



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.

ASSOCIATION OF VOLUNTARY SERVICE ORGANISATIONS (AVSO)

174 rue Joseph II, Brussels 1000, Belgium
TEL: +32 2 230 68 13, FAX: +32 2 231 14 13
E-MAIL: info@avso.org WEB SITE: <http://www.avso.org>

EUROPEAN VOLUNTEER CENTRE (CEV)

Rue de la Science 10, Brussels 1000, Belgium
TEL: +32 2 511 75 01; FAX: +32 2 514 59 89
E-MAIL: cev@cev.be; WEB SITE: <http://www.cev.be>

Copyright CEV and AVSO: any reproduction of the material contained in the country-reports or the website must acknowledge the source fully.

ACKNOWLEDGEMENTS

This country-report has been produced by CEV volunteers, Annika López-Lotson. It was edited by CEV Coordinator, Gail Hurley. We would like to thank them for their excellent work and commitment.

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 PORTUGAL

1. CONCEPT OF A VOLUNTEER IN PORTUGAL

In Portugal, a volunteer is considered a person who actively participates in society by offering, without an economic interest, his/her time and skills for the benefit of others.

2. VOLUNTEERS AND THE LAW

There are different laws and regulations in Portugal relating volunteerism, namely:

- “Regulamento do Programa Jovens Voluntários para a solidariedade nº745-G/96 de 18 de Dezembro” 1996;
- “Regulamento do Programa Lusíadas nº745 - H/96 de 18 Dezembro” 1996;
- “Lei n.º 71/98 de 3 de Novembro”, establishing the basic legal framework of volunteerism in Portugal 1998;

- “Decreto-Lei n.º 389/99 de 30 de Setembro”, of the Ministry of Labour and Solidarity, developing the contents of the latter framework law “Lei n.º 71/98” 1999;
- “Resolução n.º 50/2000 (2.ª série) de 30 de Março, in DR, 2.ª série, n.º 94 de 20 de Abril”, establishing the Permanent National Volunteerism Council 2000;
- “Resolução n.º 54/2000 (2.ª série) de 6 de Abril, in DR, 2.ª série, n.º 102 de 3 de Maio” 2000;
- “Despacho n.º 14 976/2000 de 29 de Junho, in DR, 2.ª série, n.º 168 de 22 de Julho” 2000.

The Programme Young Volunteers For Solidarity “Regulamento N°745-G/96 De 18 De Dezembro” 1996

The Programme “*Young Volunteers for Solidarity*” (*Progama JVS - Jovens Voluntários para la Solidariedade*) was the first officially recognised volunteer programme in Portugal. It was created in 1993 by the State Department for Youth (Ministerial Ruling no. 685/93, 2 July, subsequently reformulated by Ministerial Ruling no. 745-G/96, 18 December).

It relates to young volunteers aged from 15 to 30 and covers areas such as the fight against poverty, support to socially excluded groups, education, and the prevention of drug and alcohol abuse. The objective of the programme is to encourage the development of, and participation in, voluntary work by the young to contribute to their social and cultural training, by giving them the opportunity to participate in actions and projects useful to both society and local communities.

The Portuguese Regulation Of The Programme “Lusíadas” Of 1996

The “Regulamento do Programa Lusíadas n°745 - H/96 de 18 Dezembro”, establishes the legal framework for the development of international volunteer programmes for young people in cooperation with the “CPLP countries” (Community of African Portuguese Speaking Countries). Volunteers under this programme must:

- Be aged between 18 to 30 years;
- Hold Portuguese citizenship or be a natural from one of the countries involved in the programme with legal residence in Portugal;
- Have undergone at least obligatory basic education.

The programme involves volunteer activities carried out in a number of different sectors, such as health, education, professional training, natural, historical and cultural heritage, establishing of libraries and centres for the promotion of the Portuguese language, promotion of youth associations, social integration, scientific and technological research and collaboration and support for projects and actions related to urgent humanitarian relief.

Volunteer Rights Under The “Lusíadas” Programme

Young people may participate in the “Lusíadas” programme for a period of 2 months to 2 years. In the framework of this programme, volunteers have the right to full health-care and medical assistance, education and assistance in emergency situations.

Volunteers' Duties Under The "Lusíadas" Programme

Volunteers participating in the "Lusíadas" programme must:

- Respect the deontological principles inherent to his/her specific activity;
- Follow the guidelines provided by the organisation managing the volunteer project;
- Abstain from any behaviour that may have a negative affect on the relationship between the volunteer organisation, the Portuguese State and the hosting State;
- Undergo the obligatory training organised by the organisation.

Duties Of The Volunteer Organisation Under The "Lusíadas" Programme

Under the "Lusíadas" programme, organisations must, among other things:

- Provide food and accommodation, insurance against accidents and training to volunteers;
- Sign a written contract with the volunteer, specifying the nature, duration, grant awarded, accommodation and food, transport costs etc. provided to the volunteer, the rights and duties of the volunteer and provisions for the end of the contract;
- Promote volunteer training activities, which must consist of a minimum of 20 hours in projects lasting up to 2 months, and 60 hours for all others;
- Select their volunteers according to the specific project and the tasks to be fulfilled by the volunteer, the volunteer profile, his/her former experience.

Technical And Material Support Provided To Volunteers And To Organisations

The Portuguese Youth Institute, (Instituto Português da Juventude (IPJ)), grants young volunteers and volunteer organisations:

- Technical support necessary for the development of their volunteer projects;
- Payment of the international travel costs of the volunteers;
- A lump sum of around 125 EURO per month to each young volunteer;
- In justified cases, financial support of up to 75% of the project's budget.

All projects under the Lusíadas programme must be made public by the IPJ.

For more information and registration forms visit: <http://www.voluntariadojovem.pt>

The Portuguese Law On Volunteerism – "Lei N° 71/98 De 3 Novembro" 1998

The Portuguese Law on Volunteering, "Lei n° 71/98 de 3 Novembro", aims to promote and guarantee all citizens participation in volunteer activities, and defines the basic legal framework under which volunteering should be developed. The law recognises that volunteer action is one of the basic instruments for the participation of citizens in society and acknowledges the freedom and flexibility inherent to volunteer activities.

The Legal Definitions Of “Volunteerism” And “Volunteer”

The law defines “volunteerism” as a set of "community and social interest activities" carried out without an economic interest by individuals, within the framework of projects or programmes developed with a non-profit purpose by public entities or private organisations for the benefit of needy individuals, families or communities. The law expressly excludes from its scope of application those activities carried out in an isolated or sporadic way or on the basis of familiar, amicable or similar relations, assuming that these activities should be of substance and be carried out on a regular basis.

A “volunteer” according to the Portuguese law is an individual that in a free and responsible way commits himself/herself to perform voluntary activities within an organisation, according to his/her skills and time available, without an expectation of payment.

Rights And Duties Of Volunteers Under The Portuguese Law On Volunteering

Under the Portuguese Law on Volunteering, volunteers have the following rights:

- to access initial and ongoing training;
- to receive a volunteer identification card;
- to be included in the social security voluntary framework (if they are not, under other conditions, covered by the obligatory social security framework);
- to work under proper health and safety conditions;
- to be absent from their volunteer duties for due justification without losing any of their volunteer rights and benefits;
- to receive economic compensation, pensions and corresponding benefits in case of accident or illness related to their volunteer activity;
- to have their volunteer programme established under an agreement with the organisation regulating their mutual relations as well as the nature, contents and duration of the volunteer project;
- to be actively involved in the design of their programme;
- to benefit from special conditions in the use of public transport as volunteers;
- to be reimbursed for their duly justified expenses within the limits eventually established by the volunteer organisation itself.

The duties of the volunteer are:

- to respect the deontological principles of the activity they perform, and the private life of their beneficiaries;
- to follow the rules governing their organisation and those set forth for the development of their projects;
- to participate in training related to their volunteering;
- to make proper use of the material resources that are put at their disposal;
- to collaborate with their professional colleagues, respecting and following their decisions;
- to officially represent their organisations only when they have been expressly authorised to do so;

- to make proper use of their volunteer identification.

Relationship Between Volunteers And Volunteer-Involving Organisations

According to the Portuguese law, volunteers and the organisation for whom they volunteer, must agree on the specific rules and conditions applying to the volunteer project, including the nature and scope of the activity to be undertaken and the means to solve any eventual conflicts that may arise between them.

The condition of being a volunteer is compatible, under the Portuguese law, with that of an associated partner, member and beneficiary of the same volunteer organisation.

“Decreto-Lei N.º 389/99” De 30 De Setembro” Of The Ministry Of Labour And Solidarity, 1999 Developing The Contents Of The Portuguese Law On Volunteerism

General Contents

The Regulation developing the contents of the Framework Law 71/98 of the Portuguese Ministry of Labour and Solidarity establishes a series of operative instruments aimed at facilitating and ensuring the effective exercise of volunteers' rights. Among other issues, the Law-Decree describes:

- the organisations legally allowed to recruit and coordinate volunteers;
- the procedure for the issuing of volunteer identification cards;
- the conditions and procedures necessary to ensure volunteers are covered under the volunteer social insurance framework, for example it describes the organisation's responsibility to pay for corresponding social security contributions and to protect the volunteer under an obligatory collective insurance.

The Permanent National Council for the Promotion of Volunteerism

The Law-Decree also foresees the creation of the Permanent National Council for the Promotion of Volunteerism. The Council depends directly on the Ministry of Labour and Solidarity and has the following principal objectives:

- to ensure the effective exercise of the volunteers' rights, for example ensuring their protection under the corresponding social security insurances and the issuing of volunteer identification cards;
- to assist volunteer organisations in the development of activities and programmes aimed at improving the quality and efficiency of their volunteer activities, for example providing them with relevant technical information or supporting the delivery of volunteer training;
- to develop a set of measures to promote and raise awareness of volunteering, for example by supporting relevant research, information campaigns, conferences, debates, etc.

The Permanent National Council for the Promotion of Volunteerism is subject to the following other regulations:

- “Resolução n.º 50/2000 (2.ª série), de 30 de Março, in DR, 2.ª série, n.º 94, de 20 de Abril” 2000.
- “Resolução n.º 54/2000 (2.ª série), de 6 de Abril, in DR, 2.ª série, n.º 102, de 3 de Maio” 2000.
- “Despacho n.º 14 976/2000, de 29 de Junho, in DR, 2.ª série, n.º 168, de 22 de Julho” 2000.

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

In Portugal, a person's social security and tax status depends on the nature of the activity and his/her relationship with the organisation for whom they volunteer. As long as a “volunteer” and “volunteer organisation” relationship is maintained in accordance with the law, no employment relationship will exist between them. Volunteer organisations and volunteers should not therefore be subject to obligatory social security contributions or taxes concerning the reimbursement of out-of-pocket expenses, or other subsistence support for volunteers such as pocket money, board and lodging.

Welfare Protection Of Volunteers

The existing legal framework may be considered as one of the most appropriate in terms of welfare protection of volunteers.

Protection of Volunteers at Work

The above-mentioned framework law on volunteerism states that volunteers must always be guaranteed proper health and safety conditions at work.

Volunteers and the State Social Security System

The framework law on volunteerism guarantees coverage under the social security system of all volunteers in Portugal. Volunteers have the right to be included by the organisations for whom they volunteer in the voluntary social security scheme and where they are not, they should be covered by the compulsory scheme. The optional scheme does not guarantee full social security protection, but gives entitlement to deferred benefits, for example disability, old age and death.

The Specific Situation Of Transnational Volunteers Outside The Framework Of The State-Run “Lusiadas” And “Young Volunteers For Solidarity” Programmes

Those leaving Portugal to volunteer overseas within “volunteer programmes other than the State-run “Lusiadas” and “Young Volunteers for Solidarity” Programmes fall outside the scope of application of the Portuguese Law on Volunteerism and as such have no legal right to social insurance. The individual volunteer must pay to register with the voluntary social security scheme. If they do not, the period of non-contribution will not count for the purposes of future retirement and other social welfare benefits.

Voluntary Service Abroad And Family Allowances

Whenever a dependent child or young person engages in voluntary activity abroad, the beneficiary – generally his/her family - will lose entitlement to family allowances. The reason would be the failure to comply with the basic requirement of “residence” of the child or young person with the beneficiary of the allowance.

Voluntary Service Abroad And Unemployment Benefits

Unemployment benefits are suspended during periods of voluntary service abroad. Those of unemployment allowances must advise their local social security institutions of their departure. Upon return, volunteers must undergo a further administrative procedure before receiving their unemployment benefits again. The whole process can take about a month or two.

Full-Time Volunteers Coming From Abroad: The Right To Stay And Volunteer In Portugal

In relation to the right to stay and volunteer in Portugal, different rules apply to nationals from different States.

- Nationals of other EU Member States resident in Portugal for periods of longer than three months need a residence permit called "autorização de residência", obtainable from the S.E.F.- Serviço de Estrangeiros e Fronteiras (the Immigration Service).
- Third country nationals legally resident in one of the Schengen agreement countries (Austria, Belgium, France, Spain, Germany, Greece, Italy, Luxembourg, Netherlands and Portugal), and staying longer than three months in Portugal must apply for a visa at the Portuguese Consulate in their country of residence. Each Consulate can decide which type of visa to issue (student visa or trainee visa). In order to obtain the visa, volunteers must present a declaration from the host organisation stating that they will provide them board and lodging and proof of the means of subsistence.
- Third country nationals resident outside one of the Schengen agreement countries can enter Portugal through the general procedures. In practice, this means that they will have to present: a valid passport, a regular visa, and proof of means of subsistence, for example a letter from the hosting organisation stating that they will provide them with an adequate subsistence allowance, board and lodging etc..

It is important that volunteers coming to Portugal from abroad are legally resident in Portugal. Among other reasons, this is the only way that they will be eligible for health and medical care under the National Health System under the terms of the European Convention of Medical Social Assistance.

3. FINAL REMARKS

The legal framework applying to volunteers in Portugal may, in general terms, be considered quite an appropriate one. It is flexible and comprehensive, covering many important features of volunteerism, such as the basic rights and duties of volunteers

and the organisations for whom they volunteer, and establishing state financial and technical support for volunteer projects.

However, there are still “gaps” that hinder the engagement and mobility of volunteers in full-time voluntary service programmes other than the state-run “Lusíadas” and “Young Volunteers for Solidarity” programmes: volunteers within many other private-initiative programmes act in a legally uncertain atmosphere and are not entitled to state support, for example pensions contributions for the period they volunteer abroad. In addition, for the purposes of coming to Portugal from abroad to volunteer, there is no such recognised legal category as “volunteer”. Volunteers are instead issued with either student or trainee visas.

4. USEFUL CONTACTS

•

(Last Updated: June 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:

European Volunteer Centre,
Rue de la Science 10,
Brussels 1000,
Belgium.
Tel: 32 2 511 75 01
Fax: 32 2 514 59 89
Email: cev@cev.be
Website: <http://www.cev.be>

Association of Voluntary Service Organisations,
Rue Joseph II 174,
Brussels 1000,
Belgium.
Tel: 32 2 230 68 13
Fax: 32 2 231 14 13
Email: info@avso.org
Website: <http://www.avso.org>

