

EUROPEAN VOLUNTEER CENTRE
The Voice for Volunteering in Europe



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

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COUNTRY REPORT ON THE LEGAL STATUS OF VOLUNTEERS IN ROMANIA

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GENERAL DEFINITIONS OF VOLUNTEERISM

VOLUNTEERISM: refers to all forms of voluntary activity, whether formal or informal, full-time or part-time, at home or abroad. It is undertaken of a person's own free will, choice and motivation, and is without concern for financial gain. It benefits the individual volunteer, communities and society as a whole. It is also a vehicle for individuals and associations to address human, social or environmental needs and concerns. Formal voluntary activities add value, but do not replace, professional, paid employees.

VOLUNTEERING: can occur informally (for example neighbourly "helping-out"), or within the structures of a non-profit organisation. It is often (but not always) of a part-time nature. It may occur over one day or many years in a range of different fields. It is good practice to ensure that formal volunteers are covered by appropriate accident, health-care and third party liability insurance, that they receive appropriate training and management, as well as the reimbursement of all out-of-pocket expenses.

FULL-TIME VOLUNTARY SERVICE: refers to specific, full-time project-based voluntary activities that are carried out on a continuous basis for a limited period of time. Voluntary-service activities may occur at home and abroad. It is good practice to ensure voluntary service volunteers are afforded appropriate social protection, such as accident, health-care and third party liability insurance. Volunteers should also receive appropriate training and management, reimbursement of out-of-pocket expenses as well as appropriate accommodation and subsistence allowances as agreed between the volunteer and the non-profit organisation.

Background to the Project

This is one of a series of 'country-reports' produced by the Association of Voluntary Service Organisations (AVSO) and the European Volunteer Centre (CEV). They aim to provide comprehensive and practical information on volunteers and the law in a number of current and future European Union Member States.

Each country report explores, in a standardised format, some of the key questions that face volunteers and volunteer-involving organisations in relation to their legal positions.

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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1. Concept of Voluntary Work in Romania

The *Romanian Law on Volunteerism of 2001 (Legea Voluntariatului)* defines volunteerism as “an activity of public interest undertaken by individuals called volunteers within the framework of a certain legal relationship, other than legal relationships created under the Labour and Civil Codes pertaining to the carrying out of a paid employment”.

Voluntary activities are considered the activities performed for the benefit of the public (social work, social care, human rights protection, health and health-care, cultural, educational, tuition, scientific, humanitarian, religious, etc.) by natural entities, within the framework of the legal volunteer relationship.

The law was subsequently amended in 2002, and a decision made to adopt the European Convention on European Voluntary Service for young people in 2003. Neither was done in consultation with the Romanian non-profit sector.

2. Volunteerism and the Law

The *Romanian Law on Volunteerism (Legea Voluntariatului)* was adopted in Romania during the United Nations International Year of Volunteers (IYV' 2001). However, there was no specific mention within the law that it had anything to do with IYV' 2001.

The law establishes a regulatory framework for voluntary activities, both in Romania and abroad. However, the main focus of the law is really on transnational volunteers, and it does not particularly aim to increase citizens' overall awareness of voluntary activity.

The law governs the facilitation and promotion of overseas and Romanian citizens' participation in volunteer activities according to civil solidarity (as organised by public and private legal, non-profit entities), as well as the participation of youth in international volunteer programmes (as implemented by decentralised structures in close cooperation with the national authorities involved in matters regarding youth).

Basic principles of the Romanian Law on Volunteerism

The law sets four main principles related to volunteers:

1. The participation of the volunteer based on her/his freely expressed consent;
2. The active involvement of the volunteer in community life;

3. The performance of voluntary activities without any financial consideration in return;
4. The recruitment of volunteers based on equal opportunity, without any discrimination.

Self sufficient and sporadic volunteer activities, except for those performed within the framework of the relationships with the legal entities, attributed to family, friendship or neighborhood relationships shall not constitute a voluntary activity, and therefore, fall outside the scope of this law.

The Volunteer Agreement

According to the law, voluntary work must be carried out on the basis of a written contract between the volunteer and the beneficiary of the volunteer activity, under conditions of freedom of contract and in accordance with the provisions of the volunteerism law. The beneficiary of the volunteer activity can be a legal person of public law or a legal non-profit person of private law. The law prohibits the signing of a volunteer agreement for the purpose of avoiding an individual work contract or other contract for financial remuneration. Any contract that violates these legal provisions is declared null and void. It should be noted that the initial law of 2001 applied only to Romanian citizens. It was then amended in 2002 to refer almost exclusively to international volunteers and to Romanian citizens choosing to volunteer abroad.

One of the main difficulties in relation to the law is that many non-profit organisations, such as citizens' groups and a minority of NGOs, function without any legal personality (and so operating as an informal organisational structure). These organisations, under Romanian law, cannot sign legally binding agreements, not even volunteer contracts. Consequently, a person who volunteers in such an organization cannot have volunteer status (as s/he is not able to conclude the contract stipulated by the law). This however applies to only a minority of organisations and associations.

Rights and Obligations

A volunteer contract must stipulate the following rights of the volunteer:

- To actively participate in elaborating and implementing the programmes for which the contract was signed;
- To carry out the activity according to his/her professional experience;
- To be insured by the beneficiary according to the legal provisions on workers' protection, taking into account the nature of the activity;
- To be insured by the beneficiary against the risks of accident and illness associated with the very nature of the activity - in the event this provision is not complied with, the costs of medical care must be borne entirely by the beneficiary;
- To receive a certificate from the beneficiary attesting the skills acquired by the volunteers;
- To be reimbursed by the beneficiary, in accordance with provisions of the contract, for all the expenses incurred while carrying out his/her activity;
- To have working hours that do not damage the health of the volunteer;
- To benefit from honorary titles, decorations, prizes, according to the law.

The contract should also specify the following obligations of the volunteer:

- To perform the duties assigned by the beneficiary;
- To observe rules regarding confidentiality of information to which s/he has access during his/her volunteer activity;
- To participate in training courses organised or proposed by the beneficiary;
- To take proper care of any material resources s/he uses during his/her volunteer activity.

For the duration of the contract, the volunteer is subject to the management of the legal person s/he has signed the contract with, and no person other than the volunteer can carry out the activity specified in the contract even if that person is a representative of the volunteer.

The law also states that participation in voluntary activities shall not be a substitute for military service or other alternative service substituting for military service, and cannot represent the equivalent of a remunerated job.

Changing or Terminating a Contract

The contract can be unilaterally terminated by either of the parties provided that 15 days' notice is given. The reason for termination does not have to be stated to the other party to the contract. The contract can be re-negotiated upon the written request of one of the parties, within 15 days of the date when the situation that requires the renegotiation arises. For any litigation related to the contract, the law gives the parties the right to appeal to the courts if there is no way to settle the problem in an amicable way. Officially, liability for non-performance or inadequate performance of the volunteer contract is subject to the provisions of the Civil Code, which states in principle that everyone is responsible for their own actions.

Many organisations consider however that the mandatory nature of the law does not provide adequately for the many varied situations that can occur in reality. For example, in cases where a person volunteers for a very short period (one or two hours) and on activities that does not need special training or volunteer protection, such as cleaning a park.

Another issue is whether those who work in an organisation on the basis of a work contract can also work as volunteers in the same organisation. The law states that individuals that work for an organisation cannot volunteer for the same organisation. However they can work extra hours (called 'unpaid extra hours') but this is not officially considered volunteering.

Volunteer Fire-fighters

The volunteer fire brigades are not subject to the Romanian Law on Volunteerism. They are instead subject to Government Ordinance 60/1997 -regarding fire fighting, as approved and amended by law 212/1997.

3. Reimbursement of Expenses

Tax And Reimbursement Of Expenses

According to the Law on Volunteerism of 2001, the reimbursement of expenses to volunteers is not subject to any kind of taxation in Romania. Prior to this, there were no regulations governing the payment of volunteer expenses by NGOs (for example, per diem or travel expenses).

Many NGOs consider that part of the reason that the Romanian tax authorities enacted a law on this matter was because the State was attempting to close the EU chapter on integration, which included the obligation to adopt a law on cross-border volunteerism for young people.

According to the Law on Volunteerism, the host organisation shall reimburse the volunteer according to the contract, and subject to the legal provisions on costs incurred related to the performance of the activities.

European Union “Youth” Programme

Under the European Community action programme “Youth”, the host organisation shall provide the young volunteers with local transportation fees, accommodation and full board meals. International transportation and a non-taxable daily allowance shall be covered from funds provided by the European Commission, during the entire volunteer term.

4. Welfare Protection of Volunteers

Insurance and Social Security

Officially, NGOs are required to insure volunteers against the risk of accidents and several insurance companies have offered to insure volunteers, however no organisation can afford it. A further problem is that teams of volunteers tend to be fluid and it is usually necessary to provide the insurance company with a nominal list of the volunteers to be insured. This is seldom possible as one day you may have a certain group of volunteers, and the following a totally different group. Many volunteers in Romania therefore remain uninsured. On the other hand however, everybody is insured in Romania against the risk of accident. Everyone under the age of twenty-six is insured automatically via their parents, and everyone who is employed is insured via tax deducted automatically from their salaries. Individuals that are not included in either of these two categories (for example, the unemployed etc.) are insured through social protection laws.

In relation to volunteers coming through the European “Youth” Programmes, the costs are incurred by the European Commission, which shall conclude a contract with an insurance company. The host organisation shall then arrange for the activities to be supervised by a coordinator, subject to legal conditions regarding safety at work.

Volunteerism and Unemployment Benefits

There are no specific rules regarding volunteering while in receipt of unemployment allowances - there is no obligation for the unemployed to mention whether they are working as volunteers or not.

5. Foreign Volunteers in Romania

Full-Time Volunteers From Abroad Volunteers and Work Permits

Overseas volunteers must obtain a residence permit for the entire duration of their volunteer activities.

National Social Security Status Of Foreign Full-Time Volunteers In Romania

Volunteers coming from abroad to Romania must fulfil the same requirements of any foreigner coming to the country in order to have social security, except for those volunteers coming under the European Voluntary Service (EVS) Programme, whose insurance is covered by the European Commission.

Asylum Seekers And Refugees

There are no rules concerning asylum seekers and refugees wanting to volunteer in Romania. They can volunteer in the same way as anyone else if they have a proper residence permit, since they would be normally asked to sign a volunteer contract.

6. Governmental Action for Promotion – From Past to Future

The word “volunteering” still has very negative connotations in Romania, as in many post-communist countries, and when discussing and trying to understand volunteerism 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 “enjoyed” 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 for society. In this context, people were therefore “obliged” to volunteer, and the decision not a freely chosen one. It was very often the case then that citizens “volunteered” with feelings of distaste and distrust.

However, it was hoped that the United Nations International Year of Volunteers 2001 would act as an important catalyst for the development of volunteerism in Romania, and that the Romanian State would recognise the importance of an active civil society and try to raise the level of citizens’ confidence in it. In this context, the enactment of the *Romanian Law on Volunteerism 2001* can be seen as one important example of increased recognition. It should be noted on the other hand however, that this law was not debated in dialogue with civil society organisations, and in fact focuses to a large extent only on the cases of transnational volunteers, with little specific provisions for the facilitation and support of Romanian citizens wishing to volunteer in their own country. This has led some organisations to believe that it was more a case of the Romanian State wishing to close accession chapters than a real commitment to developing its nascent civil society sector.

It is clear however that they must see some value in volunteerism: Romania is part of the European Union Action Programme “Youth”, which supports and promotes the mobility of young volunteers across Europe. However, it is also true that the Romanian Law on Volunteerism does very little to support and encourage the voluntary action at home of its own citizens. Some aspects of volunteering are well

regulated by the new law, but it does not in itself guarantee a change in the behaviour of organisations and volunteers, i.e. the existence of the law does not necessarily mean changes in practices of volunteer management in Romania. This, according to the non-governmental sector can only be achieved through a fundamental recognition of the sector and:

- The training of those involved in managing volunteers as well as the activities they are involved in;
- Supporting the volunteer centres that actively promote good practice in volunteer involvement;
- Supporting the organisations that involve volunteers in a professional manner in disseminating their lessons learned.

However, the Romanian Law on Volunteerism is totally new in the country's legal system. Long-term, it is hoped that it will serve as a catalyst for other initiatives that are meant to involve ordinary people in the process of influencing the decisions that affect them.

7. Final Remarks, Overview and Recommendation

- In reference to the part on volunteers' rights, the law does not say what happens in cases where the volunteer joins the non-profit organisation after the volunteer programme has already been elaborated or implemented;
- In reference to the part on volunteers' rights and obligations in the volunteer contract, the certificate that volunteers have a right to receive should be performance based since it is not only the number of hours volunteered but also the results that count;
- In reference to the part on alteration/termination of a volunteer contract, it would be better if individual organisations could decide for themselves whether the fifteen day notice requirement is needed or not;
- In relation to volunteer contracts, the law should be more flexible to allow for the various kinds of voluntary activities that may occur in reality, for example signing a contract with a volunteer who is only there to help clean a park on a given morning or afternoon seems futile;
- The law should include the right of the volunteer to be informed of any dangers concerning his/her voluntary work, and up to the organisations and individuals concerned how they demonstrate their mutual consent to perform the activity, for example by signing a contract or a statement;
- The law needs to be changed to encourage Romanians to volunteer in Romania;
- The development of volunteerism should start in local communities;
- It should be clearly explained that transnational volunteerism is only one part of volunteerism;
- Civil society (including organisations involving volunteers, volunteer centres, volunteers) should be consulted on future amendments of the law;
- Support should be available to those NGOs that involve volunteers and cannot cover insurance and other costs. The state does not provide any help to nonprofit organisations that want to insure their volunteers and external donors (on whom the majority of non-profit organisations in Romania are totally dependent) have no interest or intention to fund such

local volunteer costs. Such funding occurs only in cases of foreign volunteers and for Romanian volunteers going abroad, not for the thousands and millions of Romanian volunteers volunteering within the country;

- Organisations should be encouraged to be responsible in their relationships with volunteers but flexibility should be allowed where contracts are concerned;
- The State should increase its support for agencies specialising in promoting good practice in volunteer management;
- The State is welcome to prove its commitment to improving volunteerism by getting involved in and supporting various volunteerism events such as National Volunteer Week and International Volunteer Day.

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