

THE EUROPEAN VOLUNTEER CENTRE
The Voice for Volunteering in Europe



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

AVSO *Association of
Voluntary Service
Organisations*

COUNTRY REPORT ON THE LEGAL STATUS OF VOLUNTEERS IN PORTUGAL

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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 at 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 the 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.

ACKNOWLEDGEMENTS

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1. Concept of Voluntary Work in Portugal

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 the expectation for payment.

2. Volunteerism and the Law

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

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

A) The Programme “Young Volunteers For Solidarity” Regulamento Nº745-G/96 De 18 De Dezembro” 1996

The Programme “*Young Volunteers for Solidarity*” (*Programa JVS - Jovens Voluntários para a 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 and was subsequently reformulated by a 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 activities and projects useful to both society and the local communities.

B) The Portuguese Regulation Of The Programme “Lusíadas” Of 1996

The “Regulamento do Programa Lusíadas nº745 - 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 national of 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 up to 2 years. Within 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>

C) The Portuguese Law On Volunteerism – "Lei Nº71/98 De 3 Novembro" 1998

- ***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 that 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 Portuguese Law on Volunteering, "Lei nº 71/98 de 3 Novembro", aims to promote and guarantee to 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 in volunteer activities.

- ***Rights And Duties Of Volunteers Under The Portuguese Law On Volunteering***

Volunteers have the following rights, under the Portuguese Law on Volunteering

- To access initial and ongoing training;
- To receive a volunteer identification card;
- To be included in the social security voluntary framework
- To work under proper health and safety conditions;
- To be absent from their volunteer duties with 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 the 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 the Volunteers and the Volunteer-Involving Organisations***

According to the Portuguese law, volunteers and the organisation for which 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 Portuguese law, with that of an associated partner, member and beneficiary of the same volunteer organisation.

3. Reimbursement of Expenses

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 which they volunteer.

As long as the “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.

4. Recognition, Facilitation

In Portugal a volunteer identification card is still in the pipeline but has not yet been issued as such, because it necessitates an amendment to Article 4 of Decree-Law 389/99, on account of the card's size.

5. Welfare Protection of Volunteers

The existing legal framework may be considered as one of the most appropriate in terms of the 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 which 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 “Lusíadas” and “Young Volunteers For Solidarity” Programmes***

Those leaving Portugal to volunteer overseas within “volunteer programmes other than the state-run “Lusíadas” 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.

6. Volunteering Abroad

Welfare Protection

Voluntary Service Abroad And Family Allowances

Whenever a dependent child or a 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 benefiting from unemployment allowances must advise their local social security institutions of their departure. Upon their return, volunteers must undergo a further administrative procedure before recuperating their unemployment benefits. The whole process can take about a month or two.

The organisation has to cover the costs of the volunteer in terms of a social pension.

7. Foreign Volunteers in Portugal

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

Nationals of EU Member States resident in Portugal for periods longer than three months need a residence permit called "autorização de residência" obtainable from the S.E.F.- Serviço de Estrangeiros e Fronteiras (Immigration Service). If staying less than three months there are no special documents required.

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 residence permit/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.

8. Governmental Action for Promotion – From the Past to the Future

The governmental entity promoting volunteering is the National Council for the Promotion of Volunteering (NCPV). The Council is directly dependent on the Ministry of Labour and Solidarity.

- Two projects are being prepared about social volunteering, the aim being to identify the social needs at local level.
- Creation of more local centres of Volunteering (LCV). LCVs are places where people, who wish to volunteer and organisations interested in receiving them, inform themselves and get support. The National Council for the Promotion of Volunteering (NCPV) edited a **Guide** in 2004 that contains the rules/proceedings for the implementation of those centres at national level. One of the measures of “The National Action Plan for Inclusion” (NAPC) is to implement 50 LCVs until the end of 2005. So far there are around 35 LCVs.
- Enlargement the NCPV composition.
- Training – to organise and support the training of volunteer trainers. The Trainer’s Handbook was edited by the NCPV in May 2005.
- Bulletins, leaflets, posters have already been made to promote volunteering in our country.
- Homepage - The main objective is to promote and qualify volunteering by giving general information to the public about legislation, main events, voluntary testimonials, volunteering abroad and overseas, Portuguese and international websites, publications and so on. It was launched in March 2005 in cooperation with the government and NCPV. Volunteers can also search online where to volunteer.

9. Final Remarks, Overview and Recommendations

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 which 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 unfounded environment and are not entitled to state support, for example, pension contributions for the period during which they volunteer abroad. In addition, the legal category of “volunteer” is not recognized insofar as volunteers coming to Portugal from abroad are concerned. Volunteers are instead issued either student or trainee visas.

10. Contacts

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