



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 THE NETHERLANDS

1. CONCEPT OF VOLUNTEERING IN THE NETHERLANDS

Different terms are used in Dutch to refer to voluntary action: "vrijwillig" and "vrijwilligerswerk".

The Dutch Ministry of Health, Welfare and Sports considers volunteering as, "work done in an organised context that is carried out without obligation and without pay, for the benefit of other people or a community, and whereby the person engaged in the voluntary work is not dependent on it for his or her livelihood."

According to the Dutch National Volunteer Centre, the "Nederlandse Organisaties Vrijwilligerswerk" (NOV), volunteering should be unpaid, carried out in an organised context, for the benefit of others and society. Volunteer activities must not compete with paid work and must be additional, meaning that when a volunteer decides to stop giving his/her time, it will not cause any organisational problem.

2. VOLUNTEERS AND THE LAW

Volunteers have no legal status as such in the Netherlands. However, some aspects of volunteering are partially covered by regulations on taxes and social welfare benefits.

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

The Coordination Law on Social Insurance of 1987

The Coordination Law on Social Insurance, approved in 1987 and amended over the years, regulates taxation over volunteer-related expenses. As of October 2002, according to this law:

- The Tax Authorities allow volunteers to receive up to 20 EURO per week and 700 EURO per year independently of what their real costs are, and whether they volunteer in one or more organisations. Note that these maximum amounts are subject to frequent changes;
- Over that amount, real volunteer expenses, for example phone calls, stamps and travel expenses etc. will generally be compensated tax-free as well. However, in these cases, the tax department will ask for an itemisation of the costs. In cases of unjustified expenses, reimbursements will be considered as income and taxed as such. In such cases, volunteer-involving organisations will have to report all the costs reimbursed to their volunteers to the tax authorities and prove their relationship is not an employee-employer relationship. If the amounts reported exceed the maximum allowed and the organisation cannot justify them, the organisation will in principle have to pay taxes and social security contributions;
- When a voluntary organisation cannot afford the volunteers expenses, the volunteer can mention them in his/her annual tax declaration and can, under certain conditions, obtain a tax reduction for this amount at the end of the fiscal year.

Welfare Protection Of Volunteers

Protection Of Volunteers At Work

Although there are no legal provisions protecting volunteers at work, it is general practice among volunteer involving organisations to insure their volunteers against the risks of accident, illness or third party liability related to their volunteer activities. As there are no legal regulations on liability of board members of non-profit organisations, they shall insure themselves under what is called an “Aansprakelijkheidsverzekering Voor Bedrijven”.

Volunteers and State Social Welfare Benefits

Volunteers are subject as individuals to the general rules concerning entitlement to state social welfare benefits. Their entitlement will depend on whether or not the voluntary activity undertaken affects any parallel recognised legal status they may

enjoy such as student, unemployed, unfit to work or any other which entitles them to some form of social protection.

Generally, the time a person spends on volunteer activities affects his/her entitlement to subsistence benefits. However, welfare policies may vary from one municipality to another and social benefits are usually considered on a case-by-case basis. For example, steps have been taken by several municipalities to allow people on unemployment benefits to volunteer without restriction without losing their entitlements.

Volunteering and Subsistence Benefits

The *Act on Subsistence Benefit, “Algemene Bijstandswet” (ABW)*, limits the time that persons in receipt of subsistence benefits can dedicate to volunteering. Because they are obliged under this law to dedicate their time to job hunting, volunteering is only permitted outside working hours, i.e. evenings and weekends.

According to Articles 65 and 115 of the ABW, those in receipt of subsistence benefits must inform the local authorities about his or her voluntary activity. The local authorities will then check:

- Whether the voluntary activity improve the volunteer’s chances of acceding the labour market, therefore in some cases, the authorities may agree to allow a person to volunteer during office hours without losing the right to receive these benefits;
- Whether the volunteer activity may be replacing a paid job. If so, the local authorities may not allow the specific voluntary activity to take place.

Full-Time Volunteers Abroad And Unemployment Benefits

For those choosing to volunteer abroad, unemployment benefits are usually suspended until the volunteer returns. On returning to the Netherlands, regaining entitlement to unemployment benefits takes some months. Until that happens, the volunteer is entitled to receive the minimum social welfare support “bijstand”, which is about 454 EURO per month.

Volunteerism and Disablement Allowance

The *Disablement Insurance Act, “wet op de arbeidsongeschiktheidsverzekering” (WAO)*, affects volunteers entitled to disability benefits. It provides for a more flexible procedure: volunteers in receipt of this benefit need only inform the competent authorities of their volunteering in cases where:

- Volunteers are already involved in programmes for integration into society;
- The voluntary activity could somehow have negative affects on the general health of the volunteer.

Volunteering and Family Allowances and Tax Reductions

According to the general rules provided for by the *General Child Benefit Act*, “*Algemene Kinderbijslagwet*” (AKW), beneficiaries of child benefits may retain their entitlement to this allowance provided the child or young person lives in an E.U. or E.E.A. country (or in another country with which the Netherlands has a social security agreement). This condition may facilitate engagement in some voluntary service programmes abroad.

The key issues determining entitlement in these cases would be whether the child or young person is supported financially by the beneficiary or not. In cases where children or young people engage in full-time voluntary service programmes and receive subsistence support from the host organisation, for example the “European Voluntary Service” (EVS) Programme of the European Commission, they will lose the right to this entitlement.

The same would happen with the corresponding tax reductions.

Volunteerism and Study Grants

Student grants “studiefinanciering” in the Netherlands are only given to those who study full-time and who can prove that they have passed a number of subjects and obtained a minimum number of points during the previous year. Those taking a break from studies to volunteer abroad will therefore lose entitlement to study grants, and will have to apply for a loan instead upon return to the Netherlands.

Rights And Responsibilities Of Volunteers And Volunteer-Involving Organisations

There are no legal provisions on the rights and responsibilities of volunteers and the organisations for whom they volunteer their time and skills. Volunteer organisations in the Netherlands however, have acceded the International Association of Volunteer Effort (IAVE) “Universal Declaration on Volunteering”, which addresses the fundamental value of volunteering to society, as well as the rights and responsibilities of volunteers. This declaration was approved by the Board of Directors of IAVE at its 16th World Volunteer Conference, Amsterdam, the Netherlands in January 2001.

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

According to the general rules of immigration, different conditions apply to nationals from different countries in relation to the right to stay and volunteer in the Netherlands.

Note that, according to the normative applying to illegal immigration, any person without a residence permit or proof of identity is required to pay a specific rate of 60% of gross income. This could apply to the amounts of board and pocket money provided to the volunteer.

Rules Applying To Volunteers From European Union And European Economic Area (EEA) Countries

Citizens from other E.U. Member States and E.E.A. countries wishing to stay in the Netherlands for more than 3 months must apply for a residence permit, as is the case

in most other E.U. countries. Volunteers very often have to struggle in order to get their stay approved. Requirements such as the proof of “sufficient income” are difficult to fulfil in the eyes of the authorities. Even after giving evidence of support provided by the host organisation or other third party, the authorities in Amsterdam and The Haag have in the past refused. The procedure to obtain a residence permit can take up to 6 months.

Rules Applying To Volunteers From Non-European Union And Non-EEA Countries

For those volunteers who are not citizens of an E.U. Member State or E.E.A. country (whether they are legally resident or not), work permits are still required (judicial decision of the central unemployment service "arbeidsvoorzieningen"). In order to obtain a work permit, employers must prove that they were unable to find an E.U. citizen for the “job”. Proof of “sufficient income”, (at least the national minimum wage), is also required. The procedures to obtain a work permit may require up to one year.

Specific Rules Applying To Asylum Seekers

Asylum seekers who have spent at least six weeks in a designated centre for asylum seekers “asielzoekerscentrum”, are allowed, as of October 1997, to volunteer.

3. GOVERNMENTAL ACTIONS IN SUPPORT OF VOLUNTEERISM

The distribution of powers to develop policies affecting voluntary work is strongly decentralised in the Netherlands. Different Ministries therefore have their own policies on volunteering and the local and provincial governments have considerable freedom in implementing national guidelines set by the Ministry of Health, Welfare and Sports. In this context, the Ministry plays a key role, co-ordinating the varied activities of local authorities in this regard.

According to the Ministry, voluntary action does not only contribute to the community but also offers individuals the opportunity to reduce social isolation and as such, provides avenues for self-fulfilment and personal development.

Governmental Action Plan 2000-2002

Between the years 2000-2002, the Dutch Government has approved a series of policies to support and raise the profile of volunteering. These policies have involved:

- Dissemination of information on voluntary activities.
- Promotion of volunteering, prioritising the engagement of young people in projects involving intercultural activities.
- The participation of all citizens in volunteering, especially the unemployed. Support is focused mainly on the involvement of the business sector and the multicultural diversification of the voluntary sector. See below the “Social Activation” and “Client Participation” Programmes.
- Stimulation of quality in volunteering: the training of volunteers is emphasised by the Dutch policy, accompanied by the development of a certification

system which acknowledges the skills acquired by the volunteer through their volunteering.

- Development of policies suited to the actual needs of the sector, placing a special focus on pilot initiatives, research and policy development and the development of integrated local volunteer policies.
- Rules and regulations: observing the need to create certainty as to what the law regarding volunteering actually is, the Dutch government has considered the idea of developing a series of general rules to apply to volunteer activity, such as establishing a volunteer test, the reimbursement of out-of-pocket expenses and a system of bonuses for those engaging in voluntary activities in the context of the “Social Activation” Programme.

The “Social Activation” Programme

The Act on Subsistence Benefit (Article 144) launched a pilot project in which certain local authorities could support volunteer programmes in the context of “Social Activation”.

Since 1996 and to-date (2003), this project has engaged some 170 municipal authorities and the Dutch voluntary sector in an experiment to promote social inclusion and re-integration into the labour market of marginalised groups and individuals through community-oriented voluntary service. The long-term unemployed have been allowed and encouraged to volunteer on a full-time basis for a period of time, the benefit offices paying a maximum of around 220 EURO per month.

Under the “Social Activation” Programme, volunteering is closely linked to qualification for a job. It has given volunteers a chance to stay in touch with social and vocational reality and the opportunity to maintain or develop their skills. There are, however, no specific legal provisions for these measures and local governments may act differently.

The Client Participation Programme

Parallel to the governmental programme for “Social Activation”, the Dutch State has developed the policy of ‘Client Participation’. It encourages the participation of benefit claimants in the formulation of anti-poverty measures at the local level. The logic behind this initiative is that local authorities will be better equipped to respond to their citizens needs and to tackle issues surrounding poverty if they identify together what these issues are. At the same time, the involvement of beneficiaries in the process is in itself a positive increase in levels of participation in society.

The Temporary Stimulation Voluntary Work Programme

The *Temporary Stimulation Voluntary Work Programme “Tijdelijke Stimuleringsregeling Vrijwilligerswerk”* is another initiative of the Dutch government, which allows local authorities to embark on projects to support volunteers and volunteer involving organisations. Fifty per cent of the costs will be met by the Ministry of Health, Welfare and Sports. Varying according to the number

of inhabitants in each municipality, and the characteristics of each project, the programme aims at:

- Improving volunteers' skills;
- Recruiting new volunteers, especially from under-represented groups, such as young persons or ethnic minorities;
- Supporting the administrative work of non-profit organisations.

The programme will be developed until January 2005, in line with other local policies.

The "Youth Orientation" Programme

In 1997, after a long process of discussion, the Dutch Council for Youth Policy, under the Ministry of Health, Welfare and Sports, launched the *Youth Orientation "Jeugd of Oriëntatie"* volunteer programme, to be developed at the local level.

The original proposal was for a programme entitled "Maatschappelijke Oriëntatie Jongeren" (MOJ). It would be aimed at young people aged 16 to 21 years old, and it would combine school (formal) education with voluntary activities. The key elements which made up the 1994 proposal were:

- The young person would volunteer between 16 and 32 hours of per week, either at home in the Netherlands or abroad, over a period of three weeks to one year.
- The programme would prioritise the inclusion of socially disadvantaged young people.

Young people participating in the programme would receive around 660 EURO pocket money per month and would be granted reductions on yearly train tickets, museum entrances etc.. In order to avoid complications with the Youth Employment Guarantee Act, the young person would have to register on the programme within 6 months of leaving school. The MOJ programme would be acknowledged as a non-formal educational experience. Introducing the European Voluntary Service (EVS) Programme as an international element of this programme was also discussed. For pupils aged 12 to 16 years old, there would be the option of making volunteering an element of the formal school curriculum.

This proposal received a positive response on the part of the young people. The opinion of the trade unions was two-fold: on the one hand, they welcomed the programme for pupils, but on the other they rejected the extra-curricular participation in volunteer activities for fear of its use as job substitution. The opinion of the government was that there was a need to create direct measures to combat unemployment, and work on an honorary basis was viewed as an instrument for social inclusion. But the question of how to finance the programme was never resolved.

In 1997, and after long discussions, the programme was reconsidered and redefined according to a new concept. The idea of a Youth Orientation "Jeugd of Oriëntatie" was then developed and was brought to local governments, schools and organisations.

The programme was launched with the following elements:

- Designed for people aged 12 to 16 years old only, combining school projects with voluntary activities.
- It aims at developing social skills, enabling independent and democratic participation in civil society.
- Associated with the concept of lifelong-learning, it concerns the acquisition of skills facilitating integration of the young person into the labour market, such as flexibility, ability to work as part of a team, creativity etc..
- It has the objective of bringing about official recognition of non-formal education by means of official certificates in order to stimulate social commitment of young people.

Although some projects with schools and voluntary organisations are still running, and many projects have resulted in examples of good practices, the programme has now officially come to an end.

4. FINAL REMARKS

Volunteering in the Netherlands has been granted remarkable political support over recent years, in terms of infrastructure and the stimulation of new volunteers activities. Indeed, it was given a huge boost by the United Nations International Year of Volunteers 2001, as Amsterdam hosted the XVI IAVE World Volunteer Conference, which marked the official inauguration of the International Year. This served to consolidate political interest in, and support for, volunteerism in the Netherlands.

Nevertheless, volunteers do not enjoy any recognised legal status in the Netherlands. In addition, the official definition of a volunteer provided by the Ministry of Health, Welfare and Sports does not include the category of full-time volunteers in receipt of support in the form of pocket money, lodging and food.

The most uncertain situation under the existing Dutch legal framework is that of volunteers coming to the Netherlands from abroad. Complying with the requirements of “sufficient income” to be officially allowed to stay in the country, overseas volunteers that are supported by an organisation or other third party perform a virtually illegal activity under Dutch Law. In addition, the cost of pocket money, food and lodging that the organisation assumes for the volunteer easily surpass the maximum generally allowed under Articles 6 and 10 of the Co-ordination Law of Social Insurance.

In practice, several international organisations, like the “Aktion Sühnezeichen Friedensdienste” (ASF), have been acting on the basis of specific agreements with the ministries in terms of taxation, insurance and visas for volunteers coming from outside the European Union. The ministries however, have been imposing tight legal restrictions on the development of these volunteer programmes and because of this, several organisations have discontinued or limited initiatives sending young Dutch volunteers abroad.

The Dutch authorities cannot actually, under the existing law, grant a general exemption to full-time volunteers and the organisations that support them, from social security contributions and taxes. In practice, a solution is found in treating volunteers staying longer than three months as trainees and playing with that legal simulation. The question is how far the discretion of the tax inspectors and other authorities may go in relation to volunteer involving organisations, and whether the cases of the organisations mentioned above gives grounds to demand a right to equal treatment and legal certainty from the authorities.

5. USEFUL CONTACTS

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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:

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