

**Ministry of Economy, Labour and Social Policy**

**ACT OF LAW**

**of April 24<sup>th</sup> 2003**

**on Public Benefit and Volunteer Work**

**Section I**

**General Provisions**

**Article 1**

1. This Act of Law sets the rules of:
  - 1) engaging in public benefit work by non-governmental organisations, and the use of such work by public administration authorities when performing public benefit tasks;
  - 2) securing public benefit organisation status by non-governmental organisations, and operating public benefit organisations;
  - 3) supervision to be exercised over public benefit work.
2. Furthermore, this Act of Law determines the terms and conditions of benefits provided by volunteers, and the rules of using such benefits.

**Article 2**

Whenever the following terms appear in this Act of Law:

- 1) “subsidy” – the term shall mean a subsidy as described in Article 69 clause 4 item 1 d) of the Public Finances Act of November 26<sup>th</sup> 1998 (Journal of Law No. 15 of 2003 item 148, No. 45 item 391, and No. 65 item 594), hereinafter referred to as “the Public Finances Act”;
- 2) “public funds” – the term shall mean public funds as described in the Public Finances Act, and allocated to public expenditure as understood in the same;
- 3) “volunteer” – the term shall mean a person providing benefits voluntarily and at no remuneration under terms and conditions as described herein.

**Article 3**

1. The term “Public benefit work” shall mean work performed to the benefit of the public and society by non-governmental organisations within the publicly assigned tasks as described herein.
2. The term “non-governmental organisations” shall mean corporate and non-corporate entities not forming part of the public finance sector as described in the Public Finances Act, not operating for profit, and formed against relevant legislative provisions, including foundations and associations, in recognition of clause 4 stipulations.
3. Furthermore, the following entities may engage in public benefit work:
  - 1) corporate entities and organisations operating against provisions on relations between the State and the Catholic Church in the Republic of Poland, on the State position on other churches and religious unions, and on the guaranteed freedom of

conscience and religion, should their statutory objectives encompass public benefit work;

2) local authority organisation unions.

4. Section II provisions shall not apply to the following:

1) political parties;

2) trade unions or employer organisations;

3) professional self-governing authorities;

4) foundations, for whom the State Treasury or a local authority organisation are the sole founder, unless:

a) separate provisions stipulate otherwise,

b) a foundation's property in its entirety is not recognised as property of the state, municipal property, or publicly financed property as understood in the Public Finance Act, or

c) a foundation engages in academic research work under its statutory operations, and in scientific work in particular;

5) foundations formed by political parties;

6) companies operating under legislation on physical culture and sports.

5. Section II Subsection 2 provisions shall not apply to any work relating to care extended to the Polish community and Poles abroad, financed with the aid of budget funds in their part assigned to the Head of the Senate Chancellery.

#### **Article 4**

1. The public tasks sector as described herein shall extend to work in the fields of:

1) social welfare, including aid offered to families and individuals with social problems, and work to offer equal opportunities to such families and individuals;

2) charity work;

3) preserving national traditions and Polish values; developing national, civic, and cultural awareness;

4) working to support national minorities;

5) health care and promotion;

6) work to support the disabled;

7) promoting employment, and professional activation of the unemployed and of individuals threatened with job loss;

8) promoting and protecting women's rights, and work to support equality of rights regardless of gender;

9) work to support economic development, entrepreneurship development included;

10) work to support the development of local communities;

11) science, education, coaching, and upbringing;

12) knowledge touring and recreation (children and young people);

13) culture, art, protection of heritage in culture and tradition;

14) promoting physical culture and sports;

15) ecology, animal protection, protection of natural heritage;

16) public order and safety, social pathologies prevention;

- 17) promoting skills and knowledge in the field of state defence;
  - 18) promoting and protection of human and civic rights and freedoms; work to support the development of democracy;
  - 19) rescue systems and protection of residents;
  - 20) aid to victims of calamities, natural disasters, armed conflicts and warfare – in Poland and abroad;
  - 21) promoting and protecting consumer rights;
  - 22) work to support European integration, and the development of contacts and co-operation between societies;
  - 23) promoting and organising volunteer work;
  - 24) work to provide technical, training, information, and/or financial aid to non-governmental organisations and entities specified in Article 3 clause. 3, to a scope defined in items 1 through 23.
2. The Council of Ministers may, in an ordinance, define tasks within a scope other than that specified in clause 1 to form part of the public tasks area, in recognition of their particular public benefit and the option of their being performed by entities specified in Article 5 clause 1 in a manner ensuring sufficient social needs satisfaction.

#### **Article 5**

1. Public administration authorities shall engage in work in the field of public tasks as defined in Article 4, in co-operation with non-governmental organisations and other entities specified in Article 3 clause 3, such entities engaging – respectively in recognition of the territorial competence of public administration authorities – in public benefit works within a scope reflecting tasks entrusted to such authorities. Such co-operation may take on the following forms, in particular:
  - 1) entrusting non-governmental organisations and other entities identified in Article 3 clause 3 with the performance of public tasks on terms specified herein;
  - 2) reciprocal feedback concerning all activities planned, and co-operation to the purpose of harmonising all related works;
  - 3) consulting non-governmental organisations and other entities identified in Article 3 clause 3 on draft normative acts in areas relating to their statutory business;
  - 4) setting up joint advisory and initiative teams with a membership of representatives of non-governmental organisations, of other entities identified in Article 3 clause 3, and of relevant public administration authorities.
2. Co-operation as described in clause 1 shall follow rules listed below: subsidiarity, sovereignty of parties, partnership, effectiveness, fair competition, and transparency.
3. The executive body of a local authority shall resolve annual programmes of co-operating with non-governmental organisations and other entities identified in Article 3 clause 3.
4. The process of commissioning public tasks as specified in clause 1 item 1 as tasks commissioned under Article 69 clause 4 item 1 d), and Article 71 clause 1 of the Public Finances Act may take on the following forms:
  - 1) entrusting public tasks to specific entities, with grants provided to fund their implementation, or
  - 2) support for such tasks, with grants provided to fund their implementation.

## **Section II**

### **Public Benefit Work**

#### **Chapter 1**

#### **Paid and Unpaid Public Benefit work**

##### **Article 6**

Statutory business of non-governmental organisations and other entities identified in Article 3 clause 3, in its part extending to public benefit work shall not – with provisions of Article 9 pending – be recognised as business operations as described in commercial legislation, and as such may take on the form of paid or unpaid work.

##### **Article 7**

Unpaid public benefit work consists in the provision of services against a legal agreement, with non-governmental organisations and other entities identified in Article 3 clause 3 providing such services with no remuneration due to them.

##### **Article 8**

1. Paid public benefit work consists in operations within the framework of tasks considered public, as part of objectives pursued by non-governmental organisations and other entities identified in Article 3 clause 3 in their statutory business, for which remuneration shall be charged. Furthermore, paid public benefit work consists in the sales of commodities or services generated or provided by individuals using the results of public benefit work directly, in particular in such areas as rehabilitation and/or occupational coaching for the disabled, or sales of donation proceeds to support the aim of engaging in public benefit work.
2. Any income generated in paid public benefit work shall be used only to perform tasks recognised as public or relating to statutory objectives as described in clause 1 hereto.

##### **Article 9**

1. Paid public benefit work engaged in by non-governmental organisations and other entities identified in Article 3 clause 3 shall be recognised as forming part of business operations, provided that:
  - 1) remuneration described in Article 8 clause 1 shall, for an activity of a certain type, exceed that resulting from simple calculations of the costs of such business, or
  - 2) remuneration of private individuals due to them for employment for purposes of performing unpaid or paid statutory work shall exceed the 1.5 multiple of the average monthly remuneration in the corporate sector, as announced by the Chairman of the Central Statistics Office for the previous year.
2. Remuneration described in clause 1 item 2 shall be recognised as payment for the performance of specific work or service, the manner of entering into employment relations, and the form and content of an agreement under Civil Law with a private individual notwithstanding.
3. Paid public benefit work and business operations shall not relate to the same type of work or service engaged in.

### **Article 10**

1. Engaging in paid and unpaid public benefit work shall require such forms of activity to be managed separately in terms of accounting, in a manner and to an extent enabling a calculation of revenue, cost, and overall result, relevant accounting regulations pending.
2. Provisions of clause 1 shall apply as appropriate, should public benefit work be considered a separate organisational facility.

### **Chapter 2**

#### **Engaging in Public Benefit Work upon Public Task Commissioning**

### **Article 11**

1. Public administration authorities shall:
  - 1) provide support – in the field described in Article 4 – whenever public tasks are performed by non-governmental organisations and/or by other entities identified in Article 3 clause 3 engaging in statutory work in a specific area;
  - 2) entrust – in the field described in Article 4 – the performance of public tasks to non-governmental organisations and other entities identified in Article 3 clause 3.
2. The support and commissioning procedures as described in clause 1 hereto shall be subject to an open bid competition, unless separate regulations provide for another course of commissioning.
3. Non-governmental organisations, other entities identified in Article 3 clause 3, and organisational units reporting to public administration authorities or supervised by the same shall be eligible to participate in the open bid competition as mentioned in clause 2 hereto.
4. The commissioning procedure as stipulated in clause 1 item 2 hereto may take on a course different to that described in clause 2 should it transpire that certain tasks can be implemented more effectively in a different form as duly specified in separate legal provisions, and in particular by the purchase of services under terms and conditions described in public procurement regulations, with an assumed comparability of cost calculation methods and tax consequences.

### **Article 12**

1. Non-governmental organisations and other entities identified in Article 3 clause 3 may – upon their own initiative – submit an offer of engaging in public tasks, including those formerly handled by other entities, public administration authorities included.
2. In the case described in clause 1, and within a term no longer than 2 months, the public administration authority shall:
  - 1) evaluate the justifiability of having a specific task implemented by non-governmental organisations and/or other entities identified in Article 3 clause 3 in consideration of the following: the extent, to which the offer reflects public task priorities and guarantees performance according to standards relevant for a specific task, funds available for the implementation of specific tasks, types of specific tasks, and benefits stemming from the public task being handled and completed by a non-governmental organisation or other entity identified in Article 3 clause 3; and
  - 2) notify relevant parties of the decision; should it transpire that the performance of a specific public task by an aforementioned entity is justified, the authority shall duly

notify the bidder of the commissioning procedure pending for public tasks as described in Article 11 clause 2.

### **Article 13**

1. The public administration authority shall announce an open bid competition no later than at thirty days' notice.
2. An open bid competition announcement shall contain the following information:
  - 1) the type of task concerned;
  - 2) the amount of public funds allocated for the performance of a specific task;
  - 3) rules of grant approval;
  - 4) terms and conditions of implementing the public task;
  - 5) date of bid filing;
  - 6) term, course, and criteria applied at the offer selection stage;
  - 7) public tasks similar in nature (including all relevant costs) handled and completed by public administration entities throughout the year when the open bid competition was announced and during the immediately preceding year, with particular attention paid to the amount of grants provided to non-governmental organisations, to other entities identified in Article 3 clause 3, and to organisational units reporting to public administration authorities or supervised by the same.
3. Depending on the type of task concerned, the announcement specified in clause 1 hereto shall be placed in a national or regional daily newspaper and in the Public Information Bulletin (*Biuletyn Informacji Publicznej*), as well as at the premises of a public administration authority, at a location dedicated to such announcements. The announcement may also be made public in another form ensuring access of all parties concerned to information contained therein, in particular via the IT telecommunications network.

### **Article 14**

The offer specified in Article 11 clause 2 and Article 12 clause 1 hereto shall specify the following, in particular:

- 1) a detailed scope of the public task proposed for implementation;
- 2) term and location of public task completion;
- 3) a calculation of all expected costs of public task implementation;
- 4) description of former activities engaged in by the bidder in the field the task relates to;
- 5) information on all and any financial and staff resources available to the bidder to ensure proper task performance, including information on funds received from other sources for purposes of implementing the task;
- 6) declaration as to the intended form of charging for performing the task (paid or unpaid).

### **Article 15**

1. When considering the offers, the public administration authority shall:
  - 1) evaluate the capacity of the non-governmental organisation, other entity identified in Article 3 clause 3, or organisational unit reporting to public administration authorities or supervised by the same to perform the public task concerned;

- 2) evaluate the task-related cost calculation as submitted, including all and any references to the material scope of the task;
  - 3) estimate the amount of public funds allocated to the purpose of task performance.
2. Provisions of clause 1 shall also apply in case of one bid being filed following the announcement of the open bid competition.
  3. When justifying their final bid selection, the public administration authority shall be obliged to refer to the criterion of the bidder conforming to requirements specified herein and in the announcement described in Article 13. In the case as stipulated in clause 2, this provision shall apply as appropriate.

#### **Article 16**

1. By accepting the commission to perform a public task according to rules described in Article 11 clause 2, non-governmental organisations, other entities identified in Article 3 clause 3, and organisational units reporting to public administration authorities or supervised by the same become obliged to perform the relevant task within a scope and under terms and conditions specified in the task commissioning or task performance support agreement drafted in recognition of Article 71 clause 2 of the Public Finances Act and all provisions hereto; the public administration authority shall concurrently be obliged to provide public grant funds as appropriate for purposes of such task.
2. The agreement specified in clause 1 shall be made in writing, or else declared null and void.
3. A public task commissioning agreement shall be signed for a term covering the entire duration of task performance, or for a specific term, no longer than 3 years.
4. The public task shall not be performed by any entity not being a party to the agreement, unless the agreement explicitly allows for a specific part of the task to be performed by such other entity.
5. Non-governmental organisations, other entities identified in Article 3 clause 3, and organisational units reporting to public administration authorities or supervised by the same shall be obliged to set up separate accounts in their bookkeeping ledgers to evidence funds received to the purpose of executing the agreement specified in clause 1 hereto. Provisions of Article 10 clause 1 shall apply as appropriate.

#### **Article 17**

The public administration authority commissioning the public task shall be responsible for monitoring and evaluating the task performance, with the following elements considered in particular:

- 1) task performance progress;
- 2) effectiveness, reliability, and quality of task performance;
- 3) due and proper manner of using public funds received for task performance;
- 4) all and any documentation kept as specified in statutory and contractual provisions.

#### **Article 18**

1. The performance report concerning the public task as specified in the relevant agreement shall be drafted and submitted within a term of 30 days following the term for which the agreement had been signed, in recognition of provisions contained in clause 2 hereto.
2. The budgeting year shall be recognised as the reporting period.

### **Article 19**

The minister responsible for social security issues shall, in an ordinance, define:

- 1) a sample agreement referred to in Article 11 clause 2 and Article 12 clause 1;
- 2) a sample framework agreement referred to in Article 16 clause 1;
- 3) a sample report referred to in Article 18 clause 1

– in recognition of the need for a precise definition of all rights and responsibilities of non-governmental organisations, other entities identified in Article 3 clause 3, and organisational units reporting to public administration authorities or supervised by the same, as well as the corresponding rights and responsibilities of public administration authorities, as well as of the necessity to ensure the completeness and accuracy of all and any information concerning task performance.

## **Chapter 3**

### **Public Benefit Organisations**

#### **Article 20**

Public benefit organisations shall include non-governmental organisations and entities described in Article 3 clause 3, provided that they conform to all of the requirements listed below, provisions of Article 21 hereto pending:

- 1) their statutory activities include work to the benefit of the entire society or of a specific group of entities provided that such group can be distinguished from the society for reasons of difficult living conditions or financial situation;
- 2) activities described in item 1 hereto, provisions of item 3 pending, are recognised as exclusive statutory operations of the non-governmental organisation, and consist in the performance of public tasks to aid the general society or a group of entities specified in item 1 hereto, within a field defined under Article 4;
- 3) in case of associations and physical culture associations, the requirement specified in item 2 hereto shall be considered conformed to, should activities described under items 1 and 2 hereto be engaged in, also to aid the members of such association or physical culture association;
- 4) they do not engage in for-profit business operations, or engage in such operations to an extent sufficient to cover the due performance of statutory tasks;
- 5) their entire income is allocated to activities defined under items 1 and 2 hereto;
- 6) they have a statutory collegiate audit or supervision body, separate from the management body and not reporting thereto within the scope of internal audit or supervision; concurrently, the members of such audit and supervision body:
  - a) shall not be members of the management body; furthermore, they shall not be relations, next of kin, or employment subordinates of members of the management body,
  - b) shall not have been convicted by virtue of a final court judgement for any crime involving intentional fault,
  - c) may, for the performance of duties in such a body, be reimbursed for any reasonably incurred costs, or be remunerated at a rate not exceeding that specified in Article 8 clause 8 of the Act of Law of March 3<sup>rd</sup> 2000 on the remuneration of individuals managing certain corporate entities;



- 7) the statutes, articles of association, or other internal documents of non-governmental organisations or entities specified in Article 3 clause 3, prohibit the following:
- a) issuing loans or pledging the organisation's property to cover any financial liabilities of such organisation's members, authority members, employees, or the spouses, relations, or relations in lineal or collateral affinity thereto, or of individuals remaining in adoption, guardianship, or *ad hoc* guardianship therewith, all of whom jointly referred to as "next of kin",
  - b) the transfer of their property to such organisation's members, authority members, employees, or their next of kin under terms and conditions other than those applying to unrelated third parties, in particular should such transfer be free of charge or under preferential terms,
  - c) the use of the organisation's property to aid such organisation's members, authority members, employees, or their next of kin under terms and conditions other than those applying to unrelated third parties, unless such use stems directly from the statutory objectives of such organisation or entity defined in Article 3 clause 3,
  - d) the purchase under special terms of commodities or services from entities whose operations are engaged in by such organisation's members, authority members, employees, or their next of kin.

#### **Article 21**

In case of entities specified under Article 3 clause 3 item 1 hereto:

- 1) public benefit work defined under Article 20 item 1 shall be separated in a manner ensuring proper identification in organisational and accounting terms;
- 2) the exclusivity requirement specified under Article 20 item 2 shall not apply;
- 3) provisions of Article 20 item 5 shall apply to income generated as a result of engaging in public benefit works;
- 4) provisions of Article 20 item 6 shall apply as appropriate in recognition of detailed organisational and operational rules pending for such institutions, regulated in relevant provisions, including statutes or other internal documents.

#### **Article 22**

1. Non-governmental organisations and other entities defined under Article 3 clause 3 item 2 hereto and entered into the National Court Register (*Krajowy Rejestr Sądowy*) shall gain public benefit organisation status as of the entry of data proving conformity to requirements specified under Article 20 into the Register, under terms and conditions specified in the National Court Register Act of August 20<sup>th</sup> 1997 (*Journal of Law* of 2001: No. 17, item 209, and No. 110, item 1189, of 2002: No. 1, item 2, and No. 113, item 984, and of 2003: No. 49, item 408, and No. 60, item 535).
2. Non-governmental organisations other than that specified under clause 1 hereto, and entities defined under Article 3 clause 3 item 1, shall gain public benefit organisation status as of the date of entry into the National Court Register, on terms and conditions laid down in the Act of Law referred to in clause 1 hereto.
3. Non-governmental organisations and entities referred to under clause 1 hereto shall lose their public benefit organisation status as of the date of removal of data proving conformity to requirements specified under Article 20 hereto from National Court Register, *ex officio* or upon application.

### **Article 23**

1. A public benefit organisation shall draft and submit annual performance reports describing its activities, other legal provisions pending, and shall then make such report public in a form and manner enabling any entities concerned to gain access thereto.
2. Furthermore, a public benefit organisation shall draft and publish annual financial statements, even should the duty of drafting and publishing such statements not stem from general accounting regulations. Accounting regulations shall apply as appropriate.
3. Regulations concerning the scope of reports submitted by foundations shall apply to the scope of reports referred to in clause 1 hereto.
4. Regardless of any obligations arising from separate legal provisions, a public benefit organisation shall submit the report and statement referred to in clauses 1 and 2, respectively, to the minister responsible for social security issues.
5. With regard to public benefit organisations, whose financial statements do not require auditing in accordance with separate accounting regulations, the minister responsible for public finance, acting jointly with the minister responsible for social security issues may introduce such obligation by virtue of an ordinance, in recognition of the following:
  - 1) the overall value of grants received;
  - 2) the overall amount of income generated;
  - 3) the need to ensure monitoring of bookkeeping evidence integrity.

### **Article 24**

1. A public benefit organisation is eligible for a waiver of the following, on terms and conditions quoted in separate legal provisions:
  - 1) the corporate income tax;
  - 2) the property tax;
  - 3) Civil Code procedural fees;
  - 4) the stamp duty;
  - 5) court fees- in relation to public benefit activities engaged in by such organisation.
2. A public benefit organisation may, on terms and conditions quoted in separate legal provisions, gain the right to use property owned by the State Treasury or by local government authorities, with preferential terms applying.
3. Having gained public benefit organisation status, a non-governmental organisation shall be required to fulfil all requirements stemming from tax waivers such organisation enjoyed prior to having gained public benefit organisation status, in conformity to rules laid out in separate legal provisions.
4. Should a non-governmental organisation lose its public benefit organisation status, it shall automatically lose the right to enjoy waivers stemming from such status.
5. The right of property usufruct referred to in clause 2 hereto shall expire as per the letter of law, should an organisation lose its public benefit organisation status.

### **Article 25**

Conscripts dispatched for substitute military service shall have the right to work for a public benefit organisation, on terms and conditions specified in separate regulations.

### **Article 26**

Public radio and television facilities shall provide public benefit organisations with free of charge broadcasting time to inform the general public of their activities, on terms and conditions laid out in separate legal provisions.

### **Article 27**

A personal income taxpayer may, on terms and conditions laid out in separate legal provisions, donate 1% of the tax calculated against separate provisions to support individually selected public benefit organisations.

## **Chapter 4**

### **Supervision**

#### **Article 28**

1. Operations of a public benefit organisation, as to the due and proper form of such organisation using benefits described herein, shall be supervised by the minister responsible for social security issues, provisions of clause 2 pending.
2. The minister responsible for home affairs shall supervise operations of public benefit organisations active in rescue services and civil defence in terms of their performance of public tasks commissioned, and the due and proper form of their use of benefits described herein. Provisions of Articles 29-34 shall apply as appropriate.

#### **Article 29**

1. A public benefit organisation shall be subject to supervision by the minister responsible for social security issues within a scope as defined under Article 28 clause 1.
2. An audit procedure shall be announced *ex officio* by the minister responsible for social security issues, or upon application by a public administration authority.
3. The audit shall be performed by individuals duly authorised in writing by the minister responsible for social security issues.
4. Audit work may be attended by a Public Benefit Works Council (*Rada Działalności Pożytku Publicznego*) representative, should the Council receive a proper motion submitted by the minister responsible for social security issues, by a public administration authority referred to in clause 2, or by a non-governmental organisation or other entity described under Article 3 clause 3.
5. The minister responsible for social security issues shall have the right to entrust the voivode with all and any duties relating to an audit.
6. The minister responsible for social security issues may apply for an audit to be performed by a body specialising in auditing such forms and types of activity.

#### **Article 30**

1. Individuals authorised to perform audits shall be authorised to enter the site of a property in its part housing operations of a public benefit organisation, and to demand oral or written clarification, documents or other information carriers for inspection, and any other data relating to the subject of the audit.

2. Any audit work specified under clause 1 shall be performed in the presence of a member or representative of the management body, or of an employee of the public benefit organisation audited. Should such individuals be absent, audit work shall be held in the presence of a duly summoned witness.

### **Article 31**

1. Following an audit, a relevant post-audit report shall be drafted, to be signed by individuals holding the audit and by the manager of the public benefit organisation audited, or by an individual duly authorised thereby. The manager of the public benefit organisation or the individual duly authorised shall not refuse to sign the post-audit report without justification. In case of refusal, the report shall be considered signed as of the date of such refusal.
2. The manager of the public benefit organisation audited may, within a term of 14 days as of the date of signing the report, offer clarification in writing, or file objections as to the content of the post-audit report.
3. Upon having considered objections referred to in clause 2 hereto, individuals responsible for the audit shall draft the final audit results. Should objections fail to be considered in part or in whole, the relevant position shall be submitted to the party filing objections.

### **Article 32**

The final audit results shall contain a description of the *status quo* found in the course of the audit, inclusive of any misdemeanours disclosed, in recognition of reasons for their arising, the scope and results of such misdemeanours and the deadline for their removal, such term to be no shorter than 30 days.

### **Article 33**

1. The minister responsible for social security issues or a duly authorised voivode shall appeal to the public benefit organisation to remove any misdemeanours disclosed in the course of the audit, by a specified date.
2. Should a public benefit organisation fail to remove misdemeanours found, the minister responsible for social security issues shall have the right to apply to the court of registration to remove the information entry referred to in Article 22 clause 1, or to delete such organisation from the National Court Register.
3. Should a public benefit organisation fail to remove misdemeanours concerning conformity to requirements specified in Article 20 and Article 21, respectively, the minister responsible for social security issues shall apply to the court of registration to delete such organisation from the National Court Register.
4. Should a public benefit organisation or information referred to under Article 22 clause 1 be removed from the National Court Register, such organisation shall be obliged to use funds raised in public canvassing during the term of holding public benefit organisation to the purpose of its own activities within the scope described in Article 4 hereto, within a term no longer than 6 months.
5. Any funds remaining unused in the manner and by the term specified in clause 4 hereto shall be immediately transferred by the organisation to an organisation with identical or similar statutory objectives, or to a public benefit organisation named by the minister responsible for social security issues. Such transfer shall not be recognised as a donation as laid out in separate legal provisions.

### **Article 34**

1. Public Finances Act provisions shall apply as appropriate to the process of supervising and controlling public funds expenditure in any matter remaining unregulated by provisions hereto.
2. Provisions of Articles 30-34 do not preclude the application of separate legal provisions concerning audits and audit procedures, or supervision rights of other authorities.

## **Chapter 5**

### **Public Benefit Works Council**

### **Article 35**

1. A Public Benefit Works Council, hereinafter referred to as “the Council”, shall hereby be formed as counselling, analyst, and assistant body to the minister responsible for social security issues.
2. Council tasks shall include the following, in particular:
  - 1) issuing opinions on matters concerning the application of this Act of Law;
  - 2) issuing opinions concerning governmental draft laws in the field of public benefit and volunteer work;
  - 3) offering assistance and issuing opinions in case of any dispute between public administration authorities and public benefit organisations;
  - 4) collecting and analysing information on audits performed and their results;
  - 5) participating in audit procedures;
  - 6) issuing opinions on issues concerning public tasks, on the process of commissioning such tasks to be performed by non-governmental organisations or other entities defined in Article 3 clause 3 hereto, and on recommended public task performance standards;
  - 7) establishing – in co-operation with non-governmental organisations and other entities defined in Article 3 clause 3 hereto – mechanisms to distribute information on public benefit work standards, and on disclosed cases of such standards being violated.
3. The Council shall have a three-year term of office.

### **Article 36**

1. The Council shall have the following membership:
  - 1) five representatives of governmental administration bodies, and of units supervised by or reporting to such bodies;
  - 2) five representatives of local government authorities;
  - 3) ten representatives of non-governmental organisations, non-governmental organisations’ unions and/or associations, and entities defined in Article 3 clause 3.
2. The minister responsible for social security issues shall appoint and dismiss Council member; notwithstanding the above, Council members representing:
  - 1) non-governmental organisations, non-governmental organisations’ unions and/or associations, and entities defined in Article 3 clause 3 hereto shall be selected from among candidates nominated by those organisations;

- 2) governmental administration bodies, and units supervised by or reporting to such bodies shall be selected from among candidates nominated by those bodies and by managers of relevant units;
  - 3) local government authorities shall be selected from among candidates nominated by local government authorities party to the Joint Central and Local Government Committee (*Komisja Wspólna Rządu i Samorządu Terytorialnego*).
3. The minister responsible for social security issues shall dismiss a Council member prior to the expiry of the assigned term of office:
- 1) upon his or her motion;
  - 2) upon the motion of an entity referred to in clause 2 and represented by that member;
  - 3) should such Council member be convicted by virtue of a final court judgement for a crime involving intentional fault.

#### **Article 37**

Council sessions shall be convoked by the minister responsible for social security issues, or upon the motion of at least one-quarter of all Council members.

#### **Article 38**

The Council shall have the right to:

- 1) appoint experts;
- 2) invite representatives of the public administration, the local government, and of non-governmental organisations and other entities defined in Article 3 clause 3 not represented on the Council to attend their sessions;
- 3) commission research and expert opinions relating to the implementation of the Council's tasks.

#### **Article 39**

1. Costs of Council activities relating to the overall service, research, and expert opinions, as well as to expert, Council members', and non-members' participation in its sessions shall be covered from the part of the budget handled by the minister responsible for social security issues.
2. Council session attendants shall be eligible to receive *per diems* and travel expense reimbursement under terms and conditions of regulations enacted by virtue of Article 77<sup>5</sup> § 2 of the Labour Code.
3. An employer shall be obliged to grant leave to an employee being a Council member in order to enable that employee to attend Council sessions. For time taken off, the employee shall retain the right to remuneration calculated according to rules applying to the monetary equivalent due for holiday leave, to be covered from the part of the budget handled by the minister responsible for social security issues.

#### **Article 40**

The minister responsible for social security issues shall, in an ordinance, define the following:

- 1) the course and manner of Council member appointment in recognition of the need to ensure proper representation of non-governmental organisations and other

entities specified in Article 3 clause 3, and of the diversity of public benefit works, and to reflect the dates of nominating Council member candidates;

- 2) the organisation and course of Council works, and the rules of Council work participation set out for representatives of public administration authorities, of non-governmental organisations, and of other entities defined in Article 3 clause 3 not represented on the Council.

#### **Article 41**

The facility responsible for providing administrative and office services to the minister responsible for social security issues shall also provide administrative and office services to the Council.

### **Section III**

#### **Volunteer Work**

##### **Chapter 1**

#### **General Provisions**

#### **Article 42**

1. Volunteers shall, on terms and conditions set out in this Chapter, provide benefits recognised as work benefits, to support the following:
  - 1) non-governmental organisations and other entities defined in Article 3 clause 3 within the scope of their statutory works, and in the field of public benefit in particular;
  - 2) public administration facilities, with the exception of business operations they may engage in;
  - 3) organisational units reporting to public administration authorities or supervised by the same, with the exception of business operations they may engage in,- jointly hereinafter referred to as “the beneficiaries”.
2. Provisions laid out in this chapter shall apply as appropriate to volunteers providing services to aid international organisations within the territory of the Republic of Poland, unless provisions of international agreements provide otherwise.

#### **Article 43**

A volunteer shall be duly qualified and conform to all requirements appropriate in light of the type and scope of benefits provided, should the duty of holding such qualifications and fulfilling relevant requirements stem from separate legal provisions.

#### **Article 44**

1. Benefits shall be provided by volunteers within a scope, in a manner and within a time-frame defined in an agreement signed with the beneficiary. Such agreement shall contain a clause allowing for the termination thereof.
2. Upon demand by the volunteer, the beneficiary shall be obliged to confirm the content of the agreement described in clause 1 hereto in writing, and to issue a written conformation of benefits provided by the volunteer, scope of benefits provided included.

3. Upon request by the volunteer, the beneficiary may issue a written opinion of the benefits provided by the volunteer.
4. Should a volunteer provide benefits for a period exceeding 30 days, the respective agreement shall be made in writing.

## **Chapter 2**

### **Detailed Provisions**

#### **Article 45**

1. The beneficiary shall be obliged to
  - 1) notify the volunteer of any risk to health and safety stemming from the process of providing benefits, and on the rules of protection against occupational threats and hazards;
  - 2) provide the volunteer – on terms and conditions applying to employees as laid out in separate legal provisions – with safe and hygienic conditions of benefits provision by the volunteer, including appropriate personal safety measures determined by the type of benefits provided and the related hazard;
  - 3) cover the cost of business travel and *per diems* in conformity to terms and conditions applying to employees as laid out in separate legal provisions.
2. Furthermore, the beneficiary may – in conformity to terms and conditions applying to employees as laid out in separate legal provisions – cover other indispensable expenses covered by the volunteer when providing benefits to the beneficiary.
3. The beneficiary may cover the costs of volunteer training in the field of benefits they provide as laid out in the agreement described in Article 44 clause 1 hereto.
4. The volunteer may relieve the beneficiary in whole or in part from duties described in clause 1 item 3 hereto. Such waiver shall be made in writing, or else declared null and void.

#### **Article 46**

1. A volunteer may be eligible for health care benefits on terms and conditions laid out in legal regulations on general health insurance.
2. By virtue of separate legal regulations, a volunteer shall be eligible for compensation in case of an accident when providing benefits described in Article 42, provisions of clause 3 pending.
3. The beneficiary shall take out casualty insurance for any volunteer providing benefits for a period not longer than 30 days.

#### **Article 47**

The beneficiary shall notify the volunteer of his or her rights and responsibilities, and ensure constant access to such information.

#### **Article 48**

Should the agreement by and between the beneficiary as defined in Article 42 clause 1 item 2 hereto and the volunteer provide for the volunteer to be delegated to provide benefits on the territory of another state as per an international agreement binding to the Republic of Poland,



such volunteer shall be eligible for reimbursement for benefits and costs related according to generally accepted standards in the field, unless international agreements stipulate otherwise.

**Article 49**

Expenses for purposes referred to in Article 45 clauses 1 and 3 and Article 46 clause 3 shall include the following:

- 1) costs incurred in the statutory operations of non-governmental organisations and of entities defined in Article 3 clause 3 as beneficiaries;
- 2) costs incurred by beneficiaries defined in Article 42 clause 1 items 2 and 3.

**Article 50**

The value of a benefit provided by the volunteer does not constitute a donation to the beneficiary as laid out in the Civil Code and tax regulations.

**Article 51**

The first term of office of the Council described in Article 35 clause 1 hereto shall span two years.

**Article 52**

No later than by June 30<sup>th</sup> 2005, the Council of Ministers shall present the *Sejm* (Lower House of the Polish Parliament) and Senate of the Republic of Poland with a report on the implementation and enforcement hereof for the period as of its entering into force through December 31<sup>st</sup> 2004.

**Article 53**

This Act of Law shall come into force on terms and conditions specified in separate legal provisions.

PRESIDENT OF THE  
REPUBLIC OF POLAND

/-/ Aleksander Kwaśniewski