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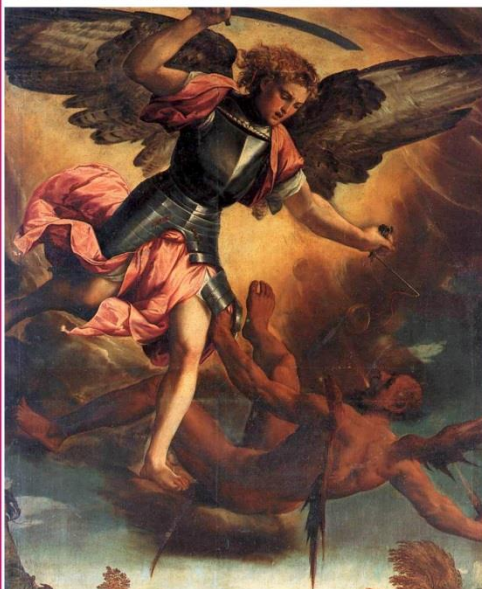
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The Regulatory Framework for Volunteering in the Russian Federation

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Abstract

The aim of the study is to investigate the regulatory framework for volunteering in the Russian Federation via comparative qualitative research methods. As a result, State Programs and orders, public budget loans and subsidies shall be provided on competitive basis, the performer shall be selected without any privileges but from the perspective of efficiency assessment. The conclusion is made about the necessity to adopt a specialized federal law on volunteering.

Keywords: Charity, legal, acts, non-governmental, nonprofit.

El marco regulatorio para el voluntariado en la Federación Rusa

Resumen

El objetivo del estudio es investigar el marco regulatorio para el voluntariado en la Federación de Rusia a través de métodos comparativos de investigación cualitativa. Como resultado, los Programas y pedidos estatales, los préstamos presupuestarios públicos y los subsidios se otorgarán sobre una base competitiva, el ejecutante se seleccionará sin ningún privilegio pero desde la perspectiva de la evaluación de la eficiencia. Se llega a la conclusión sobre la necesidad de adoptar una ley federal especializada sobre el voluntariado.

Palabras clave: Caridad, legal, actos, no gubernamentales, sin fines de lucro.

1. INTRODUCTION

The regulatory framework for volunteering in the Russian Federation is based in the first instance on the international documents: the Universal Declaration of Human Rights (1948) and the United Nations Convention on the Rights of the Child (1989). The legal framework for the volunteering in Russia is also based on the Universal Declaration of Volunteering issued during the XVI World Volunteer Conference in Amsterdam in January 2001, International Year of Volunteers, with the support of the United Nations General Assembly and International Association for Volunteer Effort (IAVE).

Within the country, volunteering is developed under the auspices of the Constitution of the Russian Federation (Parts 4 and 5 Art.13, Part 2 Art. 19 and 30) and the Civil Code of the Russian Federation (Art. 117) and is governed by the following Federal Laws:

- Federal Law No. 82-FZ On Public Associations of May 19, 1995;
- Federal Law No. 98-FZ On State Support for Youth and Children Non-Governmental Associations of June 28, 1995;
- Federal Law No. 135-FZ on Charitable Activities and Charity Organizations of August 11, 1995.

The Concept for Assistance in Development of Charitable Activity and Volunteering in the Russian Federation was approved by the Government decree (which is not a regulatory act) of the Russian Federation No. 1054-r of July 30, 2009. As a practical matter, the volunteering activity began to be governed since the year 1995, with the approval of the Strategy of the State Youth Policy in RF by the Government of the Russian Federation on December 18, 2006. The document specified the aggregate of priority youth-oriented directions including the objectives associated with the youth participation in the implementation of priority national projects. One of the Strategy projects is Volunteer of Russia.

2. METHODOLOGY

The fundamental law for the volunteering legal framework can

currently be considered the Federal Law No. 135-FZ on Charitable Activities and Charity Organizations. It governs the interaction of a volunteer and recipient, regulates the conditions of a volunteer's participation in the charitable activity of a legal entity, opens possibilities for reimbursement of expenses to volunteers associated with performance of voluntary activity. The Concept for Assistance in Development of Charitable Activity and Volunteering in the Russian Federation was approved by the Government decree of the Russian Federation No. 1054-r of July 30, 2009. It contains a set of measures required to support the development of the charitable segment of the nonprofit sector.

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In this case, the personal income tax shall not be deducted from the volunteers. The Federal Law of the Russian Federation No. 117-FZ of June 3, 2011 particularly governs the insurance contributions for volunteers to the Pension Fund of the Russian Federation, Social Insurance Fund of the Russian Federation, Federal Compulsory Medical Insurance Fund and territorial compulsory medical insurance funds due to organization and holding of the XXII Olympic Winter Games and XI Paralympic Winter Games of 2014 in Sochi, and the XXVII Summer Student Games of 2013 in the city of Kazan. A written contract with a volunteer can be formalized in the form of a single document in two (or more) copies signed by the organization and volunteer, or by way of correspondence containing rights and duties of the parties. It is expedient to stipulate the following aspects in the contract:

- Description of the volunteer’s functions (the scope of works or services);
- The person controlling and/or coordinating the volunteer’s activity, the procedure of its performance (if possible, with reference to internal documents of the organization);
- Types and limits of expenses that can be borne by the volunteer for the benefit of the organization, and procedure of reimbursement of such expenses;

– Obligations of the organization to create the conditions for the volunteer's work;

– Liability of the parties for the damage inflicted on each other;

– Contract duration, reasons and procedure of termination.

It is important to take into account that as a general rule, the contracts are regarded as non-gratuitous unless otherwise follows from their content. Therefore, the mere fact of the absence of price in a contract does not mean its gratuitous nature. A dishonest volunteer or charity provider can claim payment for the work performed or services rendered through legal proceedings unless the contract specifies directly that the activity shall be performed gratuitously. Volunteers cannot enter into labor contracts because the labor legislation does not stipulate the possibility of engaging an employee under a labor contract in unpaid work. On the contrary, one of the features of labor relations is the performance of labor functions by an employee for payment (Art. 15 of the Labor Code of the RF). Such a situation generates a number of consequences for volunteers that reduce the social attraction of volunteering:

a) No salary;

b) No paid leave;

c) The time period spent by a volunteer in a charitable or another nonprofit organization is not included in the service record and pension insurance record.

3. RESULTS

The regional level of volunteering is governed by the laws, decrees and orders of the local self-government authorities. By governing the matters of volunteering and voluntary organizations, they actually generated a national-scale technology of the volunteers' activity. The RF constituent entities fulfill legal regulation in this activity only within their powers. While organizing and fulfilling voluntary activity in constituent entities of Russian, they use a conceptual framework specified in the regional legal acts. It is essential to highlight that the notion of volunteering is not defined in federal legislation. However, there are examples of its felicitous definition in the regional legislation (Postanovlenie, 2011; Quezada-Sarmiento & Enciso, 2016).

In general, the laws of the RF Constituent Units comply with the provisions of the Federal Law On Charitable Activities and Charity Organizations: The Law of Bryansk oblast No. 43-3 On Support of Charitable Activity in Bryansk Oblast of June 10, 2008; the Law of Lipetsk oblast No. 339-OZ On Charitable Activity in Lipetsk Oblast of December 31, 2009; the Law of Tula oblast No. 1190-ZTO On Support of Charitable Activity in Tula Oblast of December 18, 2008; the Law of Ulyanovsk oblast No. 151-ZO On State Support of Charitable Activity in Ulyanovsk Oblast of October 8, 2008 and others. All the stated regulatory documents establish peculiarities of performing a charitable activity on the territory of a specific constituent unit of the Russian Federation and stipulate additional guaranties of such activity. At the same time, each of them emphasizes

that it was adopted in accordance with the Federal Law on Charitable Activities and Charity Organizations and other federal acts.

The absence of special laws on charitable activity and volunteering in many constituent units of RF does not mean that these types of socially useful activity remain neglected by regional authorities and without state support. The laws on state support of charity are in force in a number of constituent units (for example, in Bashkortostan, Adygeya, Komi, Arkhangelsk, Kurgan, Penza, Tula, Ulyanovsk, Chelyabinsk, and Yaroslavl). All these regulatory legal acts generally remind the above-mentioned laws of the constituent units of RF on charitable activity but they have a greater focus is on the state support of charitable activity rather than on its general notions and directions. Within the powers conferred by the Federal Law No.

131-FZ On General Principles of Organizing Local Self-Government in the Russian Federation of October 6, 2003, municipal units are entitled to provide a number of additional guaranties for the persons performing charitable activity on the territory of a respective municipal unit, and to specify additional rules and conditions of such activity while maintaining the condition of consistency of municipal norms with the norms of federal legislation and legislation norms of a respective constituent unit. For instance, the Federal Law On Organizing and Holding of the XXII Olympic Winter Games and XI Paralympic Winter Games of 2014 in the City of Sochi, Development of the City of Sochi as a Mountain Climate Resort and Amendments in Certain Legislative Acts of the Russian Federation became a foundation for adoption of the City Targeted Program

Volunteers of Novorossiysk for the Years 2011-2013 (Federalnyi, 1999).

Moreover, the Federal Law on Primary Principles of Organizing Local Self-Government in the Russian Federation (Item 25 Art. 15) states that rendering support to charity and volunteering refers to the local matters, with respect to which the local authorities are entitled to take independent power decisions bearing regulatory nature. The legislation of the Russian Federation stipulates the performance of charitable and voluntary activity by private persons and legal entities in accordance with the principle of voluntariness. Citizens and organizations have the right to decide the scope and form of performed activity on their own. The State and local self-governing authorities, for their part, undertake to create favorable conditions and regulatory environment for the development, organization and implementation of volunteering movement without direct interference.

The direct interference of state authorities only hinders the development of volunteering practice in the country (Yang et al., 2019; Soo et al., 2019). The primary objective of the authorities is to ensure the principle of equality of the presented and functioning voluntary organizations within the country (Zakon, 2013; Vajravelu, 2018). State Programs and orders, public budget loans and subsidies shall be provided on competitive basis, the performer shall be selected without any privileges but from the perspective of efficiency assessment. The state currently encourages charitable activity by way of exemption from taxes, customs fees and other obligatory payments.

4. DISCUSSION

The current edition of the Federal Law No. 135-FZ on Charitable Activities and Charity Organizations contains term participants of charitable activity. Article 5 indicates three types of participants: charity providers, volunteers and recipients. The Law gives an umbrella definition for them: The participants of charitable activity for the purposes of the present Federal Law are understood to be citizens and legal entities performing charity, including support of the existing or creation of a new charitable organization, as well as citizens and legal entities for the benefit of which the charity is performed. The current edition of the Law does not have a definition of volunteering as such.

Earlier documents interpreted charitable activity as a form of social service performed through freely expressed will of citizens, focused on disinterested rendering of socially significant services at the local, national or international level and contributing to personal growth and development of the citizens (volunteers) performing the activity. Such interpretation is totally wrong for the activity, which in its essence is implemented without regard to the state boundaries. In order to improve the situation, the Council of the Federation of the RF Federal Assembly elaborated and presented for discussion a draft Federal Law on Volunteering. Its entry into effect was impeded by a violent discussion of the general public and the professional community of nonprofit organizations. The parties adduce a number of

arguments (Indriastuti, 2019; Hosseini Tabaghdehi, 2017).

Firstly, the proposed law governs only certain types of volunteering, duplicates current legislative acts in many respects, and leaves unaddressed many real problems of nonprofit organizations engaging volunteers, without clarifying the available vague legal language in different valid documents. Secondly, there were many claims to the language of the new law wherein many provisions are ambiguous and mechanisms of implementation for many events are not clearly specified. In the opinion of the majority of nonprofit organizations heads, charitable funds and voluntary organizations, that will entail a great many of annexes and amendments.

It will enable the state authorities to restrain the initiative of volunteers and provide the public officers with the tools of management and suppression of the voluntary activity. In the long run, the adoption of the law in the proposed edition will cause reduction of investments in the volunteering sphere and rise in corruption. In view of the experts, the above draft law, in the form offered for discussion, can settle current issues and meet only the requirements of state bureaucracy rather than those of the civil society institutes. It has to be revised in terms of stimulation of volunteering institute development in Russia and filling the existing gaps in legislation in the sphere of volunteers' engagement, reimbursement of their expenses and security guarantees.

5. CONCLUSION

The conducted analysis of the regulatory framework governing the volunteering movement and associated legal relations in Russia allows making the following conclusions:

1) Institutionalization of volunteering movement in the Russian Federation is not only formed as part of the global tendency, but differs by its own milestones in development that have already formed into a certain tradition. The primary traditions are discovered in the organization and the legal environment of this activity.

2) In the Russian Federation, the legal norms concerning the organization of volunteering are contained in the regulatory legal acts on different subject-matters and of different level characterized by the lack of a common conceptual basis and unity of a conceptual framework. A number of legal documents contain mere attempts to govern the selected aspects of volunteering and specify the prospects for development of only certain types of volunteer activity.

3) At a regional level, the volunteering is governed by laws, decrees and orders of local self-government authorities that partially fill the gaps in the regulatory framework of volunteering movement in the country. By governing the matters of volunteering and volunteering organizations, they have actually generated a national-scale technology with respect to the volunteers' activity.

4) The current regulatory framework for volunteering in the Russian Federation is underdeveloped, which is primarily conditioned by the lack of a relevant federal law. Numerous initiatives focused on improvement of the legal environment around volunteering reflect the

tendency, in the frameworks of which the state makes attempts to consider and adopt laws that are established purposefully to acknowledge the role of volunteers and formalize their rights and duties. This tendency also reflects regional efforts focused on recognition of volunteers and the creation of legal acts that would enable to support their activity at a local level.

An effective measure to improve the regulatory framework in the sphere of volunteering movement and support will be adoption of a special law, as well of amendments in certain codes and legislative acts regulating local self-government, taxation and assessment of insurance contributions to extra-budgetary funds; that will result in the development of regional legislation and adoption of local regulatory acts in the volunteering sphere. It is logical to secure obligations for volunteering development in the regulatory framework via the creation of different-level Programs for assistance to volunteering initiatives and their participants. Creation of a regulatory environment for the volunteering development will require elaboration of the methodological recommendations and guidelines with respect to different aspects of the voluntary activity, which will determine the primary parameters and strategies for implementation of voluntary activity at a local level.

An Oath or Code of a Volunteer can be created to codify the moral-ethical standards and socially approved models of volunteers' conduct. It will state the principles of a volunteer's activity on behalf of the volunteer. The Federal Law shall establish the whole present-day conceptual framework used in volunteering organization, specify

the complete yet open list of forms and types of voluntary activity, state the goals, objectives and principles of volunteering, determine rights and obligations of participants of relations in the sphere of voluntary activity, stipulate the measures of state support for volunteering movement, including state guaranties for the volunteers in terms of legal and social protection and insurance. Alongside with that, the specified law shall remove discrepancies with respect to the implementation of measures for support of volunteering pertaining to citizens falling outside the age group of 14-30 years old.

A separate milestone in the regulatory framework for volunteering can be the creation of a declaratory document establishing the ideas and goals of volunteering movement, moral principles and ideal models of the conduct of a volunteer from the point of view of a volunteer himself or herself, for instance an Oath or a Code of a Russian Volunteer. Firstly, such a document can announce the expectations of society to potential volunteers in a simple and clear language. Secondly, it will allow replicating a socially approved image of a volunteer.

Thirdly, and probably most importantly, the document will have a great educational value: by declaring idealized norms of conduct of a volunteer as an ordinary reality, it will change the reality towards compliance with the ideal. Since recognizing oneself as a volunteer, a person will automatically accept the norms specified in the document. At that, it should be taken into account that such document shall be either created on the organizational basis of open competition by a competent and exceptionally respected jury (probably, including the

all-Russian voting for the final variants), or pass through a wide public debate.

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