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COUNTRY REPORT ON THE LEGAL STATUS OF VOLUNTEERS IN BULGARIA

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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.

Please note that 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.

Introduction

Volunteering is an essential part of contemporary society. Through volunteering citizens significantly contribute to the social and economic development of their local communities. They expand the influence and the capacity of civil society organisations and at the same time have the opportunity to develop their own skills.

Bulgaria is a country, which has a tradition of solidarity and help, a significant value in Slavic cultures. At the beginning of the democratic reforms and despite the long tradition related to solidarity, volunteering had, a somewhat negative image due to its overuse during the communist period.

This situation has changed during the last years notably amongst young people willing to contribute to the social and economic development of their country, providing services for others and expanding their personal skills and competences.

Despite the increase of political awareness about the importance of volunteering and the necessity to set up a legal framework, there is still a serious lack of legal provisions as volunteering is only partially recognized in some particular laws. Therefore, it is necessary to launch legislative reforms in order to create an environment that would encourage, promote and protect volunteering and volunteers.

The existence of a legal framework is only one part of the larger social and institutional context that affects volunteering in Bulgaria. Many other factors such as the difficult economic and political situation have to be taken into account as they could represent supplementary barriers to the development of volunteering in Bulgaria.

1. Concept of Voluntary Work in Bulgaria: provision of work or services without concern of financial gain

The main element characterising volunteering in Bulgaria is the absence of financial compensation. The term “volunteering” is traditionally related to “**provision of work and services without concern of financial gain**”. A partial legal framework exists but it is currently not further developed and there still exist many difficulties about the legal definition of volunteering and the rights and duties of volunteers.

There is no uniform way of regulating volunteering, primarily due to the nature of the voluntary initiatives. In Bulgaria, **providing services without concern of financial gain** is authorised but submitted to the general civil legislation. In some professions there are legal restrictions in providing work and services without compensation. For example, the law regulating the profession of lawyers mentions precisely who could benefit from free services. Lawyers are allowed to provide legal services only to people in financial difficulties, to some members of their families or to their colleagues.

2. Volunteering and law: lack of legal framework concerning volunteering

In the legal system of Bulgaria, there is no legal definition of volunteering or “providing work without concern of financial gain”.

The lack of a legal framework concerning volunteering and voluntary activities could be explained by the fact that voluntary activities in their original sense did not exist before the democratic changes. Before 1989, “voluntary activities” were linked with the Communist State and aimed to help the socialist construction.

3. Definition of volunteering in the Law on Crisis Management –1 March 2005

The law on Crisis Management was promulgated in the Official Journal on 1 March 2005. Volunteer organisations can be set up in case of crises; they are equipped and trained by specialized governmental bodies.

The law defines the notion of “volunteer” and further regulates his/her legal status. According to Art. 26 of the law volunteer can be any person above the age of 18, who is capable to carry out legal activities. Everybody can become volunteer in case of crises irrespective of his or her employment status. Volunteers, who are employees when doing their volunteer work, are considered being in unpaid leave from their occupation.

4. Specific laws related to volunteering and volunteers:

- The Law on the Bulgarian Red Cross

Some specific legal provisions relating to volunteering and volunteers were introduced with the adoption of the Law for the Bulgarian Red Cross¹. According to Article 3 of the law, the Bulgarian Red Cross is an autonomous organisation, which supports the state in the humanitarian sphere, in the preparation for activities in the case of State of emergency, military conflicts and disasters, for preservation and fostering of public health and for education in the spirit of “high morals, solidarity and charity”.

The Bulgarian labour law was been changed in order to allow a paid leave for volunteers taking part in **voluntary missions or training sessions** organized by the Bulgarian Red Cross (5 days are allowed for voluntary missions and 3 days for training sessions²).

- The law for physical education and sports

The law for physical education and sports³ settles the public relations, in connection with the physical education and sports in Bulgaria. According to the provisions of this law, the school administration has the obligation to provide necessary conditions for extra scholar activities in the field of physical education and sports.

According to Article 22 extra scholar activities are organised on “voluntary basis”⁴ under the supervision of the Director with the participation of teachers and trainers.

¹ Law for the Bulgarian Red Cross, Prom. SG 87 1995, http://www.bcnl.org/doc_en.php?DID=277

² Law for the Bulgarian Red Cross, Prom. SG 87 1995, concluding provisions, N°7

³ Law for physical education and sports, Prom. SG 58 1996, http://www.bcnl.org/doc_en.php?DID=315

⁴ Art. 22 of the Law on Physical education and Sports: 1. The schools shall provide conditions for continuation of the sport classes after conclusion of the obligatory physical education; 2. The extracurricular sport activities of the students are **voluntary** and it shall be organised through sport sections by the director of the school, under the instructions of professionally trained teachers and coaches.

3. The extracurricular training and competition activities of the students are **voluntary** and it shall be organised

Sports clubs, sports federations and national sports organisations could also participate “on voluntary basis” to the extra scholar activities after obtaining a preliminary authorisation of the Director.

It is interesting to mention that the above law on Physical education and Sports defines three types of Sport organisations: sports clubs, sport federations, and sport organisations.

- Sports clubs:

The **sports clubs** are **voluntary associations** of citizens, non-profit corporate bodies, developing and promoting the physical education and sport and carry out training and competition for one or more sports.

For achievement of their goals the sport clubs:

1. Assist the sport practice of the citizens, organising them for practising physical exercises and sport.
2. Organise schools and courses for training and competitions activities.
3. Organise and administer sport competitions.
4. Construct and manage sport grounds and installations.
5. Train athletes.
6. Carry out other activities related to the development and promotion of sport.

- Sports federations:

According to Article 14 the **sports federations** are **voluntary associations** of sports clubs for one or similar sports, which coordinate the development, practising and administration of the respective sport on national level on the territory of the country, representing them before the state and the international sport organisations.

- Sport organisations:

They are registered as non-profit corporate bodies and involve not necessarily volunteers or voluntary organisations.

- **The law on child protection**

According to the provisions of the Law on child protection⁵, one of the main principles on which the child protection is organised is the promotion of all type of “**voluntary activities**” aimed to support the children’s development.

According to Article 3, par. 5 to the Law on Child Protection “Voluntary participation to all activities related to the child protection” is mentioned as a fundamental principle of the Law.

by the school sport clubs, school sport sections and teams, the student's sport schools with the support of the school boards of trustees.

⁵ Law on child protection, Prom. SG 48, 06.2000, <http://lex.bg/laws/ldoc.php?IDNA=2134925825>

However, these activities are under the supervision of the National Agency of Child Protection, which is the governmental body in charge of the implementation of the above law.

5. Reimbursement of expenses

Only the Law on Crisis Management of March 2005 organises the reimbursement of expenses for volunteers. According to its article 36, the period of voluntary service is regarded as unpaid leave and is recognized as years of office. Volunteers are paid for the provided services from the State budget in accordance with a regulation adopted by the Council of Ministers⁶.

Consequently and instead the fact that the legal status of the “volunteer” acting under the Law on Crisis Management is defined, there are some questions concerning her/his real status. The Volunteer is treated as a State’s employee and not as pure volunteer as any income or in-kind contribution received is subject to taxation.

Her/his real status is close to those of the employee and this is in contradiction with traditional definitions and concepts used in the framework of volunteering and voluntary activities.

6. Welfare Protection for Volunteers

One more time, only the Law on Crisis Management provides for volunteers to be insured against injuries caused while performing their voluntary obligations⁷. When a volunteer has been injured he/she has the right of compensation under the conditions determined by the Council of Ministers⁸.

Consequently, in Bulgaria every volunteer outside the scope of the Law on Crisis Management, must provide his/her own insurance.

The situation is similar concerning the social protection for volunteers. There is only social protection for volunteers acting under the law of Crisis Management. These volunteers are insured by the State against all secured social risks⁹. If a volunteer dies while performing his voluntary obligations, the surviving spouse, children or parents are entitled to compensation¹⁰.

7. Recognition, Facilitation

According to different reports¹¹, volunteering is not enough recognised in Bulgaria by the national and local authorities. Many organisations lack support and help from the State in the implementation of their actions and many people who want to volunteer do not feel enough supported and informed.

⁶ Article 37 of the Law on Crisis Management

⁷ Article 39 of the Law on Crisis Management

⁸ Article 37, 2

⁹ Article 39 of the Law on Crisis Management

¹⁰ Article 38, 2

¹¹ South East European Youth Network, “See Volunteering in SEE”, *Albert Einstein Project*, Research document, Banja Luka, 2005; Bulgarian Centre for non-profit law, “*Legal framework for NGOs in Bulgaria*”, <http://www.bcnl.org/docsen.php?t2=65&st2=66>

Volunteers under the new law on Crisis Management receive a certificate¹² and their names are entered in a registry.

8. Bulgarians volunteering abroad

If a Bulgarian citizen decides to volunteer abroad he/she changes status within the Bulgarian national security system and all benefits are suspended during their time of service abroad.

If a Bulgarian citizen decides to accomplish the European Volunteer Service, he/she has the right to obtain legal status in the host country according to the Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

9. Foreign Volunteers in Bulgaria

There is no specific provisions regarding volunteering in the law on foreign citizens in Bulgaria. There is a legal vacuum concerning foreign citizen willing to volunteer in Bulgaria. They are authorised to obtain a work permit in case they will work as employees or independents.

Consequently, to obtain residence permit, volunteers coming from abroad should have an employment contract, which is in contradiction with the basic principles characterizing the definition of volunteering.

The Member States of the EU have more favourable conditions for entry and stay in Bulgaria. They are allowed to stay in Bulgaria for 30 days without visa and a residence permit is required for a period longer than 1 month. However, these legal provisions are applicable mainly for tourism and not for purposes of voluntary activities.

Foreigners staying in Bulgaria for more than 1 month need to obtain an identity card from the Ministry of Interior, which has to be returned to the authorities when leaving the country.

It is important to mention that foreign volunteers working in the framework of a recognised government programme (European Volunteer Service for example) are considered as workers and therefore obliged to obtain work permits.

There are some specific exceptions for foreign volunteers coming to Bulgaria in the framework of recognised bilateral programmes:

The Japanese government supports actively volunteer programmes in Bulgaria. The volunteers receive living allowance and reimbursement for their travel and living expenses

The US Peace Corps programme also offers volunteer placements in Bulgaria

Volunteers accomplishing the European Volunteer Service (EVS) are supported by the European Commission and receive pocket money, board and lodging.

¹² Article 3 of the Law on Crisis Management

10. Recommendation synthesis

There is a lack of regulations on volunteering and volunteers in the Bulgarian legislation. Consequently, there is no legal mechanism defining criteria and standards for performance of voluntary work.

This gap in the legislation could be closed with the adoption of a specific legal act regulating the following issues¹³:

- Legal status (definition, rights and duties) of volunteering and volunteers
- Criteria and standards for performance of voluntary activity
- Methods of evaluation of the voluntary work
- Mechanisms of compensation of the voluntary work and reimbursement of the costs incurred by the volunteer
- Protection rules for the volunteers
- Social benefits for volunteers – insurance, health, social and pension security
- Tax incentives for voluntary work
- Rules for corporate volunteering
- Separation of volunteering from other forms of work
- Prevention from illegal abuse
- A “contract” between the volunteer and his organisation is useful in order to establish the beginning and the end of the voluntary mission and all the obligations and rights
- The responsibility of the volunteer has to be clearly defined

11. Conclusion:

Volunteering in Bulgaria takes many forms, from spontaneous to organized, formal or informal. Volunteers act in groups, within the framework of international programs, on their own initiative, or upon request by others. However, there is no harmonized legal framework concerning volunteering and volunteers

Legal recognition of volunteering is essential as it ensures that volunteers are protected and they have legal status different from employees. The legislation should ensure that voluntary activities are protected and promoted and that legal requirements do not create burdens and discourage volunteers.

The benefit from introducing enabling legislation in Bulgaria would be to inspire and encourage citizens to volunteer.

On the one hand, the provisions defining the legal status of volunteers in Bulgaria manifests the political interest in a future legislative regulation of volunteering as a whole. On the other hand, the existing regulation is quite insufficient and too specific, adopted only in the framework of Crisis Management situation.

¹³ Bulgarian Centre for not-for-profit law, “Concept for NGO legislation changes in Bulgaria”, May 2006

Some authors¹⁴ suggest that there is a lack of global political reflection to build requirements and standards regulating voluntary activities in Bulgaria. There is no reimbursement mechanism to compensate the efforts of volunteers, nor a mechanism to evaluate voluntary work or system to prevent abuses.

According to the same authors and despite the legal barriers, voluntary activities are growing fast in the third sector, particularly in the field of environment, culture and animal welfare. Especially young people become more and more active in this field, as volunteer engagement is seen as a direct and effective way of contributing to the country's democratic and economic changes.

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