



Explanatory Report to the European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People

Strasbourg, 11.V.2000

I. The European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People was opened to signature by the member States of the Council and Europe and the non-member States Parties to the European Cultural Convention, on 11 May 2000, at Strasbourg, on the occasion of the 106th Session of the Committee of Ministers of the Council of Europe.

II. The text of the explanatory report prepared by the committee of experts and submitted to the Committee of Ministers of the Council of Europe, as amended and completed by the CDEJ, does not constitute an instrument providing an authoritative interpretation of the Convention, although it might be of such a nature as to facilitate the application of the provisions contained therein.

General comments

The countries of Europe have a long-standing tradition of voluntary service. Though voluntary service takes different forms depending on the country, European countries have repeatedly expressed the desire to establish some form of Europe-wide co-operation. Thus, at the Vienna Conference in April 1993, the European ministers responsible for youth felt that there was an imperative need to deal with long-term voluntary service, recommending "the promotion of a voluntary service for young people, especially long-term at national and European level, and the recognition of a relevant legal status covering the young volunteers' period of engagement".

A committee of experts subsequently met in Strasbourg on a number of occasions between June 1992 and June 1993 with instructions to define long-term voluntary service and investigate appropriate ways of promoting voluntary service at national and European level.

The committee's final report resulted in a draft recommendation on the promotion of a voluntary service in Europe (Recommendation R (94) 4, adopted by the Committee of Ministers of the Council of Europe in May 1994 at the 513th meeting of the Ministers' Deputies).

The recommendation calls, *inter alia*, on member States to reduce the obstacles to free circulation of young volunteers and provide appropriate financial support, within the framework of their respective legal provisions and policies, to the organisations or groups of young volunteers who do not have their own resources to achieve their aims, individually or in groups, in order that the promotion and expansion of voluntary service may concern all European countries.

On the basis of this text the European Ministers responsible for Youth, at an informal meeting held in Luxembourg in May 1995, declared themselves – at the instigation of the German minister, Ms Nolte, who argued in favour of the development of voluntary service, particularly

participation in international schemes lasting more than one year – in favour of a legal status for young volunteers and a convention on voluntary service. They placed particular emphasis on the fact that voluntary service was a social learning process of great importance for young people's personal development and the acquisition of experience, but stressed that it should remain a free choice and should not replace social measures to help the unemployed. It could be defined as an alternative path towards working life which gave young people the opportunity to make their personal contribution towards a group project and, in return, acquire new skills facilitating their social integration and making it easier for them to find jobs.

This prompted the European Steering Committee for Intergovernmental Co-operation in the Youth Field (CDEJ) to set up a working group, which, with a consultant's help, drew up this draft convention. Its aim is to harmonise the concepts of voluntary service of all those involved. It takes account of existing measures and proposes solutions to the problems and obstacles encountered by young people wishing to do voluntary service abroad, within the context of the legal instruments drawn up by the Council of Europe with a view to guaranteeing freedom of movement, encouraging mobility and securing rights and freedoms.

The draft Convention has been revised several times in the light of comments submitted by members of the CDEJ and opinions expressed by the Secretariat of the Council of Europe.

Comments on the articles of the Convention

Chapter I – General provisions

Article 1 – Object and purposes of voluntary service

Voluntary service, which is inextricably linked with youth policy, has its own logic and, for this reason, should not be confused with other forms of work or service. It is a necessity for society in terms of participation, responsibility and education of the population. It is not a means of making up for social, economic and political shortcomings which are the responsibility of the State and its government.

Voluntary service, and in particular long-term voluntary service, is an activity entered into willingly, which should be seen as a system of exchange, of learning in return for work, in the interest both of the volunteer and of those for whom she or he is working. To contribute to the progress of a changing society, this service must be the result of the personal and free choice of the volunteer and this must be reflected in the nature of the service.

Voluntary service can provide an important and worthwhile solution to the problem of unemployment but it must not be used by governments as a means of manipulating employment statistics and creating a "second labour market" with second-class jobs for second-class citizens. Neither should it be regarded as a cheap way for society to delegate public responsibilities to the non-governmental organisations handling voluntary service.

Voluntary service strongly resembles certain alternative forms of national service designed for conscientious objectors, the unemployed, social welfare beneficiaries, and so on, as far as the organisation of the work and the form of payment goes. However, these types of service are rarely voluntary and are often imposed or demanded by the authorities. It is for this reason that voluntary service worthy of the name must stem from a carefully considered personal decision.

Article 2 – Definitions

The aim of drafting a full and unambiguous definition of voluntary service at national level as a prerequisite for the recognition of an appropriate legal status is to incorporate voluntary service into the existing legislation and policies on youth mobility, education, the labour market and social protection.

It is crucial to draw a distinction between full-time voluntary service and part-time voluntary service. Most people take voluntary work to mean any part-time activity carried out during their free time. Our definition of voluntary service, implies long-term involvement full time.

For this purpose, the CDEJ working group has adopted the definition of long-term voluntary service put forward by the committee of experts on voluntary service, which could be regarded as a framework definition because it enabled the member states to develop projects on the basis of distinctive national characteristics:

"Voluntary service means giving and receiving. It is a process of learning by the volunteers and by those with whom the volunteer works. It involves the participation of citizens and institutions in the creation of a more just society by projects meeting new demands or bringing new perspectives to traditional work. So voluntary service has a catalysing role to play. Anybody should have access to it."

It was also influenced by other definitions which made it possible to establish clearly what the distinguishing features of voluntary service are.

For example, as regards volunteers:

"A long-term volunteer is a person who spends a minimum of six to twenty-four months at home or abroad, without interruption and in full-time activity, after a free and carefully considered personal decision, and:

- who actively contributes to the implementation of projects with an educational content and opportunities for intercultural learning;
- who works for projects that promote the common good, that is, projects fostering international understanding and reconciliation, raising awareness and promoting peace; projects concerning the environment, development and cultural problems and work for marginal groups;
- who works, on the basis of a volunteer contract with an acknowledged sending and receiving organisation, on a non-paid activity for a limited time with the right to free board and lodging; pocket money; appropriate insurances against illness, accidents, and so on, and other benefits in keeping with the status of a volunteer."

The question of the length of service has been the focus of discussion within the CDEJ. Though some members were in favour of a period of two years, the CDEJ opted in the end for a period of twelve months, in line with that set by the European Union in the context of its European voluntary service programme. Genuine voluntary service is usually carried out over a limited period in order to distinguish it from professional occupations and create the right conditions for it to produce results on the educational front.

Similarly, as regards organisations and projects, the group agreed that they should abide by certain rules and quality standards but that this should not give rise to senseless, bureaucratic supervision procedures which would form another obstacle to mobility.

Therefore, organisations must:

- be recognised by the authorities of the country of origin;
- act in the public interest;
- meet voluntary service quality standards;

- guarantee the volunteer a status and a voluntary service contract providing for:
 - . free board and lodging;
 - . appropriate health, accident and third-party insurance;
 - . sufficient pocket money;
 - . preparation, support and post-service evaluation;
 - . non-salaried status;
 - . and indicating the nature of the work, methods, and so on;
- be able to ensure the personal safety of the volunteer, and, if necessary, repatriate him or her in an emergency;
- place a limit on the length of service, thereby guaranteeing that the volunteer will return to his or her country on expiry of the period in question.

With regard to projects, the criteria set out in Recommendation R (95) 18 on youth mobility in Europe can equally apply *mutatis mutandis* to voluntary service projects.

Article 3 – Undertakings of the Parties

The obstacles to voluntary service seem to be much the same as those to youth mobility: visas, work and residence permits, rights, procedures, limited mobility for the unemployed, insurance, tax, welfare benefits, and so on. In establishing a common legal status and promoting it, the working group felt that the key points to focus on were that volunteers should take part in projects which could act as a spur to other things, which had an educational content and served the common good, and for which they received no payment other than food, lodging, pocket money and the necessary insurance cover.

Article 4 – Co-ordinating bodies

The group decided that it was not necessary to set up new bodies and that co-ordination could be provided by co-operation bodies as defined in Recommendation R (95) 18 on youth mobility. These bodies should co-operate at international level, as well as providing a national support structure for groups of young people, helping them to put their ideas into practice.

The group decided that the recognition of sending and receiving organisations should be the responsibility of the co-ordinating bodies. Likewise, the range of powers granted to these bodies would enable them to exchange directly any information on instruments detailing benefits and the risks listed in Article 11, and, by extension, would also facilitate access to information for volunteers.

Chapter II – Transnational long-term voluntary service activities

Article 6 – Contract

The contract contained in Appendix I to the convention is only given as a guide and does not form a legal part of the Convention. However, all voluntary service activities must be based on a contract with recognised sending and receiving organisations. In other words, the activities of volunteers must be organised jointly by the two organisations, which may be based in different countries, and the contract must specify, *inter alia*, the conditions under which the volunteer is to work for the receiving organisation.

The other clauses of the contract should stipulate that this is an unpaid activity, to be carried out for a limited period and giving the right to free board and lodging, pocket money, social protection and other benefits relating to voluntary status.

The appendices contain only the model contract and certificate in order to simplify the implementation of the Convention and prevent information which may soon go out of date from being permanently included in formal appendices to the Convention.

Article 8 – Training

Voluntary service has always been regarded not only as an activity of public benefit and a service rendered to society but also as an alternative means of access to working life enabling young people to take advantage of new skills that will help to gain a foothold in society and find a job. It forms an integral part of the concept and structures of adult education, implying active involvement in a long and broad-ranging process of learning about life in all its major facets and not just the continuation of vocational training. It is a social learning process in the broadest sense, which cannot be achieved without educational support organised at group or individual level. This support should begin with preparation prior to the service (personal motivation, language, knowledge of the host country and the partner dealing with the project in question, and so on). It should continue in the form of regular individual and/or group meetings with the representatives of the sending and/or receiving organisations and participation in various courses to improve skills.

Article 9 – Rights of volunteers

Under no circumstances should voluntary service be tantamount to a mere job placement. On the contrary, it necessitates an effort to prepare, monitor and support volunteers. Furthermore, any genuine form of voluntary service must cater for life outside the planned activities, that is for board and lodging, leisure activities, social life and contacts with others. This is why it is important to establish the rights of volunteers, who are not students, employees, unemployed people, immigrants residing in the country permanently, au pairs or trainees.

Article 10 – Financial rules and regulations

The financing of voluntary service projects can be taken up by the State in the case of private failing or by the adoption of a legislation on this point.

Article 11 – Protection against risks

This article is based on the provisions of Recommendation R (95) 18 on youth mobility in Europe. Similarly, the implementation of the principles established in Recommendation R (91) 2 of the Committee of Ministers on social security for workers without professional status (helpers, persons at home with family responsibilities and voluntary workers) could encourage the recognition of the social status of young people carrying out voluntary service.

Article 13 – Administrative formalities

Staying abroad does not just require a visa but also the authorisation to reside on the territory of another Party. As a rule, visas for short stays are valid for three months. After this period, it is necessary to leave the country. In the case of voluntary service, volunteers must, under Article 2, reside in the country for no less than three months and no more than twelve. To avoid any problems, it would be desirable that the Parties issue a temporary residence permit to volunteers, the validity of which would depend on the terms of the voluntary service.

In the case of Parties which are members of the European Community, the rules of the Convention apply subject to Community law on the free movement of persons (see Article 19, paragraph 2).

Each Party may specify the conditions for the entry and sojourn on its territory of volunteers in a declaration addressed to the Secretary General of the Council of Europe. Any such declarations will be notified in accordance with Article 22.f of the Convention.

However, because of its unusual nature, voluntary service tends not to fall within the framework of existing practices or legislation on youth mobility, education, the labour market, social protection, and so on. This is why the Parties undertake, under Article 3 of the Convention, to promote the development of a common concept of transnational long-term voluntary service. The specific characteristics of voluntary service could, for instance, be recognised:

- by issuing volunteers with student visas and regarding them as non-wage-earners, without any formal connections with the labour market, and therefore not requiring a work permit. This approach might be considered if the definition of voluntary service placed emphasis on its educational value;
- by creating a status of visitor under a temporary exchange scheme, which could cover voluntary service or any other type of youth mobility project with an educational value. This status should be accompanied by the legal provisions needed for a mobility project to be carried out fully during the period of residence in the country, in accordance with Recommendations R (95) 18 and R (91) 2;
- by creating a separate status for voluntary workers taking part in activities and projects in keeping with an appropriate national definition of voluntary service.

Chapter III – Multilateral consultations

Article 14 – Multilateral consultations

It was not considered necessary to set up a standing committee to monitor implementation of the convention. This task was to be covered by multilateral consultations, for which some of the arrangements are described in Article 14. The details of the procedure will be set out in the rules of procedure which the Parties will draw up for the multilateral consultations. The rules of procedure shall also regulate the modalities for the exercise of the right to vote of the European Community and its member States taking into account the distribution of their respective competences.

Article 15 – Amendments

Amendments to Articles 1 to 15 of the convention may be proposed by any party. They will be sent to all the member States of the Council of Europe, the Parties to the European Cultural Convention which are not member States, the European Community and any other state which has acceded or has been invited to accede to the Convention in accordance with Article 17.

Proposals for amendments will be examined during multilateral consultations, at which any party to the convention may be represented by one or more delegates. Each delegation has one vote.

When a proposal for an amendment is examined during multilateral consultations, a majority of two-thirds of the votes from the delegations is required for it to be adopted and then submitted to the Committee of Ministers for approval.

The provisions of this paragraph do not rule out the possibility of the Parties' proposing amendments in accordance with paragraph 1 of Article 14.

Chapter V – Final provisions

Articles 16 to 22

These articles are largely based on the "Model final clauses for conventions and agreements concluded within the framework of the Council of Europe" adopted by the Committee of Ministers in February 1982. However certain points do need clarification.

Article 19 – Relationship to other treaties and Community law

In paragraph 1 this article describes the relationship between the convention and other international treaties or agreements under which certain Parties have agreed, or may agree, to establish particular systems in respect of the rules deriving from the Convention, extending the scope of volunteers' rights. Therefore it only relates to such treaties and agreements and not, as a rule, to any other treaty by which the states Parties to the present convention may be bound.

Paragraph 2 is designed to cover the particular situation of those Parties which are members of the European Community. It stipulates that in their mutual relations these Parties shall apply Community rules and shall therefore apply the rules arising from this convention only if there is no Community rule governing the particular subject concerned. This paragraph covers only the internal relations between the member states of the European Community and in no way affects the application of the convention between Community members and Parties which are not members of the European Community.

The aim of paragraph 3 is to enable Parties to conclude other international agreements to supplement or strengthen the provisions of the Convention or facilitate the application of the principles embodied therein.