

**GUIDE FOR APPLICATION OF
THE LAW ON VOLUNTEERING**

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Publisher

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CIVIL SOCIETY STRENGTHENING PROJECT

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Dear readers,

On July 2, 2007, the Assembly of Republic of Macedonia passed the Law on Volunteering, and it was published in “The Official Gazette of Republic of Macedonia” no. 85/2007. The following sub-regulations were also passed, which additionally regulate the issues from the Law:

- Manual on the form and content of the volunteering booklet, the manner of its publishing and data recording (“Official Gazette of RM” no.128/2007);
- Manual on the manner, procedure and records for granting approval for volunteering of foreigners in Republic of Macedonia (“Official Gazette of RM” no.128/2007); and
- Manual on the record keeping of the volunteering work (“Official Gazette of RM” no.128/2007).

The Law is prepared in broader partnership between the Ministry of Labor and Social Policy, Ministry of Education and Science, Ministry of Health, Ministry of Justice, Ministry of Interior, Ministry of Finances, Department for Cooperation with Non-Governmental Organizations of the General Secretariat of the Government of the Republic of Macedonia, Secretariat for European Integration, Agency of Youth and Sports, European center for Not-For -Profit Law (ECNL) from Budapest, Center for Institutional Development (CIRa), Youth Cultural Center in Bitola (MKC), Citizens’ Association MOST, Association for Emancipation, Solidarity and Unity of Women of RM (ESE) and other numerous associations and foundations. The inclusion of several stakeholders enabled to build in the law provisions which reflect the interests of all stakeholders on one hand and on the other hand this approach ensures its functionality.

Having in mind that several initiatives were in place, primarily coming from associations of citizens and foundations regarding the proper regulation of the volunteering, several workshops were organized during the period of the drafting of the Law, where the associations and foundations had a possibility to participate in defining the provision of the Law.

The passing of the Law on Volunteering provided legal regulation of the volunteering, it also provided appropriate application of the other legal provisions, overcoming of obstacles and creating conditions for promoting the volunteering, and what is very important is that the volunteering effort for the persons who would like to volunteer and for the broader community will be recognized. Additionally, with the passing of this Law, the Government of the Republic of Macedonia fulfilled the obligation for the full-pledged membership in the EU, undertaken with the answers to the questionnaire from the European Commission.

The objective of the preparation of this Guide is to explain to the current and future volunteers the content of the Law, to give answer to the most frequently asked questions related to current application of the Law, clarification of certain dilemmas, and thus to assist in the implementation of the Law, which should help promoting and recognizing the volunteering in the Republic of Macedonia.

MIRJANKA ALEKSEVSKA

What is the content of the Law on Volunteering?

The Law on volunteering regulates the organized forms of volunteering, including:

- *defining the term volunteering;*
- *regulation of the manner of volunteering, determining in details the rights and obligations of the volunteers and the organizers of the volunteering activities;*
- *defining the elements and the content of the volunteering contract;*
- *regulation of the obligation to keep records of the volunteering and the obligation for issuing a volunteering booklet; and*
- *determining misdemeanor provisions for the responsible persons with the organizers and the volunteer for not respecting the provisions of the Law and similar.*

What is volunteering?

The term volunteering stands for voluntary provision of personal services, knowledge and skills and/or performing other activities for the benefit of other people, bodies, organizations and other institutions without compensation. (Article 3, paragraph 1).

Such definition of the legal provision of the term covers the three key principles which the volunteering is based on, such as: the principle of voluntarism, principle of performing activities for the benefit of other persons (and not for personal benefit) and the principle of engagement without financial compensation.

Namely, in accordance with the legal provision determined in such manner, it means that the volunteering is a voluntary activity based on freely expressed will of natural persons to provide services, to perform an activity without any type of monetary or other form of compensation for the effort. This person-volunteer, with certain knowledge and skills, on voluntary base, without any legal obligation, can help other person, group of citizens, an organization, or an institution (ex. Giving seminars on certain topics for which there is interest, help to elderly persons accommodated in special homes or diseased persons, children without parents, help of diseased persons accommodated in medical institutions, giving computer or English language classes, as part of the programmes of civil associations, assistance to schools or kindergartens, assistance to certain institutions while organizing certain manifestations, such as seminars or workshops, actions for environmental protection and similar).

The volunteering is not an activity which is legally bound, but instead it is based on the principle of voluntarism. It is the principle of voluntarism which makes this activity different from the internship, the trial work period and from trainees for which there is a legal obligation in place. The intern during the internship signs an employment contract. If the voluntary experience is a precondition for passing a professional exam or for independently performing an activity, in that case the provisions for internship apply (Article 61 from the Law on Labor Relations), and not the provisions from this Law.

The regulation of the issue of volunteering does not limit the time period for performing the voluntary activity. This means that the Law gives a possibility one person to volunteer for a longer period of time, in different locations, and at the same time to be able to define the conditions of the volunteering contract, as well as the termination of the volunteering.

The possibility for volunteering of accidental nature (ex. assistance in case of flood, fire, food collection and similar) are not limited with the Law.

The volunteering should be done without any type of compensation, or benefit, with exception to the expenses that can be reimbursed and are related to the food, transport to and from the place of volunteering, the expenses for business trips and training expenses. This means that volunteering can be performed even without reimbursement of the food and travel expenses, under the condition to be agreed by the both parties.

Who can be a volunteer?

A volunteer is a natural person that provides services, skills and knowledge for the benefit of other people, bodies, organizations and other institutions on voluntary basis and without financial or any other personal benefit. (Article 4) A volunteer can be a domestic or foreign natural person. (Article 5, paragraph 1)

Each natural person, regardless of the age, gender or the religious background, can volunteer, the volunteering is performed on voluntary basis and without financial or any other type of benefit.

A legal entity cannot be a volunteer.

The volunteer has a possibility to choose and decide to volunteer on voluntary basis, on the grounds of free choice and to grant services and help the bodies and institutions which do not generate profit and benefits. All of this shall be performed without any financial compensation or material benefit. The Law only regulates the institutions and bodies where it is possible to perform volunteering activities, without limiting the types of services and activities.

The Law gives a possibility for a minor to be able to volunteer, however only with a written consent by his/her parents or guardians. (Article 5, paragraph 2)

Conditions and possibilities of volunteering for foreigners

A foreigner can volunteer in the Republic of Macedonia, based on the previously granted approval from the Ministry of Labor and Social Policy and regulated stay in the Republic of Macedonia. (Article 8, paragraph 1)

The organizer of the volunteering is obligated within 60 days from the day of issuing of the approval to inform the Ministry of Labor and Social Policy for the commencement of the volunteering by a foreigner. (Article 8, paragraph 2).

The manner and procedure, as well as the records for granting approval for volunteering of foreigners are determined in details with the Manual on the manner, procedure and records for granting approval for volunteering of a foreigner in the Republic of Macedonia.

Each foreigner that wishes to volunteer in the Republic of Macedonia, first needs to have obtained an approval from the Ministry of Labor and Social Policy. The approval is issued based on the request filed by the organizer of the voluntary activity (Article 2 from the Manual)

The organizer of the voluntary activity, has to enclose together with the request filed to the Ministry of Labor and Social Policy also the following documents:

- *volunteering contract*
- *volunteering programme;*
- *a document confirming the identity of the foreigner;*
- *statement that he/she was not found guilty for misdemeanor;*
- *a copy from the registration of the organizer of the voluntary activity in the Central Registry of the Republic of Macedonia, i.e. the competent court;*
- *the amount and the manner of coverage of the travel expenses and expenses for the stay of the volunteer.*

When filing a request for volunteering, the persons who have previously volunteered in the Republic of Macedonia have to submit also information on the previous volunteering activities (Article 4 from the Manual)

The organizer of the volunteering is obligated within 60 days from the day of issuing the approval for volunteering to inform the Ministry of Labor and Social Policy for the commencement of the volunteering by a foreigner. (Article 8, paragraph 2). This means that if the information on the commencement of volunteering is not submitted within this time limit, the approval is not realized and the foreign person will be deleted from the registry for issued approvals.

After the provision of the approval, and for the purpose of regulating the stay in RM based on volunteering, the foreign person-volunteer should file request to the diplomatic-consular representative office of RM abroad, in the state whose citizen he/she is or in the country where he/she resides. Together with the request submitted to the diplomatic-consular representative office, the foreign person should also attach the volunteering contract. The permit for stay in the country, issued on the basis of volunteering is issued by the Ministry of Interior.

Who can be organizer of volunteering activity?

In accordance with Article 6, an organizer of volunteering can be:

- association of citizens and foundation;
- religious community or religious group;
- public institution; and
- state body.

The organizer of a volunteering determines the need of engagement of volunteers, the types of services and the manner and procedures of providing them, based on a program for volunteering (Article 6, paragraph 2).

The Law precisely determines the subjects where it is possible to volunteer, and that are only legal entities which are non-profit and public benefit organizations, which do not generate profit or benefit. The law does not stipulate the possibility to volunteer with the commercial businesses and public enterprises.

Having in mind that one of the aims of the Law was to promote volunteerism as an activity useful for the society, the results of which are beneficial for the broader community, the following principles were respected while defining the organizer of the volunteering activity: the principle of non-profitability i.e. not distributing profit and the public interest. In this line, the Law also stipulates tax benefits for part of the expenditures related to volunteering, which are usually introduced as a support to the activities that are not generating profit and are of public interest. It was considered that the volunteering which is performed on voluntary base and without compensation should not contribute towards the increase of the profit and the benefits of the business entities, getting some kind of value without investing any effort i.e. getting paid. Volunteering should be an activity of interest for the citizens and the state, which should contribute towards the increase of the quality of live with active participation of the people in the social life. Those are the reasons why the Law restricts the possibility for volunteering in businesses that conduct business activities and generate profit and benefit.

It is obligatory for the organizer of the volunteering activity to prepare a volunteering programme, stating for which activities it is planned to engage volunteers and for which activities there is a possibility to engage volunteers, i.e. to define the types of services which is desirable to be obtained from volunteers (ex. help certain group or persons - elderly people, children, support in the provision of medical protection, giving computer and math classes, lectures on certain diseases or classes on activities in the kindergartens, humanitarian activities, environmental protection) or to engage volunteers within the framework of a project, thus defining the manner and procedure for recruiting volunteers (ex. through the public information means, submitting requests to certain institutions - faculties or non-governmental organizations) etc. The Manual lists only several types of volunteering services, and there are many more in the practice.

Then depending on the conditions and the possibilities of the organizer of the volunteering activity in respect of the premises and the finances, as well as the type of activities it would be good if the number of persons that could volunteer is also determined in the programme.

The Law does not regulate what should the programme contain and leaves it up to each organization to determine it. However, this document will be of huge importance for the organizer during the inspection controls to confirm that the persons which are engaged are volunteering and not working, i.e. are not replacements for a vacant position (Article 17). Due to this it is recommended the programme to be determined with more details.

Which are the Rights of the Volunteer?

The rights of the volunteer are defined in Article 10, according to which the volunteer is entitled:

- to receive in a written form the description of the rights and obligations that he/she should fulfill and to be familiarized with the conditions and dangers during the volunteering, before the start of the volunteering.
- to be familiarized with the general acts of the organizer of the services, i.e. of those parts that refer to the volunteer services, for which he/she is engaged;
- to use the assets for protection during work, according to the provisions for protection at work;
- to be trained, if that is necessary for provision of the service which is the object of the contract;
- to leave of absence during the volunteering if there are justified reasons for that;
- to daily rest;
- to be consulted and informed while making a decision on the manner of granting the services;
- to compensation of the previously agreed expenses related to the volunteering (food allowance, transport expenses to and from the place of volunteering, expenses for official travels and training expenses); and
- protection and privacy of the personal data.

A volunteer who is a foreign natural person, besides the right from paragraph 1 of this Article is also entitled to expenses for the stay, health insurance and travel expenses for the return trip. (Article 10, paragraph 3)

Although the volunteering is performed on voluntary basis, each volunteer before starting the volunteering activity has to be informed of his/her rights during the time of volunteering.

Since the Law does not stipulate obligatory signing of contract under certain number of hours of volunteering, it regulates that the volunteers (and thus it is an obligation of the organizer) are entitled to be informed in writing, i.e. to be informed on their rights and obligations and on the other conditions related to the volunteering before the start of volunteering. Prior defining of the rights of the volunteer will help both sides to reduce and exclude the possible disagreements which might occur in the course of volunteering. If the rights of the volunteer are previously defined, the decision on volunteering is very clear and it should not cause problems and ambiguities in the course of volunteering.

The Law gives a possibility for compensation to the volunteer of certain expenses which have occurred during the provision of the volunteering services, such as expenses related to the food, transport to and from the place of volunteering, expenses for business trips and training expenses, under the condition that there is a previous contract for these or for part of the expenses. The Law gives space to the volunteer and the organizer to decide themselves whether some of the above mentioned expenses will be compensated. But, for that they need to have a prior agreement, and if they agree that the expenses will be covered, than the organizer has to cover them. (Article 13)

As for the amount of the expenses that can be compensated, it can be up to the amount which the organizer is paying to the employees of the organizer. Also these expenses, if determined in the volunteering contracts and if were made during the provision of the services, are exempt from payment of the personal income tax, in accordance with Article 1 from the Law on Changing and Amending the Article 6 from the Law on Personal Income Tax (“Official Gazette of RM” no. 160/2007). If the expenses are not determined in the contract, they will not be exempt from tax payment, in accordance with the stated legal provision.

By concluding a volunteering contract, the rights acquired based on the unemployment status shall not be lost, according to the provisions for employment and insurance in case of unemployment. (Article 18)

This means that a volunteer who is unemployed, and who has previously acquired certain rights and enjoys these rights based on the unemployment status (health insurance due to unemployment status, monetary compensation, pension and invalidity benefits) can volunteer and at the same time enjoy the rights acquires on the basis of the unemployment status. This means that this person during the volunteering can retain the status of unemployment and will not lose the acquired rights.

Which are the Obligations of the Volunteer?

Besides the right, the volunteer also has obligations which are defined with Article 11, as follows:

- inform the organizer of the volunteering about the illness or other reasons that prevent him/her from giving the services;
- give service according to the law, volunteering contract and the general acts of the organizer that he/she was previously introduced to;
- give services personally and directly;
- participates in the training, in order to provide quality service;
- keeps the confidential data, i.e. the classified data of the organizer of the volunteering, that he/she was introduced to before giving the service; and
- inform the organizer of the volunteering about the harmful consequences that he/she is familiar with and which may damage the organizer, the volunteer personally or any third parties.

What are the Obligations of the Organizer of Volunteering Activity?

The organizer of the volunteering, in accordance with Article 13 is obligated to:

- provide conditions for performing the volunteering according to the law and the contract for volunteer service;
- issue to the volunteer a volunteer booklet for volunteering and to state in it the data stipulated in this Law;
- provide materials and assets for performing the volunteering;
- provide payment of the previously agreed expenses in due time;
- provide confidentiality of the data and protection of privacy;
- provide other conditions stipulated with this Law or that were agreed mutually between them; and
- provide insurance from professional diseases and injury at work during the volunteering, according to the provisions for pension and invalidity insurance and the provisions for health insurance, if it was so agreed.

Article 6 from the Law on Changes and Amendment to the Law on Pension and Invalidity Insurance ("Off. Gazette of RM" no. 153/2007) stipulates that the volunteer can also, as the other persons, gain right to invalidity pension and compensation for bodily injury which has occurred during the time of the volunteering. This right, as well, can be gained by the volunteer if it was previously determined by the parties and this represents one of the elements of the contract. In this case the organizer of the volunteering should pay benefits for invalidity insurance in case of injury during the volunteering in the amount of 4% of the average monthly net-salary in the state paid for the previous month. For example, the amount which has to be paid by the employee for the month of December 2007 is 613 denars (the average monthly net-salary per employee in the state for the month of November, according to the data from the State Statistics Bureau is 15.320 denars $\times 4\% = 612$ denars).

The Law gives a possibility the volunteer to gain also the right to insurance for professional diseases in accordance with the provisions for health insurance, if so agreed by the parties, but at the same time the organizer of the volunteer activity should pay benefits for professional diseases in the amount of 0,5% of the basis which is applied for calculation of the health insurance. For example, for the month of December 2007, the amount would be 38 denars ($15.320 \times 50\% = 7660$ denars, which is the lowest basis for health insurance benefits; $7660 \times 0,5\% = 38$ denars)

The stated amounts are changeable and depend on the amount of the average monthly net-salary per employee in the state.

Contract for Volunteering

It is obligated to conclude a contract for volunteering, in accordance with Article 14 of the Law:

- for volunteering work which is in duration of more than 40 hours per month; and
- with all foreign volunteers, regardless of the duration of the volunteering.

The Law gives a possibility to conclude contract for volunteering with domestic natural persons also in cases when the volunteering is in duration of less than 40 hours per month. The contract is concluded between the organizer of the volunteering activity and the volunteer. The contract for volunteering with a minor can be concluded only with written consent from his/her parents or guardians.

The contract for volunteering has to contain the following elements:

1. Contracting parties:
 - organizer of the volunteering (title and seat)
 - volunteer (name, surname, address of dwelling, respectively residing);
2. Object of the contract;
3. Place of volunteering and duration of the volunteering, and if there is no permanent position, than stating only the places where the services will be provided;
4. Volunteering activities or services that are provided;
5. Separate rights and obligations;
6. Type of insurance during the volunteering, while coming and going back from the place of volunteering and other activities planned during the time of volunteering;
7. Previously agreed expenses for the volunteering and the manner of compensating them;
8. Manner of ending and terminating the volunteering contract; and
9. Date and time of concluding the contract.

The relationship between the volunteers and the organizers is regulated with contract for volunteering. By signing the contract for volunteering and by defining its content there is clear distinction made between the employment relationship and the volunteer activity. It is also important to state the expenses for volunteering in the contract for volunteering, for which the parties have prior agreement, in order to be eligible for tax releases, stipulated in Article 1 from the Law on Changes and Amendments of the Article 6 of the Law on Personal Income Tax (“Official Gazette of RM” no. 160/2007).

The Law also contains misdemeanor provisions and if not respected, the organizer or the volunteer have to pay certain fine for the committed misdemeanor (Articles 22, 23 and 24). For example, if the volunteering contract stipulates that during the time of volunteering the travel expenses will be reimbursed to the volunteer, and the organizer does not abide by these provisions, i.e. does not pay in due time, in that case the fine, according to the Law is from 500 up to 1000 Euros in the denar equivalent amount. In such case, the volunteer can terminate the contract for volunteering.

Records on the Volunteering

The organizer of the volunteering is obligated to keep records on the volunteering of all the volunteers (Article 19, paragraph 1 from the Law). The manner of keeping record is regulated with separate Manual which stipulates that the records kept by the organizer have to contain the following data:

- ordinal number;
- personal information for the volunteer (name and surname, unique birth registry number, place or dwelling or residing);
- number of contract concluded with domestic natural person;
- number of contract concluded with foreign natural person;
- written document signed by both parties, determining the rights and obligations of the volunteer and the organizer of the volunteering activity, for which there is no signed written contract;
- duration of the volunteering;
- duration of the hours of volunteering in the course of the month;
- type and duration of the training which the volunteer had during the volunteering;
- and
- signature of the volunteer and the person authorized for representation and stamp.

Record keeping is especially important both for the volunteer and the organizer and it should serve as source of data which are entered in the volunteering booklet.

Volunteering Booklet

The form and the content of the volunteer booklet, according to the Law is determined by the Minister of Labor and Social Policy, with a Manual on the form and content of the volunteering booklet, the manner of its publishing and data recording (“Official Gazette of RM” no. 128/2007). It is printed and each volunteer can obtain it from the Ministry of Labor and Social Policy, i.e. the regional offices of the Ministry of Labor and Social Policy. The data in the volunteer booklet is entered by the organizer of the volunteering activity based on the records kept by the organizer.

The Law does not contain provisions directing to retroactive activity, i.e. issuing volunteer booklets prior to the passing of the Law. Due to this it is considered that the Law should not have retroactive effect, i.e. issuing volunteer booklets for a volunteering activity performed during the period in which this issue was no legally regulated. The data which needs to be entered in the booklet is based on the records which have to be kept by the organizer of the volunteer activity. After passing the Law, the manner of keeping records was regulated with the Manual on the record keeping of the volunteering work. (“Official Gazette of RM” no. 128/07). After passing the Law and the Manual, the organizer is obligated to keep records with precisely determined data, which afterwards has to be registered in the volunteering booklet. Before passing the Law and the Manual,

the organizer was not obligated to keep records and it is not possible to consider the data entered as correct data.

The booklet contains 20 pages and at each page it is precisely determined which data needs to be entered (Article 3 from the Manual). The general data on the volunteer are planned to be entered on the third page, as follows: name and surname, unique birth registry number, day, month and year of birth, place, municipality and state of birth; address and place of dwelling; citizenship and signature of the volunteer.

The data on volunteering should be entered in the column from the fourth to the seventeenth page, as follows: title and seat of the organizer; type of activity of the volunteer; type of training; duration of volunteering, as well as stamp and signature.

If certain data is important, and there is no column planned for entering it, it can be entered on page 18 of the booklet.

All the data which are registered in the volunteering booklet should be entered with ink and block letters (Article 5 of the Manual). If a mistake was made during the entry of data, Article 5 of the Manual gives a possibility to cross it over.

When the volunteer applies for employment, he/she can also enclose the volunteering booklet, from where the employer can get information on the knowledge, skills and trainings of the volunteer. The Law does not have provisions determining that the volunteering experience has to be considered as working experience. What should be considered as working experience is subject and content of the legal provisions or acts referring to specific activities. The work experience is an obligation emerging from the Law on Labor Relations and this is different from the volunteering obligations and therefore a difference should be made between them. Still, each employer is free to assess individually whether and to which extend he/she will take in consideration the volunteering experience as factor in the employment process.

Damage Liability

The Law also stipulates damage compensation by the volunteer, the organizer of volunteering activity or third party if damage is made on purpose or out of utter negligence, as well as damage compensation paid by the organizer of the volunteering activity to the volunteer. However, the Law does not regulate the manner of compensating the damage, instead it refers to the Law on Obligation Relations (Article 12 of the Law)

USEFUL CONTACTS:

There are several volunteer centers in the Republic of Macedonia, as well as volunteer info points which you can contact if you are interested in volunteering and if you have questions regarding the possibilities for volunteering and your rights. Some of them are listed in continuation of this publication, however there are many other associations and foundations, as well as public institutions that you can contact, which include volunteering among their activities.

VOLUNTEERING CENTER OF MACEDONIA

Youth Cultural Center - Bitola

„Car Samuil“ str. No. 29 Bitola 7000

Macedonia

tel.: 047/233-020

fax: 047/203-925

E-mail: mkcbt@mt.net.mk

Web: www.mkcbt.org.mk

VOLUNTEERING INFO POINTS

Youth Council - Ohrid

„Turisticka“ bld. JP Komunalec

Ohrid 6000 Macedonia

tel.: 046/252-925

E-mail: mladinskisovet_oh@yahoo.com

Web: www.mso.org.mk

SPPMD - Kavadarci

„Braka Hadzi Tefovi“ str. No. 28

Kavadarci 1430 Macedonia

tel.: 043/412-947

fax: 043/410-408

E-mail: vavilon@sppmd.org.mk

Web: www.sppmd.org.mk

Tolerant Youth - Debar

„8 Septemvri“ str. b.b.

Debar 1250 Macedonia

tel.: 046/835-132

fax: 046/835-106

E-mail: rinitolerante@hotmail.com

Youth Alliance - Tetovo

„Radovan Conik“ str. No. 6
Tetovo 1200 Macedonia
tel.: 044/338-884
fax: 044/332-877

E-mail: mladinskaalijansa@yahoo.com

Youth Educational Center - Delcevo

„M. M. Brico“ str. No. 17
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If you need additional information regarding the implementation of the Law, please contact:

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