

Volunteering in Romania in 2007: general perspective and legal frame

by Mihai Lisetchi

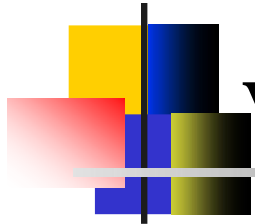
**Toward An Enabling Framework for Volunteerism:
What Needs To Be Done?**

Novi Sad, Serbia, April 26-27, 2007



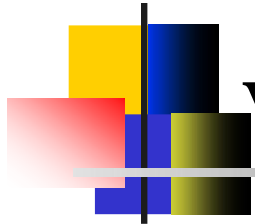
About AID-ONG. Its role in volunteering development in Romania:

- Established in 1997, is the first NGO resource center to operate as a legal entity outside Bucharest. AID-ONG aims to contribute to the development of the NGOs, by increasing their capacity to participate in the process of solving community problems. It is located in Timisoara, Romania.
- 1999-2005: AID-ONG runs a Volunteer Center in Timisoara (as a department of the organization)
- 2001: drafts the terms of reference for the National Volunteer Council
- 2002: drafts the definition of volunteer activity to be adopted by the National Volunteer Council
- 2004: AID-ONG receives the “Volunteer Center of the Year” award (in Romania)



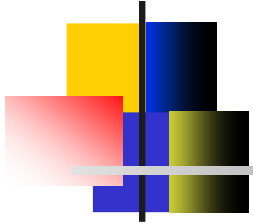
Volunteering in Romania – general perspective:

- legal frame: Law no 339/2006
- volunteer centers: since 1997, in Romania, more than 10 community volunteer centers have been developed (mostly as projects). They recruit volunteers and place them in community projects. In addition, special information materials, training sessions, and summer camps have been organized to encourage volunteerism.
- international volunteers exchange programs (Peace Corps, European Volunteer Service, etc.)
- National Volunteer Council: not operating
- volunteers: not existing consistent data



Volunteering in Romania – general perspective:

- events
 - National Conference on Volunteering (starting 2001)
 - National Volunteering Week (starting 2002)
 - celebrating Volunteers International Day (December 5)
 - National Civil Society Gala (including the award for community involvement)
 - Other local events.



Short history of the law:

- National NGOs Forum, both in 1999 and in 2000, states that there is no need for a law on volunteering in Romania
- meantime, Ministry of Labor drafts the first version of the Romanian Law on Volunteering.
- 2001 the Law on Volunteering is promulgated
- 2001: the first national conference on volunteering states that the Volunteer Law excessively regulates some aspects of volunteer activities.



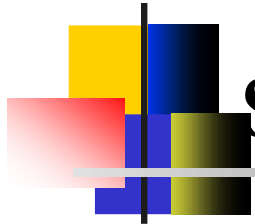
Short history of the law:

- 2001 a national campaign, coordinated by AID-ONG and involving volunteer and NGOs resource centers, has been launched to improve the Volunteer Law.
 - Promotion of the campaign: "Atitudini" a national NGOs dedicated magazine, national e-newsletter "Voluntar", e-groups, local and central written media.
 - Local organizations organized debates on the Volunteer Law in several places in the country. All people interested could send their proposals concerning the wording of the law to the secretary of the campaign.
 - a synthesis of the received proposals was made and the final text was adopted by the Volunteer National Council.
 - Collection of NGOs support signatures for this proposal



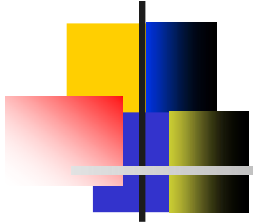
Short history of the law:

- Round tables in different locations, where the proposed alternative was presented to members of Parliament.
- in Bucharest, a final round table was organized in the Parliament. NGOs, media and members of the Parliament participated in the debate.
- 2002: National NGO Forum endorsed the resolution adopted by the first national conference on volunteering on the law.
- 2002: Government modify the law introducing specific regulations concerning youth volunteer programs.
- 2002: in Warsaw, Poland, the International Center for Not-for-Profit Law (ICNL) organized a meeting to undertake a comprehensive examination of the complex issues of volunteerism, particularly in CEE Countries



Short history of the law:

- 2002-2005: different articles criticizing the law are published
- 2005: a senator initiate the change of the law with the support of AID-ONG
- Meantime, a group of MP from the Deputy Chamber is launching a parallel draft
- 2006, summer: after a twisted path in the Parliament, the present law is promulgated



The Law on Volunteering:

- The law, adopted in June 2001 by the Romanian Parliament, establishes a framework regulating volunteering activities in the country and recognises certain basic rights for volunteers.



The concept of volunteering in Romania:

- First version of the law states that volunteer activity shall be considered the activities performed for the benefit of the public, by natural entities, hereinafter named 'volunteers', within the framework of the legal relationship other than labor relationship and the relationship arising between employer and remunerated piece-work employees.
- "Activity performed for the benefit of the public" are those undertaken in areas such as: social services, human rights protection, medical care, culture, arts, education, sciences, humanitarian aid, religion, charity, sports, environmental protection, and social and community life and others.
- *Problem: confused definition*
- New version of the law states that volunteering is a public benefit activity developed by any natural person to or for the benefit of another person by free choice and without material compensation



Volunteers and the Law:

This law sets four main principles related to volunteers:

- The participation of the volunteer based on her/his freely expressed consent;
- The active involvement of the volunteer into the community life;
- The performance of volunteer activities without any financial consideration in return;
- Volunteering is based on equal opportunity, without any discrimination.

Self sufficient and sporadic volunteer activities, except for those performed within the framework of the relationships with the legal entities, attributed to family, friendship or neighborhood relationships shall not constitute a volunteer activity, and therefore, are out of the scope of this Law.



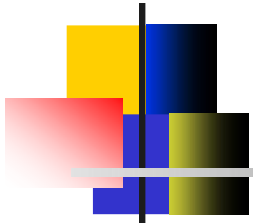
The Volunteer Agreement:

- According to the first version of the law, volunteering can be carried out only on the basis of a written contract between the volunteer and the beneficiary of the volunteer activity, in conditions of freedom of contract and in accordance with the provisions of the volunteerism law.
- *Problem:*
 - *In Romania a NGO may function without having a legal personality This type of NGO, under Romanian legal conditions, cannot sign legally binding agreements, not even volunteer contracts.;*
 - *cases where volunteers work for a very short period of time (less than one hour) or when they perform daily activities are situations in which contracts are not imperative.*



The Volunteer Agreement:

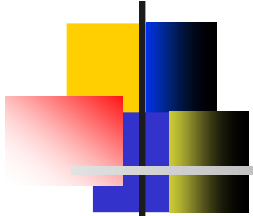
- the new version of the law states that based on the nature of the volunteer activity, its complexity, the risks, impact and liability, a contract **may be signed**.
- the first version of the law **only applies to Romanian citizens**.
- The law prohibits the signing of a volunteer agreement for the purpose of avoiding an individual work contract or other contract for financial remuneration.



Rights and Obligations:

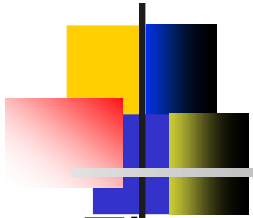
A volunteer contract must include the following rights of the volunteer:

- To carry out the activity according to his/her professional capacity and willingness
- To be insured by the beneficiary according to the legal provisions on workers' protection, taking into account the nature of the activity
- To be insured by the beneficiary against the risks of accident and illness associated with the very nature of the activity To receive a certificate from the beneficiary attesting to the quality of the volunteer
- To be reimbursed by the beneficiary, in accordance with provisions of the contract, for all the expenses incurred while carrying out his/her activity



Rights and Obligations:

- The contract should also specify the following obligations of the volunteer:
 - To perform the duties assigned by the beneficiary
 - To keep the confidentiality of information to which he/she has access during his/her volunteer activity
 - To participate in training courses organised, initiated or proposed by the beneficiary in order to improve the volunteer activity
 - To take proper care of any material resources he/she uses during his/her volunteer activity



Changing or Terminating a Contract:

- The contract can be unilaterally terminated by either of the parties provided that 30 days' notice is given.
- The reason for termination does have to be stated to the other party to the contract.
- The contract can be re-negotiated upon the written request of one of the parties, issued within the period stipulated in the contract.
- For any litigation related to the contract, the law gives the parties the right to appeal to the courts if there is no way to settle the problem in an amicable way.



Reimbursement of expenses and other necessary economic support provided to volunteers:

Tax and reimbursement of expenses

- The reimbursement of expenses to volunteers is not subject to any kind of taxation.

Social security

- NGOs are required to insure volunteers against the risk of accidents and also against liability for any damage caused to third parties.
- Liability for non-performance or inadequate performance of the volunteer contract is subject to the provisions of the Civil Code.
- Participation in volunteer activities shall not be substitute for military service or other, alternative, service substituting military service, and cannot represent the equivalent of a remunerated job.

Reimbursement of expenses and other necessary economic support provided to volunteers:



National Volunteerism and Unemployment Benefits

- There is no rule relative to the unemployment benefits of volunteers. There is no obligation for the unemployed to mention whether they are working as volunteers or not, so, they can receive unemployment benefits anyway.
- *Problem:*
 - *those who work in an organisation on the basis of a work contract can also work as volunteers in the same organisation. But, in such case, the hours worked as a volunteer are subject of interpretation of being extra working hours that are not paid by the employer, which is not legal. Similarly, if the activity is conducted on the basis of a service provision contract, it is possible for that person to have volunteer status as well, but without any risks from work inspection authorities.*



Volunteers from Abroad: The Right to Stay and Volunteer in Romania

- **Volunteers and Work Permit**

Foreign volunteers shall be granted residence permit for the entire duration of their volunteer activities.

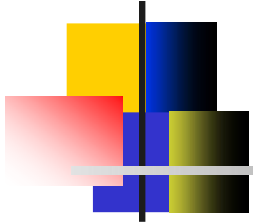
- **National Social Security status of foreign full-time volunteers in Romania**

Volunteers coming from abroad to Romania must fulfill the same requirements as any foreigner coming to the country in order to have social security.

Summary of results and lessons

learned, conclusions, new directions:

- not only that the law on volunteering was unwanted, but the first version was against the development of volunteering activities in the country
- passing a law without an appropriate consultation of the beneficiary organizations, made NGOs and funders spending a lot of resources in an attempt to correct the provisions of the law. And, also, putted at risks almost all the NGOs in country
- the existence of the law does not necessarily mean a change in the practice of volunteer management
- after 5 years of struggling, it looks like regulating volunteering activities in Romania is a **happy ending story**.



Wrong!!!

This is a never ending story! 😊

Any way, good luck to you!