



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 HUNGARY

1. CONCEPT OF VOLUNTEERING IN HUNGARY

In Hungary, there is presently no such legal category as "volunteer". Volunteers are considered "workers". However, discussions are taking place at the level of both government and civil society for the creation of a consensual legal definition of volunteerism.

2. VOLUNTEERS AND THE LAW

At present (June 2003), there is no legal act or regulation establishing the status of national or transnational volunteers in Hungary, however there is a *Draft Law on Volunteerism*. This however remains a draft at the time of writing (June 2003), and it is unlikely to be accepted before 2004.

It is hoped that the new volunteer law will resolve some of the difficulties faced by volunteers and the *National Volunteer Centre Foundation of Hungary* (*Önkéntes*

Központ Alapítványt) has aimed to influence the debate since its creation in September 2002. In this context, the United Nations International Year of Volunteers provided an important catalyst for the consideration of volunteerism by all stakeholders in Hungary.

Within the framework of the United Nations International Year of Volunteers 2001, a legal committee (comprised of eight lawyers, NGO experts and practicing civil society workers) was established to investigate how the Hungarian legal system should be changed in order to create an environment more supportive of voluntary action. The so-called “*Recognition and Legal Team*” was given the mandate to draft a “*Proposal for a Legal Act on the Recognition of Volunteer Work*” in Hungary, to be addressed to the Ministry of Justice. A full explanation of the work of this legal committee will be provided later under the “Governmental Actions” section.

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

Present Situation: Tax, Social Security And Labour Law Implications

In Hungary, full-time voluntary service is considered employment and any allowances awarded to full-time volunteers are subject to taxation. By extension, organisations that host full-time volunteers are considered “employers” and they must also pay taxes on lodging, board and pocket-money awarded to volunteers. The tax declaration can be made by either the volunteer or by the host organisation.

Proposals Made By The Legal Team

The Legal team in charge of investigating how the Hungarian legal system should be changed in support of volunteer action has pointed out several issues that should be taken account:

- ***Volunteer Action and Labour Law:*** there should be a consensual, agree upon definition of a volunteer in Hungary, that differs from that of employee.
- ***Volunteerism and Unemployment:*** Unemployed people in Hungary should be encouraged and supported to volunteer, as voluntary action is identified as a valuable means for inclusion to the labour market;
- ***Liability Insurance for Volunteers:*** organisations, volunteers and the beneficiaries of the voluntary activity should be adequately insured;
- ***Reimbursement of Volunteer Expenses*** should be granted by volunteer-involving organisations;
- ***Volunteer Activities and the Tax System:*** Volunteer action should be considered a donation, and volunteers should therefore be granted tax exemptions or other advantages, such as deductions from travel or accommodation expenses at the end of the fiscal year.

Welfare Protection Of Volunteers

Volunteers And Social Welfare Benefits

Because the legal system in Hungary does not recognise the phenomenon of volunteers, there are no specific provisions in regard to volunteers and entitlements to social welfare benefits.

Volunteerism and Family Allowances

In relation to overseas voluntary service and family allowances, all entitlements are lost during the period the volunteer spends abroad. When the volunteer returns to Hungary and to full-time formal education or training, his/her family will be entitled to claim this allowance once again. However, if the family of the individual volunteer declares that they are maintaining their child while they volunteer overseas, they may retain entitlements. Other grants and subsidies, such as orphans' pensions, are also suspended.

Volunteerism and Unemployment Benefits

Since volunteerism is considered at present a form of employment, retaining entitlement to unemployment benefits remains an issue. Entitlements are suspended in cases of those going abroad to volunteer.

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

Full-Time Volunteers From Abroad

Volunteers from abroad are treated legally as employees in Hungary, and are thus subject to national employment law.

Residence And Work Permits

Non-Hungarian citizens coming to Hungary in order to volunteer for periods lasting longer than 3 months require a residence permit and a work permit. Work permits may be obtained by the employer, ie. the host organisation at the local employment centre (Munkaügyi Központ). The employer must inform the employment centre of its intention to take on workers at least 60 days before submitting an application.

Visas are not generally required for stays shorter than 3 months. However, nationals from Albania and Turkey will need a visa. Nationals of the former Soviet Union (with the exception of Uzbekistan and Kazakhstan) will also need a visa if they do not have either a letter of invitation, a tourist voucher or a mission order. In the case of Kazakhstan and Uzbekistan, visas are always required.

Some concessions have been more recently in specific cases of volunteers from abroad, who have been issued one-year visas for the purposes of “voluntary service”. These have been the direct result of discretionary decisions of the competent authorities however and in no manner they amount to the general rule.

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

Overseas volunteers in Hungary are in general not covered by the Hungarian State social security scheme. However some countries have bilateral agreements with

Hungary, namely Finland, the United Kingdom, Sweden, Belgium, Greece, Switzerland, Norway and the former communist countries. Volunteers from these countries may be reimbursed for medical assistance in some (mostly urgent) cases once they return to their own countries.

Recommendations Made By The Legal Team

The Legal Team has made several recommendations to the Hungarian State in this regard:

- Transnational voluntary service programmes for young people should be acknowledged.
- Volunteers from abroad, whether coming on a short-term or longer-term basis, should be included in the national legal framework, as at present they are treated formally as employees.

3. GOVERNMENTAL ACTIONS FOR THE PROMOTION OF VOLUNTARY ACTIVITIES IN HUNGARY

Legal Committee for Volunteering

The United Nations “International Year of Volunteers” (IYV’2001) prompted an increase in co-operation between the Public Affairs Departments of the various Ministries in Hungary and the volunteer NGOs. In this context, the International Year was of significant importance in Hungary.

As described in detail above, 2001 saw the creation of a “legal committee” in Hungary that was charged with exploring how the legal system should be changed in order to better support and promote volunteer action. The first step towards the creation of this legal committee came in September 2000 with a meeting convened by the Ministry of Health and attended by some 70 non-profit organisations and groups, who together agreed to work upon the aims of IYV 2001 in Hungary. Among these aims was the decision to explore the legal environment of volunteer work in Hungary and to draft any necessary proposals for changes to the law.

The *Recognition and Legal Environment Team* was charged with identifying those issues that required clarification and on which action should be taken. The Recognition and Legal Environment Team represented just one of the task groups that were established to help meet the IYV 2001 aims.

The legal team reported that there were significant legal obstacles in place to both the expansion and promotion of volunteerism in Hungary. For example, under the existing legal framework, volunteers have no formal rights as such and remain uninsured while “on the job”. In this context, volunteers and the organisations for whom they volunteer, are forced to look for legal subterfuges if they want to see their projects implemented with volunteer assistance. But despite any temporary solutions that organisations may identify, no progress will be made until current laws and regulations are amended, taking account of the following issues: volunteer action and labour law; volunteerism and unemployment; liability insurance for volunteers;

reimbursement of volunteer expenses; volunteer activities and the taxation system; acknowledgement of transnational voluntary service programmes.

On the basis of their findings, the legal team drafted a proposal that refers to laws and regulations that should be modified because they currently impact on volunteerism in Hungary. This proposal was finalised and submitted to the President and Vice-President of the Parliament in October 2001 as well as to its Commissions, Ministers, leaders of political parties, the Heads of the Tax and Financial Authority (APEH), the Human Rights Commissioner and civil society organisations.

At the moment then, there is a Draft Law on Volunteerism in Hungary. It remains however a draft at the time of writing, and is unlikely to be adopted before 2004. It is hoped by many that the new volunteer law will resolve some of the difficulties faced by volunteers in Hungary, and the National Volunteer Centre Foundation of Hungary has been trying to influence the debate since its creation in September 2002.

Other Governmental Initiatives For Volunteerism

Although initially reluctant to enter into the “volunteer debate” taking place during IYV 2001, Hungarian politicians made some progress during the International Year, as is shown below.

The Gate Programme: Linking Young People With The Disabled And The Elderly

The Gate Programme was launched by the Ministry for Social Affairs in 1996. It provides funding to civil society organisations for projects aimed at building bridges between young people and the disabled and elderly through voluntary activities. The programme was greatly expanded and strengthened during the International Year. Until then however it had proved hard to raise any real interest within central and local government for the programme. It was not until IYV 2001 that a new interest could be noted by officials and the Ministry has recently signed a number of new contracts with local government to expand significantly the reach of the programme. ***Volunteering in Hospitals***

Another IYV 2001 inspired development in Hungary was the creation of a programme to support the development of volunteering in hospitals. It was launched by the Ministry of Health Care. According to the National Volunteer Centre Foundation, “Önkéntes Központ Alapítvány”, thirty organisations applied for funding under this programme during 2001 and seven were successful.

The process by which the government decided to focus on hospital volunteering was in itself extremely interesting, and indicative of the spirit of increased dialogue and partnership between government and voluntary organisations that was fostered during the International Year. At the beginning of the International Year, the Ministry of Health Care organised a three-day workshop with voluntary organisations to brainstorm on the varied contributions volunteers were making (and could potentially make) in the health field. Based on this meeting, the Ministry decided to focus its efforts during the International Year on the hospital sector.

National Volunteer Centre Foundation

It is however, the newly created National Volunteer Centre Foundation of Hungary that promises to be one of the most enduring legacies of IYV 2001 in the country. The Centre opened its doors in September 2003. It acts as a classic volunteer centre, offering advice, training and support to volunteer-involving organisations, as well as working with the national government to secure a more supportive legislative environment. It operates as a volunteer bureau in Budapest, bringing together those that want to volunteer with available opportunities in the area. The long-term aim is to develop a network of regional volunteer centres throughout Hungary.

Strategy Paper of the Government of Hungary on Civil Society

On 22 October 2002, the Hungarian Government published its “*Strategic Paper on Civil Society*”, in which civil society is stressed as one of the government’s partners. It states that the government is committed to the idea of civil society, both on principle and in practice, and that it is firmly resolved to lead the nation on the path of European social development as a means by which civil liberties, civil association and self-organisation can be fully expressed.

The Government aims, within its strategy for civil society, to increase the contribution of individuals to non-profit organisations’ resources, hence it states that the following need to be considered:

- Allowing individuals who offer donations to non-profit organisations to make tax deductions in proportion to the amount of their donations;
- Promoting wider public recognition of voluntary work.

It also advocates the collection of statistical data and research in order to evaluate social trends within the non-profit sector, and in particular support for specific research that analyses the impact of public service delivery by NGOs, the consequences of accession to the European Union, voluntarism and democratisation of the Hungarian society, focusing on the non-profit sector’s role and involvement.

4. FINAL REMARKS

Despite significant advances in volunteerism in post-Communist Hungary (in terms of numbers, public and official recognition etc.), it is still very much in the early stages of its development as something very separate from its “compulsory” nature during the former regime. It is true however, that the International Year of Volunteers 2001 proved an important catalyst for consideration of volunteer issues, and Hungary is aware of the changes that need to be effected at legislative level in order to better support the development of volunteerism, thanks to the creation of the legal committee in the framework of the International Year. There remain however some tough questions (Tóth, 2002: 3-4). These include, according to Tóth, the fact that “formalising” volunteering via legislative change remains extremely unpopular both among volunteers and among non-profit organisations. Some volunteers worked in for example, in state organisations only a few years ago and left due to excessive formality. Thus, we must realise that there will always be volunteers, who will help honestly and regularly without any contract, only on the basis of a verbal promise. It

is necessary therefore to find an individual solution for each organisation and each particular voluntary activity, which shall suit both parties. Depending on the extent and character of the voluntary activity, we may consider how to conclude verbal or written agreements with volunteers, how to remunerate them, insure them and reimburse the accrued costs.

5. USEFUL CONTACTS

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Further Information:

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