



Considerations on Law no. 78/2014 regarding the Regulation of the Volunteering Activity in Romania

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Abstract: In this paper we aim at highlighting the progress in the regulation of volunteering activity in Romania through the recent adoption by the Parliament of the Law no. 78/2014 on the regulation of volunteering in Romania. The new legislative act, which replaced Volunteering Law no. 195 / 2001 (republished) tries and we believe that it actually succeeds in providing consistent and harmonized solutions at European level to problems of organizations working with volunteers and thus creating a modern legal framework, appropriately adapted to the national and European context in the field of volunteering.

Keywords: volunteer; host organization; beneficiary, volunteering contract; volunteering certificate

1. Introduction

Being present in the social life in our country before the 1989 Revolution, the volunteering activity began to be promoted especially after this historic moment and it gained an impulse especially with the adoption of volunteering Law no. 195 / 2001 (republished).²

According to Eurobarometer data from the spring of 2010, Romania had approximately 4.4 million volunteers i.e. about 20% of the population being involved in such activities specific mainly to people under 35 years, and those involved or included in the educational system. According to statistics, the European average on the involvement in volunteering has reached to 40% and it culminates in Norway where 80% of the population is involved in such activities.

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² Official Monitor of Romania, Part I, no. 276 of 25/04/2007.

The Law no 195 / 2001 republished, although it contributed to real progress in the field, has several shortcomings and contradictions especially regarding the meaning of terms, the regulation of volunteering contract, recognizing the role of volunteering in individual and social development and the rights and obligations of volunteers.

With Romania's accession to the European Union and with the wide reforms initiated within the integration process, the volunteering activity has acquired new meanings, which required transposition into a modern legislative act, according to the new situations arising in the practical activity.

All these reasons and the concomitant existence of numerous other sectorial regulations referring to the volunteering, which were not in accordance with the framework law, imposed the need for a new law to provide European consistent and harmonized solutions for the problems faced by organizations working with volunteers and thus creating a modern legal framework adapted to the national and European context in volunteering domain.

Law no. 78/2014 on the regulation of volunteering in Romania¹, which replaced Law on volunteering No. 195/2001 (republished) tries and we believe that it actually succeeds in meeting these requirements.

2. The Analysis of the New Elements Introduced by Law No. 78/2014 on the Regulation of Volunteering Activity in Romania

The volunteering law governs the unpaid participation of physical entities, based on their coerced decision, to volunteering activities organized in Romania by legal persons of public or private law, non-profit organizations.

In the contents of the first article of the new law we can notice that volunteering is an important factor in creating a competitive European labor market and also in the development of education and training, and to increase social solidarity, so that it can be drawn the obvious conclusion that the Romanian legislator wanted to highlight the important role that this activity has to have, as well as the recognition of its value *“as an expression of active citizenship, solidarity and social responsibility, and also professional value as an expression of personal,*

¹ Published in the Official Monitor of Romania, Part I, no. 469 of 26 June 2014.

professional, intercultural and language development of persons performing these activities.”

Moreover, the whole article 2, which has no counterpart in the old law, emphasizes the state's role in sustaining and supporting voluntary movement at all levels (local, national and international) through all its institutions working in areas where voluntary activities are required.

Total new elements compared to the old law are the groups as organizational form of volunteering activity, the existence of a volunteer coordinator (who may be an employee or a volunteer), and last but not least, the compulsoriness of concluding a volunteering contract.

In this regard, Law no. 78/2014 on the regulation of volunteering activity in Romania, in the content of article 3 letter a, defines volunteering as being the activity of public interest, non-obligatory, unpaid, fulfilled by the voluntary decision, supported and promoted by the Romanian state, based on a volunteering contract, according to which the volunteer undertakes to perform the activity, and the host organization offers an activity proper to the person's application and preparation, ensuring the expenses incurred. In the same article there are defined other terms with which the law operates i.e. activity of public interest, the host organization, volunteering contract, the volunteer, beneficiaries of volunteering activity and volunteers' coordinator.

Regarding the definition of volunteer we can say that the new law brings a radical change compared to the previous situation, as it introduces as requirement for the volunteer the acquisition of labor capacity, according to the laws in force. According to the Labour Code¹ in Romania a person becomes able to work at the age of 16, being able to start working from the age of 15, but only with the consent of parents or legal representative.

The two new principles introduced by Law no. 78/2014 i.e. the principle according to which the *volunteering activity does not substitute paid work* and also the *public interest feature of volunteering activity* are meant to help clarifying the types of actions that are voluntary or not, especially when the public benefit is indirect or extremely difficult to identify.

¹ Title 2, chapter 1, article 13 of Law no 287/2009 on the New Civil Code, republished in the Official Monitor of Romania no. 505/2011.

The new law introduces new elements also on the functioning of organizations working with volunteers. Thus, they are obliged to include explicit provisions regarding the involvement of volunteers and how their activity is being administered in the contents of its status or the internal rules of organization and operation, including the conditions under which the organization may refuse with reasons the cooperation with a volunteer.¹

Law no 78/2014 contains important new elements on the demand of the fact that supporting volunteering by local public administration should not represent a means of reducing costs², indicating the annual meetings of local public administration authorities with representatives of local host organizations of volunteers in order to organize effective cooperation and the involvement of local public administration in promoting and supporting the International Day of Volunteers on 5th December.³

If in accordance with previous legislation⁴, the volunteers were entitled to a “nominal certificate recognizing the volunteering activity and the acquired experience and skills”, a provision which has been applied very different in the absence of detailed methodological rules or a model as good practice accepted and promoted by organizations working with volunteers, Law no. 78/2014 makes real progress towards the recognition of the experience acquired through volunteering. This quality leap is stipulated in article 10, paragraph 2 of the law, namely that volunteering can be considered as “*professional and / or specialty experience, if it is achieved in the field of study*”, stipulation that will determine a more strategic choice of the involvement opportunities by young people starting out in different professions.

Also, another provision of the analyzed legislative act refers to competitions organized by public institutions, i.e. employers, physical or legal entities, from the private sector, where two or more candidates obtain equal scores and they can decide between the two by granting additional scoring for fulfilling volunteering activities.

¹ Another reference to the internal rules of the organization is made in article 11, paragraph 10, that “the host organization is required to keep track of volunteers, the duration and type of conducted volunteering activities and evaluation of volunteers, based on the criteria set out in the internal rules of procedure.”

² Article 6 of Law no 78/2014.

³ Article 7 paragraph 2 & 3 of Law no 78/2014.

⁴ Law no 195/2001, Article 7, letter d.

Moreover, Law no 78/2014 defines more specifically the content of the certificate that is now called *volunteering certificate* provided to include unique identifiers (such as the identification number of the certificate and its correspondence with number of volunteering contract), transforming such a volunteering certificate into a tool that can play a more important role for the recognition of volunteering activity as professional and / or specialized experience, the procedure for issuing it has become more important in this context.

In turn, the voluntary contract, beyond the fact that its conclusion becomes mandatory, has a much more clearly defined content in the new law, with clearly defined rights and duties for both the volunteer¹ and the host organization.² The law requires for the volunteering contract to be accompanied by two other new instruments the *volunteering sheet* and *the volunteer protection sheet*. The Volunteer sheet is a document that inserts details on the duties and responsibilities of the volunteer and the volunteer protection sheet is a document that should provide aspects of health and safety during working.

The new law extends the categories of personnel who cannot have applied the provisions including the staff of the voluntary *emergency services* established by law, and the persons to whom there are applied the legal provisions relating to *military service* based on volunteering.

3. Some Observations and Critical Opinions

The requirement of Law no 78/2014 on the regulation of volunteering activity in Romania on the working ability of the volunteer raises the question of the possibility of involvement in voluntary activities of young pupils aged below 15 years, being quite few the volunteering activities undertaken by pupils from primary or secondary school, and even by children, with the support of kindergartens. How to fit them within the law? How can their involvement as volunteers be managed by organizations / host institutions? Can it be concluded

¹ Important new elements within the volunteer's responsibilities (the term used in the law as the "obligations of the volunteer") are presented: "the obligation to maintain the confidentiality of information which is available within the volunteering activity, during the carrying out of the volunteering contract, and for a period of two years after its termination" and "the obligation of announcing the lack of temporary availability to perform the volunteering activity to which he/she is involved."

² According to article 15, paragraph 1, letter b, the innovations consist of "the obligation to bear the costs of food, accommodation and transport for the volunteer in conducting the volunteering activity."

volunteering contract with them? These are questions that organizations, institutions and schools that used to organize before the volunteering activities involving children aged under 15 years ask themselves and they need to find the answer that will allow them to meet the provisions of the new law on volunteering.

The obligation of concluding a volunteering contract requires in turn the necessity of accrediting of all organizations that will conclude volunteering contracts as **personal data operator**, under relevant legislation¹ as a volunteering agreement and certificate of volunteering should include, by law, the identification data of the volunteer.

Although the law provides in article 9, paragraph (1) that the host organization has the opportunity to refuse the request of a candidate to become a volunteer, with reasons, as provided in its statutes, we believe on the possibility that such a refusal (even if it is justified on the basis of selection criteria informed publically) can be challenged legally.

With regard to whether the regulations on volunteering activity can be included as references and / or explicit provisions relating to volunteers in the internal rules governing the activity of the host organization staff we sustain rather the development and adoption of explicit regulations for volunteers. Such internal rules regulating the involvement of volunteers in the host organization can be made available to all the volunteers and presented within their orientation session.

Another problem is insufficiently clarified by the law is the one relating to whether volunteers should mandatorily receive training on work safety and whether the existence and the use of this form of protection for volunteer exclude the organizations working with volunteers from the scope of the law on health and work security no 319/2006², a law in which it is stated that it applies to persons who perform work on a voluntary basis (article 5, paragraph c).

4. Short Conclusions

In conclusion, beyond the questions to which we do not have clear answers and only the practice in the field can provide the best solutions, including changing the

¹ Law no 677 of 21 November 2001 on the protection of individuals regarding processing personal data and on the free movement of such data, published in the Official Monitor, Part I no. 790 of 12 December 2001 (amended).

² Published in Official Monitor of Romania, Part I no. 646 of 26/07/2006.

law, if it will be the case, taking into consideration some of the key provisions of the new law, reviewed here, we believe they can contribute to effectively improve the volunteering work in Romania, such as the obligation to conclude a volunteering contract, the need for an **internal regulation** with applicable provisions for volunteers, the compulsoriness of a **volunteer sheet**, the obligation of **volunteer protection sheet**, the compulsoriness of an initial **orientation session** for the volunteer, the need for a coordinator of volunteers.

With the implementation of the provisions of the new law, proper recognition of the value and role of volunteering should become a priority for Romania. This requires for further development of recognition systems of skills acquired through volunteering activity supported by the non-governmental sector, by the private employers, but also by the formal education system, for harnessing the full potential of this type of activity, as a form of lifelong learning and active ageing.

5. References

Law no 78/2014 on the regulation of volunteering activity in Romania, published in the Official Monitor of Romania, Part I, no. 469 of 26 June 2014.

Law no. 195/2001 on volunteering republished in the Official Monitor of Romania, Part I no. 276 of 25/04/2007.

The New Civil Code, republished in the Official Monitor of Romania, no. 505/2011.

Law no 677 of 21 November 2001 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, published in the Official Monitor, Part I no. 790 of 12 December 2001 (amended).

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