

EUROPEAN VOLUNTEER CENTRE
The Voice for Volunteering in Europe



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

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AVSO Association of
Voluntary Service
Organisations

COUNTRY REPORT ON THE LEGAL STATUS OF VOLUNTEERS IN
LUXEMBOURG

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GENERAL DEFINITIONS OF VOLUNTEERISM

VOLUNTEERISM: refers to all forms of voluntary activity, whether formal or informal, full-time or part-time, at home or abroad. It is undertaken of a person's own free will, choice and motivation, and is without concern for financial gain. It benefits the individual volunteer, communities and society as a whole. It is also a vehicle for individuals and associations to address human, social or environmental needs and concerns. Formal voluntary activities add value, but do not replace, professional, paid employees.

VOLUNTEERING: can occur informally (for example neighbourly "helping-out"), or within the structures of a non-profit organisation. It is often (but not always) of a part-time nature. It may occur over one day or many years in a range of different fields. It is good practice to ensure that formal volunteers are covered by appropriate accident, health-care and third party liability insurance, that they receive appropriate training and management, as well as the reimbursement of all out-of-pocket expenses.

FULL-TIME VOLUNTARY SERVICE: refers to specific, full-time project-based voluntary activities that are carried out on a continuous basis for a limited period of time. Voluntary-service activities may occur at home and abroad. It is good practice to ensure voluntary service volunteers are afforded appropriate social protection, such as accident, health-care and third party liability insurance. Volunteers should also receive appropriate training and management, reimbursement of out-of-pocket expenses as well as appropriate accommodation and subsistence allowances as agreed between the volunteer and the non-profit organisation.

Background to the Project

This is one of a series of 'country-reports' produced by the Association of Voluntary Service Organisations (AVSO) and the European Volunteer Centre (CEV). They aim to provide comprehensive and practical information on volunteers and the law in a number of current and future European Union Member States.

Each country report explores, in a standardised format, some of the key questions that face volunteers and volunteer-involving organisations in relation to their legal positions.

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 contribute to their annual updates, CEV and AVSO would be delighted to hear from you.

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1. Concept of Voluntary Work in Luxembourg

The Luxembourg national volunteer centre (Agence du Bénévolat) defines volunteering (bénévolat) as,

“freely-chosen engagement, without financial remuneration, in an activity for the benefit of another or the community”

It must occur within the structures of an organisation, and outside normal family relations or those based on friendship.

The “Law on Voluntary Service of 1999” meanwhile, defines a volunteer (volontaire) as the person who carries out voluntary service. Voluntary service (volontariat) is the group of activities of general interest, i.e. activities of a social or humanitarian nature that encourage intercultural understanding and solidarity, that have no professional character, are developed in the framework of non-profit, non-governmental organisations, do not substitute for professional, paid labour, and are non-paid with the exception of the reimbursement of eventual expenses.

Apart from the Law on Voluntary Service of 1998, there are no further laws in relation to volunteering in Luxembourg.

2. Volunteerism and the Law

The legal framework for volunteers is based on two regulations:

- Law on Voluntary Service of 28 January 1999 (loi du 28 janvier 1999 concernant le service volontaire). See: <http://www.etat.lu/memorial/memorial/a/1999/a0231503.pdf>
- Grand-Ducal Rules on the Composition, Organisation and Functioning of the Commission, 12 February 1999 (règlement Grand-Ducal du 12 février 1999 concernant la composition, l'organisation et le fonctionnement de la commission d'accompagnement du service volontaire). See: <http://www.etat.lu/memorial/memorial/a/1999/a0231503.pdf>

The Law Of The Grand-Duché De Luxembourg On Voluntary Service Of 28 January 1999

Following the recommendations of the Council of Europe and the European Union, the Grand Duché of Luxembourg enacted a Law on Youth Voluntary Service in 1999.

The law of 28 January 1999 establishes the legal framework applicable to young volunteers performing activities of general interest within non-profit, non-governmental organisations.

The aim of the law is to promote social engagement of young people, by facilitating

the exercise of activities of general interest that may be for their own benefit, the benefit of others as well as constitute an educational experience.

Definitions: The Concept Of “Voluntary Service” Under The Law

According to the law, voluntary service is the group of activities of general interest, i.e. activities of a social or humanitarian nature that encourage intercultural understanding and solidarity, performed by natural persons, under the following circumstances:

- That activities have no professional character;
- That the decision to volunteer was taken freely by the young person;
- That they are developed in the framework of non-profit, non-governmental organisations;
- That they do not substitute professional paid labour;
- That they are non-paid, with the exception of reimbursement of eventual expenses.

The law supports both national and transnational programmes for international peace and reconciliation, environmental protection, development cooperation, culture, sport, social and educational work.

Limited Duration Of Voluntary Service Under The Law

Voluntary service, according to the law, can be performed for periods of between six and twelve months, full-time, without interruption. However this may be shortened to three months or extended up to eighteen months with the approval of the Ministry of Youth.

Voluntary Service Organisations Under The Law

In order to benefit from any privileges established by this law, voluntary service non-governmental organisations must fulfil minimum criteria: they must be non-profit associations or foundations established under the Law of 21 of April 1928, as subsequently amended, or an entity created by virtue of *lex specialis* to develop activities of general interest.

The necessary accreditation is granted by the Ministry of Youth on the basis of an application from the organisation that must state their capacities, abilities and experience within the above-mentioned fields of activities of general interest. The decision is valid for a period of two consecutive years.

Once accredited, voluntary service organisations are entitled to submit their voluntary service programmes or projects to the Ministry of Youth for official approval.

Volunteers Under The Law

In order to be acknowledged legally as a volunteer under the law in Luxembourg, persons must be aged from sixteen to twenty-five years and must have resided in Luxembourg for at least two years. Derogations for the upper age limit are agreed on an individual basis with the Ministry of Youth, however candidates must not exceed twenty-seven years of age.

Voluntary Service Agreements

There is a voluntary service agreement between the volunteer and the organisation for whom the person volunteers. This includes:

- The rights and duties of both contractual parties in all matters that are not already regulated by the law;
- The nature and duration of the volunteer engagement, as well as the tasks assigned to the volunteer
- The training which the volunteer should receive in order to perform his/her tasks;
- Any subsistence support provided by the organisation to the volunteer, including food and accommodation for the duration of the voluntary service period;
- The conditions under which the contract may be terminated by either parties.

3. Reimbursement of Expenses

Volunteers Within The Law On Voluntary Service Of 1999

Those that volunteer within the framework of the Law on Voluntary Service of 1999 are allowed to receive reimbursement of their expenses from organisations. Furthermore, the State grants volunteers an economic compensation of around 250 EURO per month, which corresponds to a fifth part of the monthly national minimum wage of the country. This amount is calculated without regard to the age or profession of the volunteer. Volunteers also benefit from the same benefits as students in relation to reduced rates for public transport, some cultural and sports events.

Volunteers Outside The Law On Voluntary Service Of 1999

Decree Of 30 June 1994 On Meals On Wheels Delivery

A Government Decree of 30 June 1994 allows meals on wheels delivery in application of the regulation act of 6 March 1991. According to this decree, those delivering meals on a voluntary basis and without financial gain, cannot receive any

compensation in money or in-kind, except for reimbursement of personal expenses linked to the voluntary activity. Meals deliveries must be organised under the authority of a public institution.

However, other than this there are no specific laws or regulations in relation to the reimbursement of volunteers' out-of-pocket or other expenses, however in Luxembourg it is good practice for organisations to do so.

4. Recognition, Facilitation

For the duration of the voluntary service period, volunteers are issued with an identification card by the Ministry of Youth.

At the end of the voluntary service period, the volunteer-involving organisation must issue a certificate indicating the volunteers' personal details, the duration and the nature of the voluntary service activities performed, as well as the skills acquired by the volunteer.

5. Welfare Protection of Volunteers

Taxes

Under the Law on Voluntary Service of 1999, no taxes are imposed on volunteers' pocket money, food, accommodation or any other economic compensation granted to them.

The out-of-pocket expenses granted to volunteers that fall outside the framework of this law are also normally untaxed, provided that they do indeed constitute personal expenses only, and not a salary.

Social Protection

Social Security Protection For Young Full-Time Volunteers

Those engaging in voluntary service according to the law are included in the state social security system. The burden of the contributions is entirely assumed by the State. In this sense, volunteers are covered against risks of sickness, accidents, professional illnesses, dependency, disability and old age.

Outside the Law on Youth Voluntary Service, volunteers do not benefit from any State social security protection.

Unemployment Benefits

Entitlement to unemployment allowances is normally affected by the period of voluntary service undertaken because the law stipulates that it is not allowed to receive both unemployment benefits and economic compensation (for example pocket-money) usually granted to full-time volunteers.

Family Allowances

The period of time a young person spends as a volunteer engaged in a recognised voluntary service programme, whether within Luxembourg or abroad, does not affect entitlement to family allowances.

Third Party Liability Insurance

The Grand-Duchy Decree of 6 March 1991 concerns compulsory insurance for voluntary workers against accidents, see Article 90 al 3, Points 9 and 10 of the “Code des Assurances Sociales”. It stipulates that rules for accident insurance apply to any voluntary activity in the social and assimilated sectors.

In other sectors, volunteer organisations must subscribe to a third-party liability insurance for their volunteers.

6. Volunteering Abroad

Family Allowances

The period of time a young person spends as a volunteer engaged in a recognised voluntary service programme, whether within Luxembourg or abroad, does not affect entitlement to family allowances.

7. Foreign Volunteers in Luxembourg

Full-Time Volunteers Coming From Abroad: The Right To Stay And Volunteer in Luxembourg

Individuals from non-EU and EEA countries may volunteer in Luxembourg, provided that they participate in voluntary service programmes acknowledged by the National Ministry of Youth.

Social Protection

In the case of volunteers from other countries, either the organisation that sends the volunteer or the organisation that hosts the volunteer, must subscribe to an insurance that covers the volunteer against risks of sickness, accident, third-party liability etc.

Subsistence Support

According to the Law on Voluntary Service of 1999, it is the responsibility of sending or hosting voluntary service organisations to ensure that their overseas volunteers will be adequately supported, i.e. in terms of accommodation, board, pocket-money, as well as ensure that they behave responsibly while in Luxembourg.

Immigration Policy Applying To Volunteers In Luxembourg

In relation to entry and residence conditions of volunteers, they are subject to general regulations on entry and permanence of foreign citizens in Luxembourg. Non-EU nationals require a work permit in order to volunteer in Luxembourg while volunteers from non-EU and EEA countries do not.

Residence Permits

Nationals of the European Union or of the EEA (European Economic Area):

- Staying up to, and including 3 months, volunteers need only a valid identity card or passport. They must notify the town where they are staying of their arrival.
- Staying over 3 months, volunteers need a residence permit. Within three days of their arrival, volunteers should notify the “bureau de la population/état civil” (population registration office/civil status office) of the town in which they are staying of their arrival, and should request a residence permit.

Third-country Nationals

Note that visa and residence permit issues are dealt with on a case-by-case basis.

Volunteers In Programmes Abroad Other Than Those Explicitly Foreseen By The Law

The law also foresees the existence of other voluntary service programmes, and support for young volunteers that participate in them. For example, young people who voluntarily, and without remuneration, participate in a voluntary service programme with a non-governmental organisation that is not based in Luxembourg can also benefit from State economic support and social protection. The conditions are that they perform an activity that corresponds to those listed and approved by the law, and that the non-governmental organisation with which they are engaged is officially recognised in the country in which it is based.

8. Governmental Action for Promotion – From Past to Future

The “Commission d’accompagnement”

The Law on Voluntary Service of 1999 allowed for the creation of a Commission (the commission d’accompagnement), whose aim is to:

- Give advice on the practical implementation of all matters contained in the law;

- Advise on the programmes and projects of organisations before they are submitted to the Ministry of Youth;
- Make proposals to the Minister regarding the training of the young volunteers, their follow-up and evaluation of their projects.

The structure of the Commission and its rules of procedure are fixed by “règlement grand-ducal du 12 février 1999 concernant la composition, l'organisation et le fonctionnement de la commission d'accompagnement du service volontaire”, available at: www.etat.lu/memorial/memorial/a/1999/a0231503.pdf

The Commission is presided by a delegate of the Ministry of Youth and is comprised mainly of representatives of the various ministries, representatives of the Youth Council (CGJL) and from voluntary service organisations.

Youth National Service

The Law of 27 February 1984 created Luxembourg's Youth National Service (loi du 27 février 1984 portant creation d'un service national de la jeunesse). This was followed by the Accord de Coalition of August 1999 and the Arrêté Grand-Ducal of 11 August 1999 that enumerate the different Ministries and their respective competences. Article 1 of the Law of 27 February 1984 states that the Ministry of Youth is responsible for the implementation of youth policies for the State, and for coordinating the actions of other ministries that are concerned, in one way or another, with youth.

Meanwhile, the Accord de Coalition of August 1999 stresses that the principal aim of youth policy is to help young people develop their potential and find their place in the society, as well as help them become socially responsible adults. This Accord also underlines the role the Ministry of Youth must play in coordinating the different sectoral policies that concern young people, as well as the importance of information to young people and about young people. In addition, it states that the actions of the State be of a complementary nature to those actions of “communes” and youth organisations.

General lines of youth policy:

- The participation of young people in society.
- Equal opportunities between for all young people.
- The promotion of fundamental values, such as democracy, solidarity and tolerance.

The Ministry has developed three plans of action:

- Plan of action: “Participation of youth”.
- Plan of action: “Communication with youth”.
- Plan of action: “Work for youth, volunteering for youth and associations”.

More information on youth policies can be found in: <http://www.snj.lu/>

Agence du Bénévolat

In June 2003, Luxembourg's first national volunteer centre was established, called the "Association pour le Bénévolat" (today "Agence du Bénévolat"). With two employees, it is a joint initiative of the Luxembourg State and civil society sector. At present, it is financed by the Luxembourg State. Stated aims are:

- To welcome, to inform and to orient volunteers of all ages and all nationalities;
- To involve volunteers within the management of the organisation;
- To serve as an interface between volunteers and those organisations that wish to involve volunteers;
- To support associations that engage volunteers as a facilitator, through for example the offering of a platform for exchange and training (centre of excellence);
- To inform and sensitise the public with a view to creating an enabling environment within society for voluntary action.

The Centre is very much in its infancy so further information is difficult to provide, however it does suggest a growing recognition by the State of the importance of voluntary engagement in Luxembourg.

9. Final Remarks, Overview and Recommendation

The Law on Voluntary Service of 1999 reflects a very appropriate means by which the full-time voluntary service of young people can be facilitated and supported. However, there are visible gaps, for example legal recognition of, and support for, other forms of volunteering that also contribute meaningfully to the social and economic development of Luxembourg. There may however, be a push to change this with the newly-established Centre du Bénévolat. Only time will tell in this regard.

The law is available in French at: <http://www.etat.lu/>.

10. Contacts

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