allowed except for the reimbursement of expenses incurred within their volunteer activity, within the limits pre-established by the organisation itself. Three enforcement Decrees relating to services, tax exemption and insurance, followed the law no. 266/91.

On the occasion of the national conference of volunteerism in Foligno and other national meetings the government has invited proposals to modify the law 266/91 from different voluntary organizations and institutions. In addition to this, different decrees and laws have been enacted since the law 266/91 and specifically the new constitutional law 3/2001 that introduced changes to the Italian legal system, transferring new competences to the regions and directly affecting the voluntary service and the third sector. Since the national conference, a number of volunteer organizations have elaborated a proposal, which was submitted to the Parliament. The government has formally proposed to regroup the three existing laws in voluntary service into one unique legal text, which includes all the voluntary sector. The voluntary sector agrees on the need to adapt the law 266/91, but sees the existence of a single legal text for the voluntary sector as unviable. For more information about the different proposals visit: www.fivol.it ; www.volontariato.org; www.centrovolontariato.it

II.2 Social co-operatives: the law 381/1991

The social welfare activities of social cooperatives are focused on service delivery for long-term unemployed young people without job experience, low skilled adults, school dropouts and disabled. Social co-operatives are usually born out of voluntary organizations and like them are structured on the basis of professional workers and volunteers.

The law instituting Social Cooperatives in Italy is L.381 from 1991, regulates the work of the social co-operatives and their volunteers.

According to the law, social co-operatives have the purpose of pursuing the general interests of the community and the social integration of citizens by managing social health care and educational services, carrying out various activities in the field of agriculture, industry and trade and offering services aimed at introducing the disabled into employment. Disadvantaged persons must make up at least 30% of the member-workers in the cooperative.

There are some innovative measures included in this law, concerning concessions to social co-operatives, such as the exemption of social charges for disadvantaged people who are employed in the co-operatives and a number of other measures for tax relief.

As far as volunteering is concerned, this law allows the co-operatives to have, apart from member-workers, volunteer members who perform their activities free of charge, but their number cannot go beyond half the total number of members (50%). The volunteers under this law have the right to be reimbursed for their expenses and to be insured against the risks of accident.

II.3 Italian 49/1987 law on co-operation for development voluntary service

The Italian government allows for the possibility of participating in specific programs abroad.

Italian legislation recognizes non-governmental development organisations, organizing international voluntary service in third countries, in the Law No. 49/1987, currently under review.

On the basis of the Law no. 49/1987 on Development Cooperation, NGO's that fulfil the necessary requirements can obtain official recognition from the Foreign Ministry. This recognition allows NGOs to operate overseas in projects co-financed by the Italian Government. At the same time the Italian Foreign Office implements its international co-operation policy through these organisations.

The Law gives all Italian citizens over the age of 18 with professional or technical qualifications and the personal qualities required, the opportunity to participate in international volunteering projects. Placements abroad have an average duration of two years. Volunteers have to take part in specially designed training courses to understand the main issues of development cooperation, the country in which they will be working and the tasks they will perform.

'Volunteers' under these programmes are paid for their work limits. Salary levels depend on a number of things, such as the location of their mission and the role of the volunteers.

II.4 The law on national voluntary service of March 2001

Voluntary Civil Service in Italy is regulated in a law approved by the Parliament on March 6th 2001. After 2006, there will be no compulsory service for men, having the possibility to choose between voluntary civil or military service. Women are also allowed to participate in the voluntary civil service. The law 64/2001 delegates to the government the regulation of the recruitment criteria, the duration of the service (maximum one year) and the economic compensations granted to the volunteers by Legislative Decree.

Until 2006, voluntary civilian service is only open to Italian young women between 18-26 and men that have been exempted from military service on medical grounds. The service is not open to EU and non-EU citizens.

The number of people enrolling in national voluntary civil service will depend on the financial resources allocated to the National Fund for Civilian Service (7.500 during 2002 and the goal is 15.000 for 2004).

The service is linked to the promotion of social solidarity established in the Constitution, the promotion of national and international solidarity and co-operation, the protection of national state environmental, historical and artistic property and civil protection.

To that aim, volunteers may be placed either in projects of civil service in Italy, or abroad either in Europe or in developing countries. The legal provisions that will establish the regulatory scheme on voluntary civil service abroad are ruled by the Law 64/2001 and by the Law 230/1998.

The law on civilian service acknowledges the value of the service as a non-formal educational experience -contributing to the civic, social, cultural and professional growth of the volunteers. It gives the volunteers the right to educational credits for their service, both for University and for '*Formation Professionnelle*'.

In order to be eligible to recruit volunteers participating in the national civil service, the organisations must fulfil minimum criteria:

- Be non-profit;
- Be active in the fields allowed by the law;
- Organise capacities and opportunities for voluntary service and;
- Be established and have activities running for at least 3 years before the application form for recruitment of civil volunteers is submitted.

A specific office under the 'Presidenza del Consiglio dei Ministri' (National Office for Civil Service - from now on UNSC) manages the programme. The UNSC examines all the projects and organisations motivation for recruiting volunteers. Each organisation can offer an unlimited number of placements for volunteers. The projects approved are published in an Official Journal.

The recruiting organizations have to provide candidates with clear information about the activities, the aims, and the possibility of obtaining credits or developing professional skills

The organisation selects the volunteers, gives a score to each candidate and elaborates a provisional list. They must send all the documents and the provisional candidates' list to the UNSC for approval.

The UNSC will send a confirmation of the candidates or communicate it changes. The application forms submitted by the 'volunteers' are examined without discrimination on the basis of objective criteria established by the government. The final list must be published on the organisations' web site.

A 'Decreto del Presidente del Consiglio dei Ministri' (DPCM) from the 10 August 2001 and a Law of 5 April 2002 n. 77 define the conditions of the voluntary service and the volunteers' status. The rules are the same for volunteers and for conscientious objectors regarding legal and economic conditions. Some slight difference exist between those volunteers serving in Italy and those serving abroad:

Volunteers serving in Italy receive a direct income from the State of 433 Euro/month gross. Organizations applying for projects in Italy are not encouraged to include board and lodging costs, but they can be approved by UNSC in special cases. In this case board and lodging can be reimbursed at 15 Euro/day and either directly to the volunteer or to the organisation. Organisations can also ask for a small additional amount for training expenses.

Volunteers serving abroad also receive a monthly income of 433 Euro from the State, plus 15 Euro gross per each day spent abroad (less 18% tax). Board and lodging costs can also be claimed - 15 Euro/day if the grant is managed by the organisation and 20 Euro/day if it is managed directly by the volunteer. Organisations can also claim additional income for training expenses. In addition to this the State grants the organisation:

- a lump sum of 25 Euro for vaccination;
- 100% of the travel expenses;
- basic insurance for the risk of an accident and third party liability. The organization may supplement this insurance, without State reimbursement.

Until 2002 there was a tax of 18% on the pocket money that each volunteer, in Italy or abroad, received but the new Fiscal Law 2003 establishes the threshold in 7500€ per year meaning that volunteers from this National Civil service do not need to pay taxes. Concerning pension benefits, law 24/2001 allows civil service volunteers to consider their service as equivalent to a year's work in a state office.

Since the promulgation of the law 64/2001 several volunteers calls have been made but not all the placements have been filled. The UNSC foresaw a new call in December 2002, to submit again the projects who have not found volunteers.

II.5 Reimbursement of expenses and other necessary economic support provided to volunteers: their labour, tax and social security law implications

In Italy, volunteers under law 266/1991 have no right to be reimbursed for any expenses outside those spent in the volunteer activity and within the limits established by the organisation.

Full-time volunteers outside the legal framework of law 49/1987, the law 64/2001 on voluntary civil service and 381/1991 on social co-operatives have no legal protection. On the other hand, depending in this case on the organisation's decision regarding the reimbursement of expenses, which may include in this case food and lodging. For example, volunteers who carry out the European Voluntary Service (from now on EVS) receive pocket money, board and lodging.

II.6 Welfare protection of volunteers

a) Volunteer insurance

Volunteers outside the legal framework described above should be given protection against risks of accident, illness and third party liability related to their volunteer activity through their host organization. (For organizations registered under law 266/1991 it is obligatory). The EVS operates outside this legal framework, but in this case volunteers receive pocket money, board, lodging and training through the host organization. These benefits are considered as reimbursement of expenses and are therefore not subject to taxation. The maximum annual tax free income is 4,700€.

b) Entitlement of volunteers to public health and social protection

According to the country report elaborated by the Structure for Operational Support (SOS) for EVS, Italian citizens volunteering abroad have certain protection by the Italian health care scheme through the E111, which covers emergency care. Volunteers that come to Italy and are in possession of a student visa may be incorporated temporarily in the Italian Security System.

Family allowances: Young volunteers, or their families, will retain entitlement to family allowances as long as the volunteer activity does not imply a failure to comply with the requirements under Italian Social Security Law. Families are entitled to receive this benefit when they have dependent children, up to the age of 18, or children over 18 if disabled. The amount received depends directly on the number of family members and the income.

For further information visit www.academictransfer.org/org/workingabroad; www.sosforevs.org

II.7 Volunteers mobility

One of the difficulties faced by volunteers coming from countries outside the EU is the refusal of visa applications. As there is no visa category for voluntary service, the Consulate can decide to grant a visa either for study –*studio*- or stage –*tirocinio*- or to reject their candidature. In the particular case of EVS volunteers, supporting letters submitted by the European Commission have in many cases had little influence. Nevertheless, in response to the problems faced by incoming volunteers supported through the EVS programme of the European Commission, the Italian government has made a legal provision for incoming volunteers on 29 August 2001, numero di protocollo 306/25282. The status of volunteer in Italy does not require any work permit.

This interpretation should be applicable to any other analogous full-time voluntary service activity within the country, independently of the source of financing that may support them.

Volunteers coming from abroad in the framework of acknowledged transnational voluntary service programs should receive an appropriate –volunteer- visa and not a wrongful –e.g. tourist, student, trainee or employee- visa

For more information visit www.sosforevs.org and <http://www.gioventu.it/visti.htm>

III) POLITICAL ACTION PLANS FOR THE PROMOTION OF VOLUNTARY ACTIVITIES

The training credit: Two Ministerial Decrees issued by the Italian Ministry of Education explain the meaning of the so-called 'training credit', within the general reform of the school leaving examination.

The training credit consists of a qualified experience carried out within some sectors of civil society, which offers training and opportunities for his/her human, civil and cultural growth. These sectors are particularly those concerning cultural, artistic and recreational activities, vocational training, environment, volunteering, solidarity, co-operation and sport. The experiences that contribute to training credits must however be carried out outside the school attended and during extra-school time.

In order to make it possible for teachers to recognise the voluntary service experience acquired by the student within volunteering organisations, the latter are required to send a certification and a short summary of the activities carried out by the volunteer to his/her school.

IV) FINAL REMARKS

By way of conclusion, the legal framework for volunteers in Italy can be said to be fairly supportive of volunteering, both part-time and full-time. However, it is also clear that, as in several other European countries, full-time and long-term voluntary service programmes are still unknown by the majority of the Italians. Furthermore many voluntary service organisations themselves lack information about the legal and administrative position of their volunteers.

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