

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



26 October 2007

Case document No. 1

**International Centre for the Legal Protection of Human Rights
(INTERIGHTS) v. Croatia**
Complaint No. 45/2007

COMPLAINT

Registered at the Secretariat on 10 October 2007

10 October 2007

Executive Secretary
Acting on behalf of the Secretary General of the Council of Europe
Secretariat of the European Social Charter
Directorate General of Human Rights -- DG II
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II.

III. COLLECTIVE COMPLAINT:

IV.

**V. International Centre for Legal Protection of Human Rights
(INTERIGHTS)**

VI. Against

VII. The Republic of Croatia

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ADMISSIBILITY

State Party

Croatia: High Contracting Party to the European Social Charter (hereinafter “ESC”) since 26 February 2003; accepted the collective complaint procedure by signing the 1995 Second Additional Protocol on 26 February 2003.

Articles Concerned

Article 11(2): “With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take **appropriate** measures designed inter alia: to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health.”

Article 16: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to **promote the economic, legal, and social protection of family** life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

The nondiscrimination clause in the Preamble of the 1961 ESC taken together with Articles 11(2) and 16: “[T]he enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin.”

Article 17: “With a view to ensuring the **effective exercise of the right of mothers and children to social and economic protection**, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.”

Standing of INTERIGHTS and role of partner organisations

INTERIGHTS, the International Centre for the Legal Protection of Human Rights, is an international non-governmental organisation which has consultative status with the Council of Europe and is among organisations entitled to lodge collective complaints under the ESC mechanism. Under Article 1(b) of the Second Additional Protocol, the Parties recognise the right of international non-governmental organisations which have consultative status with the Council of Europe and are listed as having standing before the ESC mechanism to submit

collective complaints to the European Committee of Social Rights, irrespective of whether the organisations concerned come under the jurisdiction of any of the State Parties to the ESC.

In addition, under Article 3 of the Second Additional Protocol, the international non-governmental organisations referred to in Article 1(b) may submit complaints only with respect to those matters for which they have been recognised as having particular competence.

INTERIGHTS is a London-based UK-registered charity established in 1982. It aims to enforce human rights through law, providing protection and redress, in particular regions and on issues of strategic focus; to strengthen human rights jurisprudence and mechanisms through the use of international and comparative law; and to empower legal partners and promote their effective use of law to protect human rights. It supports lawyers, judges, NGOs and victims on the ground by tailoring activities in response to the needs of each group and region. It works across the developing and developed world, with regional programmes in Africa, Europe, South Asia and the Commonwealth, and cross-cutting thematic programmes focusing on equality, security and rule of law and economic, social and cultural rights. Its economic, social and cultural rights work focuses on the rights to health and education. In addition to consultative status with the Council of Europe, INTERIGHTS holds consultative status with the United Nations' Economic and Social Council, and the African Commission on Human and Peoples' Rights and is accredited with the Commonwealth Secretariat.

INTERIGHTS has been involved in a number of sexual and reproductive health rights cases, including *Tysiac v Poland*¹ and *I.G. and others v Slovakia*² before the European Court of Human Rights. It has on numerous occasions engaged, as legal advisers or *amicus curiae*, in litigation addressing gender and sexuality discrimination and violence, including in *Bevacqua and S. v Bulgaria*,³ *MC v Bulgaria*⁴ and *Opuz v Turkey*⁵. It has provided assistance in the right to health case *Moore v Gambia*⁶ and in the pending violence against women case *Al Kheir and others v Egypt*⁷ before the African Commission on Human Rights.

In preparing this complaint INTERIGHTS has worked in partnership with the Center for Reproductive Rights, a New York based, non profit legal advocacy organisation that promotes and defends sexual and reproductive health rights globally, and with a number of national-level Croatian partners, most notably CESI, the Center for the Education, Counselling and Research, is a non-governmental organisation which works towards advancement of women in Croatian society with the aim of realising gender equality.

The Center for Reproductive Rights is a non-profit legal advocacy organisation dedicated to promoting and defending women's reproductive rights worldwide. It works to promote the effective application of international human rights standards to reproductive health and rights. In

pursuit of its goals, it works together with other organisations in bringing cases and advocating before appropriate bodies. The Center for Reproductive Rights focuses on increasing the legal protection and enforceability of reproductive rights as human rights, including the rights to information, privacy, autonomy, liberty and security and to equality and non-discrimination. A key objective of the Center for Reproductive Rights' work is to ensure that the international human rights systems, including the Council of Europe, the Inter-American and African human rights systems, and the United Nations system promote and protect reproductive rights. It aims to develop the international legal foundations for reproductive rights.

The Center for Reproductive Rights has provided technical assistance to lawyers on the use of international and comparative law, represented parties in cases before international bodies and filed *amicus curiae* briefs before national and international courts and bodies, including the European Court of Human Rights, and undertaken awareness raising initiatives for lawyers and judges on matters pertinent to the present case. The Center for Reproductive Rights holds consultative status at the United Nations' Economic and Social Council and the African Commission on Human and Peoples' Rights.

CESI, the Center for Education, Counselling and Research is a Zagreb-based, feminist, not-for-profit association, founded in 1997. CESI's mission is advancement of women in society in order to achieve gender equality. CESI's goals are to promote and advocate for women's human rights, empower women and youth and improve their position in society, encourage women's active involvement in all areas of social life and promote gender equality. CESI works at the community and national levels and it has a 7-member staff, as well as a large and diverse network of volunteers throughout the country. As a group CESI advocates for the improvement of women position and equal rights and opportunities for men and women and we insist on the full implementation of national and international laws and policies, in particular for the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), for the protection of the women's human rights.

CESI achieves its goals through its programmes, which reach out to women and young people of all ethnic and social backgrounds, representatives of local governments and as well to the general public. CESI has 3 programmes: 1) "Women's Human Rights Programme"- the goal of the program is promoting and advocating for women's human rights, and creating gender equality. Activities are implemented through projects aiming at number of groups: women, local administration representatives, members of non-governmental associations, trade unions, and political parties, as well as entrepreneurs; 2) "Building Gender Awareness" -the goal of the program is to advance relations between

sexes/genders through raising young people's awareness on gender equality and non-violence values and to develop knowledge and skills through non-institutional educational programs, raise the level of expertise and abilities of professors working with young people; inform the public on young people's issues regarding sexuality and violence; and advocate for gender perspective in public policies for young people in the area of education and human rights; and 3) "Support, Education and Development of Civic Initiatives", the goals of the programme are to [-empower and support women's groups, civic initiatives and individuals](#); exchange information and network; and encourage cooperation between the non-profit sector and local government on common issues. <http://www.sezanweb.net.web/>

SUBJECT MATTER OF THE COMPLAINT

- Failure to provide mandatory and comprehensive sexual and reproductive health education to the vast majority of Croatian schools
- Support for scientifically inaccurate, biased and discriminatory information to students
- Ineffective oversight combined with inadequate attempts at reform

I. Summary of Complaint

I.1 This Collective Complaint concerns the systematic failure of the Croatian state to provide comprehensive or even adequate sexual and reproductive health education for the vast majority of children and young people in its schools. This failure has been compounded by the government's complicit and - at times - explicit support for extra-curricular sexual and reproductive health programmes provided by non-governmental organisations to a significant number of students. These programmes convey scientifically inaccurate, biased, and discriminatory information. Recent attempts at reform by the state have not only failed to address these omissions but have the potential to make the present situation worse by permitting a discriminatory and inaccurate programme to be taught across all of Croatia's elementary schools and some secondary institutions.

A. Croatia's obligations under the European Social Charter

I.2 Under Article 11 of the Charter, Croatia has undertaken to ensure the effective exercise of the right to health. As part of this commitment under Article 11(2), Croatia has accepted that appropriate measures are required to provide 'advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health'. This commitment has been interpreted by the Committee to include the provision of sexual and reproductive health education throughout the whole period of a young person's education and as part of the school curricula.⁸ Under Article 16, Croatia is obliged to promote the economic, legal and social protection of family life. In

addition, under Article 17 Croatia must ensure that it has effective mechanisms in place to guarantee the right to education, including sexual and reproductive health education.

I.3 However, Croatia's long term failure to provide a comprehensive and objective evidence-based sexual and reproductive health education programme places it in breach of these Charter obligations, independent of and/or in conjunction with the Charter's non-discrimination provisions, as well as its own constitutional,⁹ statutory¹⁰ and international rights commitments.¹¹

I.4 International and regional human rights bodies, together with international consensus documents (i.e. those documents agreed upon by states under the auspices of the UN or one of its agencies, such as the Programme of Action of the International Conference on Population and Development ('ICPD') held in Cairo in 1994) ,and declarations by UN agencies, such as the World Health Organization, have consistently and repeatedly stated that all sexual and reproductive health education programmes should cover a number of key components. These include the prevention of teenage pregnancy, unsafe abortion, the spread of HIV and other sexually transmitted infections, together with information on family planning and contraception (see paras. III.6-11, III.27-31 below) In addition, teaching should be non discriminatory providing objective and non-judgmental information on different family models and lifestyles, including same-sex relationships (see paras. III.17-26, III.32-33, III.71-81 below).

B. Failings of current provision: fragmented and non-evidence-based, discriminatory information

I.5 The current provision of sexual and reproductive health education in Croatia is fragmented. There is no dedicated course of instruction which forms part of a school's curriculum. Instead, students in most schools receive a limited number of rudimentary lessons amounting to a few hours during their entire education which are provided as part of existing natural sciences teaching in elementary and some secondary level education (see paras. II.1, II.3, II.5 below) . This is wholly inadequate to address the range and substance of issues relating to sexual and reproductive health.

I.6 In addition, 90 percent of pupils receive further instruction through an elective Catholic religious teachings course. This sexual and health reproductive education element of the course has been heavily criticized by authoritative experts within Croatia as being both inaccurate and discriminatory (see para. II.4 below).

I.7 The cursory state provision has also been supplemented to some extent by government-approved extracurricular sexuality education programmers provided by non-governmental organisations and public health institutions. The course that is taught to the largest number of students from primary school onwards and hence has the greatest impact is provided by the Teen STAR programme.

Closely influenced by and linked to the Catholic Church, Teen STAR has also been attacked for its biased and discriminatory misinformation both in relation to preventive healthcare and lifestyle choices (see paras. II.8-14 below) In particular, Teen STAR emphasizes abstinence-based approaches and is disparaging and discouraging of the use of modern contraceptives, whilst being critical of any family structure – e.g., single parents or same-sex couples – that does not conform to the traditional family model, thereby potentially contributing to the hostile atmosphere against those that do not conform to this model, in particular sexual minorities, within the country. In advocating such conservative attitudes, Teen STAR is also perpetuating gender stereotypes that fails to acknowledge women’s diverse roles in contemporary society.

I.8 Some examples of the discriminatory, unscientifically based and potentially harmful content of the Teen STAR curriculum include the following (see paras III.38-41, III.69, III.82-95 below and documents in Annex for analysis and more information on the content of the curriculum): “Contraception nullifies the essence and purpose of a sexual act, separates the partners' uniting factor (love) from openness to life which is also a natural component of a sexual act.”; “Contraception can, to a certain degree, present protection from infection, but on the other hand it can also give a false sense of security and sooner or later fail the user. ”; “Knowledge of female fertility may later be applied in marriage for the purpose of planning a family, that is to avoid or achieve conception, in a natural way, without using chemical or mechanical means.” ; “The conclusion is that communication is not as important as certain other qualities of family interaction: a bond, life in a family with both biological parents, the unemployment of the mother.”¹²

I.9 The state is responsible for approving the Teen STAR programme, for providing the school facilities and permitting the periods of time outside of the regular curriculum when it is taught. During the time that the program was financed by the state, the public school teachers who taught the Teen STAR programme, received additional payment for teaching Teen STAR in their regular paychecks. The state is therefore responsible for ensuring, at the outset and on an on-going basis, that the content of this programme is in line with its human rights obligations. However, there is no evidence that the State currently monitors the quality or content of any of the education being provided on school premises by Teen STAR and other non-governmental organisations. The curriculum materials are not retained by the Ministry of Education and the teaching and curriculum is not subject to any inspection regime (see paras. III.38, III.47, III.50, III.64-68). The poor quality of much of the sexual and reproductive health education is compounded by the lack of effective teacher training in this field. This is despite the fact that the state, as part of its obligation to ensure that all pupils receive a high quality education, is responsible for ensuring such training is implemented.

I.10 The result is that the vast majority of Croatian young people receive virtually no sexual and reproductive health education and those who do are taught material that does not meet international standards. The implications for the sexual health of Croatian young people are serious both in terms of the transmission of STIs and appropriate family planning. In addition, the current teaching contributes to rather than undermines the stigma, harassment and discrimination experienced by individuals on the grounds of sexuality, family status or gender.

C. Urgent need for a comprehensive and evidence-based programme:

1. Disturbing trends in high risk behaviour and spread of STIs among Croatian youth

I.11 The government's failure to provide a comprehensive and evidence-based programme of sexuality education in schools should be seen in context of the recent disturbing trends in high risk behaviour and spread of STIs. One in three Croatian adolescents is sexually experienced and no more than one-half use condoms, and inconsistently at that.¹³ A study has shown that first sexual intercourse occurs around ages to 15-16.¹⁴ The number of sexually active adolescents in general and the number of those engaging in risky behaviour in particular is increasing in a context where STIs and HIV are also on the rise. A recent nationally representative survey of more than 1,000 young Croatians aged 18 to 24 who were asked about their sexual behaviour and attitude toward and knowledge of HIV and related diseases, found that over 40 percent had had multiple partners, including 7 percent who had more than 10 partners. This led the authors to conclude that there is a need to promote positive attitudes towards condom use and other healthy sexual behaviour in order to avert an HIV epidemic.¹⁵

I.12 The seriousness of the situation is also borne out by disturbing sexual health trends among young people. Children and 15 to 24 year-olds account for half of all new HIV infections globally.¹⁶ Among this group, young women outnumber young men two to one.¹⁷ Whilst Croatia has presently a low incidence of HIV/AIDS relative to other countries, in line with global trends, HIV and other STIs are increasing among youth. Some government officials have in fact identified HIV/AIDS and lack of sexual knowledge as major threats facing Croatian adolescents.¹⁸ Sexually transmitted infections such as Chlamydia and HPV are also spreading among young people.¹⁹ Approximately 10-27 percent of sexually active young women are infected with Chlamydia, 28 percent with Candida, and 9 to 12 percent with HPV virus.²⁰ While teenage pregnancy rates have declined, unplanned pregnancy among teenagers remains a cause of concern.²¹

I.13 Furthermore, evidence clearly demonstrates a link between condom use during early sexual experiences and continued condom use later in life, which

underscores the importance of providing comprehensive sex education before adolescents become sexually active.²²

2. High levels of discrimination and violence against women and sexual minorities

I.14 The need for sexuality education programmes to respect and promote equality and nondiscrimination principles is also critical, especially considering that women and sexual minorities face significant discrimination and violence in Croatia. Whilst laws and policies prohibit and punish such behaviour,²³ enforcement is problematic and societal discrimination forms a significant barrier to the realisation of women's and lesbian, gay and bisexuals' rights. Recent studies in Croatia show that 41% percent of women have experienced physical abuse from their partners.²⁴ Whilst the problem of violence against women has been given much public attention, leading to some changes in public attitude and the introduction of legislation and policies,²⁵ it still remains a problem that is mainly hidden, unreported and unpunished.²⁶ Physical and psychological violence against sexual minorities is in turn a problem that is largely ignored by the state and sometimes even undertaken by public officials, such as teachers and medical professionals.²⁷ Recent research shows that half of all lesbian, gay and bisexual persons have experienced physical or verbal violence because of his or her sexual orientation.²⁸

I.15 Discrimination against women based on outdated stereotypes is visible in the labor market. Women account for 59 percent of the total of administratively registered unemployed persons, and this is a rising trend.²⁹ A report by the NGO, the Croatian Women's Network details several factors influencing the continuing rise in unemployment of women, and one major factor is the resistance of employers to employing women of reproductive age because of stereotypes concerning their obligations as mothers³⁰ Research on employment discrimination showed that employer attitudes towards men on this issue differed significantly; that a decision to start a family is considered a sign of maturity and responsibility in men but in working women, the family is seen as a lasting distraction from their work: they will not be dedicated enough to their work, will not put in any overtime as mothers, etc.³¹

I.16 Such stereotypes are reinforced in the school curricula, which fail to sufficiently address the gender roles of men and women, but instead promote discriminatory stereotypes, as illustrated above and set out in more detail in paras. III.37, III.42-44, III.82-95 below. These traditional stereotypes regarding the gender roles of men and women continue to be present in school textbooks. As the report by the Croatian Women's Network indicates, the contents of the mandatory educational programmes fail to cover topics that further the awareness of gender equality.³²

I.17 A United Nations, World Health Organization and World Bank policy brief on Croatia, notes how perceptions of gender roles, including power imbalances between men and women in the economic sphere and divisions of labour within families, could itself shape the sexual behavior of Croatian adolescents.³³

I.18 There is international consensus that education in schools plays a significant role in counteracting harmful stereotypes, raising awareness on discrimination and violence and eventually changing societal attitudes.³⁴ The government, in recognizing this problem, has prioritized the need to introduce gender-sensitive education and to remove gender stereotypes from teaching plans and programmes. In addition, Article 3 of the Act on Textbooks for Elementary and High Schools prescribes that a textbook will not be approved for use if its contents are contrary to the Constitution of the Republic of Croatia or unsuitable regarding human and minority rights, fundamental freedoms and relationships between the sexes, and education for a democratic society. Yet the current curriculum taught in Croatian schools, including that covering sexual and reproductive health, continues to permit the perpetuation of these stereotypes.

D. Flawed sexuality education review process

1.19 This systemic failure has been implicitly recognized by the State when it decided in 2005 to establish a Commission of Inquiry into reforming the current arrangements. Protracted deliberations followed, including the establishment of two further Commissions. All three bodies have been criticized for their lack of transparency and expertise and failure to consult with appropriate expert individuals and bodies (see paras. III.118-129 below). At the same time the Commissions appear to have been subject to undue influence/pressure by the government to accept the proposed Grozd programme as the only provider of sexual and reproductive health to all elementary schools (see paras. III.130-139 below)

I.20 Grozd, established by the same individuals who run the Teen STAR programme, has been criticized (including by Commission members themselves) for exhibiting the same level of misinformation and bias in relation to preventive health and lifestyle choices as the former (see paras. II.47-58 below). Yet, there remains a distinct possibility, given the state's previous support for the Teen STAR programme, that the Ministry of Education may accept Grozd as the sole provider of education at the elementary level, with the option to also be adopted by secondary level schools. If this scenario does occur it will mean that all school pupils - rather than some, as at present - will be exposed to misinformation that will continue to jeopardize the health and welfare of Croatian youth. Consequently, given that many more students will be exposed the impact of Croatia's breach of its Charter obligations is likely to worsen rather than to diminish in the future if Grozd is adopted.

E. Meeting Croatia's Obligations under the Charter

I.21 In seeking to meet its obligations under the Charter, Croatia should establish a comprehensive and dedicated sexual and reproductive health education as a core element of the national curriculum that meets international standards. This programme should be made available in all schools from the beginning of the elementary level to the completion of a young person's education. Curricula should be developed in accordance and consultation with appropriate national and international individual experts and institutions. The content should be objective evidence-based, non-discriminatory and non-judgmental. It should provide young people with the information necessary to make informed choices about sexual and reproductive health whilst avoiding perpetuating outdated stereotypes. The programme should be subject to periodic monitoring and inspection.

II. Detailed Statement of Facts

A. The current picture of sexuality education in schools

1. Sexuality education through general school subjects

II.1 Croatia's current national curriculum does not include mandatory, systematic and comprehensive sexual education.³⁵ Rather, sexual and reproductive health topics are fragmentarily included in general school subjects. In the current national curriculum for example, rudimentary sexual and reproductive health information is provided as part of : (a) the Nature and Society curriculum in grades 2, 4 and 5 (ages 7 to 12); (b) the Biology curriculum for the eighth grade (ages 13 to 14) , in the context of discussions on anatomy (reproduction) and illness; and (c) Physical Education (only covering menstruation for girls).³⁶

II.2 Contrary to the government's approach, young people themselves, as key beneficiaries of school-based programmes, believe that sexuality education should be implemented in school curricula.³⁷ Teachers would also include sexuality education as a compulsory subject.³⁸

II.3 In terms of implementation, the sexual and reproductive health information school students actually receive as part of these subjects amounts to approximately one to five 45-minute lectures throughout their entire primary school education.³⁹ Furthermore, the information itself is generally limited to very basic information about human bodies and the reproductive dimension of human sexuality.⁴⁰

II.4 In addition to the above subjects, students receive sexual and reproductive health information through an elective Catholic religious teachings course taught by teachers with theological degrees and by nuns. It has been reported that much of the information is biased, inaccurate, and discriminatory in relation to topics on, e.g., contraception, abortion and homosexuality.⁴¹ In contrast to the minimal amount of instruction on sexual and reproductive health information in compulsory general classes, the syllabus for Catholic religious teachings in

primary school allocates 17 hours during the last two grades (ages 13 to 15) for education on issues of sexuality.⁴² Furthermore, although this is an elective course, approximately 90 percent of students enroll in it, making it a key source of sexuality education for students in primary schools.⁴³

II.5 There is also some provision of sexual and reproductive health information through doctors of school-based medicine. These doctors, who are employees of public health institutes at the county level and assigned to certain schools, provide lectures on standard topics in health education for students usually in “homeroom” classes.⁴⁴

II.6 Monitoring and evaluation of the sexuality education students receive through general school subjects, as with the national curriculum in general, is a limited exercise. The Education and Teacher Training Agency, an independent body serving in a consultative role to the Ministry of Science, Education and Sports (MSES), is one of the main bodies tasked with participating and monitoring the development and implementation of the national curriculum.⁴⁵ The agency concedes that it does not have the resources to fulfill its mandate and generally monitors the quantitative aspects of implementation of the curriculum, as opposed to conducting qualitative assessments that would include soliciting student feedback.⁴⁶

2. Extra-curricular sexuality education programmes

II.7 Croatia’s limited provision of sexual education is supplemented to some extent by extra-curricular sexuality education programmes provided by non-governmental organisations (NGOs) and public health institutions.⁴⁷ The programmes are approved by the state which also allows the use of teaching facilities and sometimes resources in delivering the instruction. These programmes, however, are optional and do not reach much of the adolescent population;⁴⁸ due to resource constraints and other factors, they are often available only in particular cities or schools, and for fixed durations. Some, but not all, approved programmes receive a minimal amount of funding.⁴⁹ These programmes also vary widely in terms of their content.

a. Teen STAR

II.8 Teen STAR is one example of a government-approved extracurricular sexuality education programme. The programme, which is backed by the Catholic Church, has been taught in approximately 100 primary and secondary schools over the past decade,⁵⁰ most probably reaching several thousand students.⁵¹ The Ministry of Science, Education and Sports (MSES) first approved Teen STAR for implementation in primary and secondary schools in 1997⁵² and it continues to be taught in schools. According to official accounts, MSES approved Teen STAR solely on the basis of a pamphlet summarizing information about the programme, without ever reviewing the actual curriculum.⁵³ Further,

there is no evidence that the MSES has ever had access to a copy of the curriculum.

II.9 The programme is problematic in several respects, including its content, much of which contains biased, inaccurate, and discriminatory information and messages. Its requirements concerning teacher training and qualifications have also been identified as an area of concern. There is also no known government evaluation of the programme.

II.10 Despite widespread and strong criticism of the programme by government bodies and civil society groups alike, the programme has steadily expanded its reach over the past few years⁵⁴—including with increased annual financial support from the government⁵⁵—and continues to be implemented in schools today.

b. Official and civil society criticism of Teen STAR

II.11 Civil society organisations in Croatia were the first to criticize and draw public attention to the Teen STAR programme, and have initiated several legal and advocacy initiatives to urge reform of its problematic aspects and accountability by the MSES for approving its implementation in schools. These actions have included complaints to the Offices of the Ombudspersons for Children’s Rights and for Gender Equality in 2004,⁵⁶ which resulted in highly critical opinions of the programme by both Offices (see below). More recently, the Civil Coalition to Stop High-Risk Sexual Education—comprised of 173 organisations and 241 Croatian citizens to date – was formed in January 2007 as a reaction to a MSES pending decision to begin pilot implementation of a sex education programme similar in content to Teen STAR in schools in the 2007-08 academic year.⁵⁷

II.12 There has also been official criticism of the Teen STAR programme by the Offices of the Ombudspersons for Children’s Rights and for Gender Equality. In response to a complaint brought to the attention of the Office of the Ombudsperson for Children’s Rights by non-governmental organisations (noted above), the Ombudsperson issued a strongly-worded opinion to the Ministry of Education in 2004 finding several aspects of the Teen STAR programme in violation of the Croatian Constitution, national laws such as the Gender Equality Act and the Law on Same-Sex Civil Unions,⁵⁸ and the Convention on the Rights of the Child (CRC).⁵⁹ She requested the MSES to condition further implementation of the programme on its harmonisation with the Constitution and national and international laws.⁶⁰

II.13 The criticisms and concerns of the Ombudsperson for Children’s Rights regarding the Teen STAR programme were echoed by the Ombudsperson for Gender Equality. In response to a similar complaint to her office by NGOs, she issued a “warning” to the MSES in 2005, also finding several aspects of the Teen STAR programme in violation of the Gender Equality Act, the Law on Same-Sex

Civil Unions, the Constitution, and the Universal Declaration on Human Rights. She also expressed concern that certain components of Teen STAR may be problematic with respect to harmonizing the Croatian legal system with the European Union (EU) system for accession purposes.⁶¹

II.14 In addition to the Ombudspersons' Offices, a committee commissioned by the MSES in 2005, in part to review existing extra-curricular programmes in schools, including Teen STAR, also found the programme to be problematic in several respects.⁶² (See paras II.20-28).

II.15 However, despite these criticisms, the Ministry of Education responded by failing to withdraw its approval of Teen STAR or requiring reform of the curriculum.

c. *MemoAIDS*

II.16 In addition to Teen STAR, MemoAIDS is the other main extracurricular sexuality education programme, focusing on the medical and health aspects of HIV/AIDS education.⁶³ The programme is funded by the Global Fund and, as part of the National Programme for the Prevention and Control of HIV/AIDS, also has the support of the Ministry of Health.⁶⁴ Phase II of the programme, which focuses on sexual behaviour of adolescents in secondary schools, was approved by the Ministry of Education for implementation in schools from 2003-2006.⁶⁵ During those years, 104 schools and about 22,000 students participated in the programme, and about 1270 teachers, professionals and NGO advocates were trained.⁶⁶ The programme has received positive evaluations on its methodology and content, and also shown a positive impact on the knowledge and behaviour of student participants.⁶⁷ In early 2004, the programme was the subject of a virulent attack by the Croatian Catholic Bishop's Conference (CBC), after which a significant number of participating schools dropped out of the programme.⁶⁸

II.17 Despite the government's responsibility to ensure that students have access to high quality sexual and reproductive health education programmes both the Ministries of Education and Health were silent on the CBC's criticism and issued no response in defence of the MemoAIDS programme. This lack of a response created the impression amongst the schools that the government agreed with the criticism and was no longer prepared to support MEMO Aids.⁶⁹ Instead, only after pressure from the UN Global Fund did the Ministry of Education restate its support of the programme.⁷⁰

B. **Attempts at reform**

II.18 The government formed three commissions (1) to review existing programmes and their compliance with Croatia's law and international human rights obligations and (2) to develop a comprehensive health education programme that includes a sexual and reproductive health component. These commissions were formed in response to years of pressure by civil society,

Ombudspersons, and the media, to rectify Croatia's neglect of sexual education, including criticism of the Teen STAR programme.⁷¹ The commissions were also a response to a mandate under the 2001-2005 National Policy for the Promotion of Gender Equality to create a sexual education programme by the end of 2002 and to establish a group of experts to draft a primary school sexual education curriculum programme.⁷² Whilst the Commissions have issued recommendations to the MSES, the MSES remains the final arbiter of Croatia's sexual and reproductive health education curriculum.

1. Ministry Commission Bodies

II.19 The MSES appointed two commissions that were tasked with analysing Croatia's current sexual and reproductive health education and selecting a new programme. At the request of the MSES, the Ministry of Health also created a commission to do similar work. In addition to complaints by both government officials and civil society regarding commission appointments, their decisions - and the process through which they have reached them - has come under scrutiny for lacking transparency, an open and uniform process, and failing to incorporate the input of civil society, government experts, and Croatian youth.

a. *First Commission*

II.20 On January 10, 2005, the MSES created the Commission for the Assessment of All Programmes about Sexual Education Implemented in Primary and Secondary Schools ("First Commission") to review Croatia's existing sexual and reproductive health education and to develop a means to expand the existing curriculum.

II.21 The mandate of the First Commission was three-fold: 1) review existing curricula and education materials with sexuality education components; 2) develop a proposal for comprehensive sexuality education in both primary and secondary schools; and 3) evaluate existing extra-curricular programmes being taught in schools from a "pedagogical, health and reproduction, and legal approach."⁷³

II.22 The MSES appointed Dr. Vladimir Gruden, a psychiatrist, as the Chair of the First Commission. This is despite the fact that Dr. Gruden had been previously reprimanded by the Croatian's Physician's Association for making anti-gay statements,⁷⁴ and his appointment had been the subject of complaints by civil society and others.⁷⁵ Yet, despite Dr. Gruden's clear unsuitability to chair a body which would be required to assess objectively whether any of the programmes under consideration would be imparting information which was discriminatory against any minority group (including lesbians and gays), the MSES took no action to replace him and he remained Chair of the First Committee during its tenure.

II.23 In considering the programmes some members of the Commission noted that in order to protect children and their health, a compulsory health education curriculum should be developed for schools and that such a programme should take a more holistic approach to health, and include sexuality education and other aspects of health protection, such as alcohol and drug addictions. They cited that 10-15% of first year female students at the University of Zagreb are infected with Chlamydia; 21.5% of female adolescents in urban areas are infected with Chlamydia; 8.5% with HPV virus; 22% with Candida. They also noted that among 15 year olds 23.2% of boys and 9.7% of girls are sexually active and engaging in risky sexual behavior. Forty-five percent of sexually active female students have never visited a gynecologist and in 2003 almost 500 girls aged 15-19 obtained abortions. The members further noted that Croatia must take responsibility to ensure that whatever information is presented is done with the purpose of protecting the health of Croatian adolescents.⁷⁶

II.24 In light of these requirements some of the Commission members deemed Teen STAR problematic, asserting that it is not based on scientific and expert medical facts, and does not reflect the available data and research on the sexual behaviour of Croatian youth.⁷⁷

II.25 In spite of differing opinions within the body, in April of 2005, the First Commission was able to issue some final conclusions. As reported by the Gender Equality Ombudsperson, the Commission found that there were no comprehensive sexuality education programmes being taught in any school programmes and concluded that the situation of sexual health among young people was alarming.⁷⁸

II.26 The First Commission also found that considering the realities of youth and the poor statistics on sexually transmitted infections, existing primary and secondary school programmes and plans were insufficient and inappropriate and did not meet the need for a comprehensive and modern approach to sexual education. Finally, the First Commission called for the creation of a new programme and requested that the MSES form the Second Commission to develop evaluation criteria for the programme, such as promotion of gender equality and tolerance, improvement of health and access to sexual knowledge, and modification of sexuality and health-related behaviours.⁷⁹ The Second Commission would also be tasked with selecting the most appropriate programme, as referenced above.

II.27 Whilst the recommendations from some of the First Commission members were significant, they were never made available to the public.

II.28 Despite the First Commission's recommendations, as well as the opinion of the Ombudspersons with regards to the problematic aspects of Teen STAR, the programme continued to be taught in Croatian schools. To justify this, the MSES relied on an opinion commissioned by Teen STAR itself that stated that the contents of the Programme were in accordance with the laws of Croatia.⁸⁰

The MSES also relied on the Institute for Education's (since then the Institute for Education has been reconfigured and is now called ETTA) evaluation and assessment of Teen STAR, when it was first approved as an extra-curricular programme⁸¹ This is despite the fact that the Institute for Education conceded, in responding to the criticism of the Ombudsperson for Children's Rights that it lacked the competency to gauge whether programmes meet human rights and other legal standards.⁸² It further confirmed that it did not in fact evaluate Teen STAR's legality, and/or whether it met basic standards for human rights and gender equality when it approved the extra-curricular programme. In that regard, the quality control standards that governed the Institute for Education's evaluation of Teen STAR are unclear.⁸³ At present, Teen STAR continues to be taught in Croatian schools with the MSES' approval.

b. Second Commission

II.29 On December 19, 2005, the MSES created the Commission for Health in Primary and Secondary Schools ("Second Commission"). The Second Commission was created in response to the First Commission's findings that there was a great need in Croatia for comprehensive and accurate sexuality and reproductive health information, and that existing programmes were inadequate. The First Commission had recommended that the MSES initiate an open competition calling for proposals for a mandatory, holistic health education programme to be supervised by a new commission of experts (See below for details)

II.30 In line with the First Commission's request for a second commission, the Second Commission's mandate was, in part, to formulate the experimental mandatory health programmes competition guidelines, and to solicit and review proposed programmes to be field tested in a few schools, and, if adequate, made mandatory across the country.⁸⁴

II.31 The work of the Second Commission was hindered to some extent in that its membership lacked adequate expertise in gender and human rights. On December 29, 2005, the Government Office for Gender Equality, the main governmental expert body on the issue,⁸⁵ complained to the MSES that the Second Commission did not include any gender equality experts.⁸⁶ Several Croatian NGOs also wrote an open letter⁸⁷ to the MSES complaining of lack of gender equality and human rights expertise on the body. However, yet again, the MSES took no action to alter the Second Commission's composition.⁸⁸

II.32 On February 23, 2006, the Second Commission, through the MSES, issued a public call for health education proposals⁸⁹, to which approximately 24 proposals, submitted by 13 applicants, were received for both elementary and secondary schools. The Second Commission narrowed down the shortlist to proposals presented by two separate organisations: (1) Association Grozd and (2) Forum for Freedom in Education (Forum).⁹⁰ The Grozd programme is taught by "Association Grozd"⁹¹ and is run by the same persons currently running Teen

STAR.⁹² The Association Grozd was only created one week before the proposal deadline.⁹³

II.33 The Second Commission took issue with the Grozd programme's sexuality education module. The Commission noted that the programme took a similar approach to sexuality as Teen STAR, which had been previously criticized by the First Commission. Over a period of approximately 5 months, the Second Commission sent several requests to Association Grozd requesting revision of the sexuality education module.⁹⁴ The Second Commission found the following content of the Grozd sexuality education module problematic in the following respects: (1) emphasis on natural family planning methods and playing down the effectiveness of modern contraceptive methods; (2) characterizing contraceptives as abortifacients (i.e. as inducing abortion) and that contraceptives facilitate the division between partners; (3) information that masturbation and sexual activity before marriage prevent young people from making committed relationships and that sexual activity should exclusively take place in marriage; (4) teaching that there is no such thing as "safe sex"; (5) denouncing homosexuality as against human nature; (6) alienating children who do not belong to a two-parent heterosexual household; and (7) lacking information on the role gender plays in relationships.⁹⁵

II.34 The Grozd programme did not specifically address how condoms prevent transmission of HIV and other sexually transmitted infections in any of its health education modules, including sexuality education.⁹⁶ The Commission expressed concern to the Grozd Association that "safe sex" is not adequately presented in its proposed sexuality education programme, as it does not address developing skills for correct condom use.⁹⁷ The Commission additionally criticized the programme in that the sex education module requires that almost all topics in modules were carried out in sex-segregated classes.⁹⁸

II.35 Although Association Grozd changed a few portions of the programme, such as the sex-segregated classes, it retained many other portions, including the lack of information on gender. It also declined the Second Commission's requests to include information on safe sex,⁹⁹ to reconceptualize masturbation outside of its current negative formulation, and to separate the topics of contraception and abortion.¹⁰⁰

II.36 In September 2006, the Second Commission recommended that for primary schools the MSES adopt four out of the five Grozd modules, substituting the sexuality module with the sexuality education portion of the Red Cross programme, one of the twenty-four proposals submitted to the Second Commission. With respect to the secondary schools, the Second Commission recommended that the MSES adopt the Forum programme.¹⁰¹

II.37 The MSES declined the Second Commission's recommendations and requested that the Second Commission reconsider approving the Grozd programme's sexuality education component.¹⁰² The MSES informed the

Second Commission that Association Grozd threatened to withdraw its full proposal, including all of the modules, if its sexuality education module was not accepted.¹⁰³ To at least one commission member, this threat was perceived as blackmail against the Commission.¹⁰⁴ The MSES then told the Commission that they had contacted Association Grozd at an earlier date to ask the organisation to make revisions in line with the Second Commission's requests. The Minister subsequently asked the Second Commission to give the Association Grozd more time to make revisions before the Commission issues its final recommendations.¹⁰⁵

II.38 Finally, on October 24, 2006, the MSES told the Second Commission that both Association Grozd and the Forum changed their programmes in accordance with MSES requests and that the Second Commission should consider the amended portions to accept the programmes.¹⁰⁶ After re-review of the Grozd programme, the Second Commission did not observe substantial revisions to the programme.¹⁰⁷

II.39 On November 23, 2006, despite the fact that the Commission did not believe there were any substantial revisions to the Grozd programme, the Second Commission changed its initial recommendation and recommended to the MSES that the Grozd programme, including the sexuality module, be approved for pilot test in primary schools. However, the Commission noted to the MSES that the Grozd programme should be modified to address their concerns.¹⁰⁸

II.40 As to secondary schools, the Commission ultimately recommended the Forum programme by a vote of six to four, and that it would recommend the Grozd programme for secondary school with the caveat that it modified its sexuality education module in accordance with the Commission's requests.¹⁰⁹ To date, Association Grozd has not modified its sexuality education module in either its secondary or primary school programmes.

II.41 The Ombudsperson for Children's Rights had to make several formal requests to the MSES to obtain copies of the proposed programmes, noting their interest in submitting opinions. However, the MSES did not respond in a timely manner and within the requisite amount of time required by the Children's Rights Ombudspersons Act.¹¹⁰ Even though on various occasions, the MSES told NGOs and government offices that the proposed health education programmes would be delivered to all relevant and interested organisations, institutions, and partners, for collaboration and opinions,¹¹¹ and specifically promised to send the programmes under consideration to the Ombudsperson for Children's Rights¹¹² and to the Office of Gender Equality.¹¹³

c. Third Commission

II.42 In January 2007, after receiving a request from the MSES for its views on two shortlisted programmes (see further below), the Ministry of Health created

another commission “Third Commission”), to review both programmes. The Commission’s mandate and composition of members was not released to the public, except that the chairperson of this commission was Dr. Marina Kuzman, the Head of Service for School Medicine and Addiction Prevention at the National Institute of Public Health.¹¹⁴ The Minister of Health declined to release such information so as to purportedly avoid undue external influence <https://mail.reprorights.org/OWA/WebReadyViewBody.aspx?t=att&id=RqAAAADyobVPyBnVEYM%2bAIBfwQ8jBwAUOateWITTEYMgAIBfwQ8jAAABFVDBAACqXZvEYR%2b%2bSj61CYwtPOKAAQG2jRpAAAJ&attid0=EACY5naERyeTQ4eygtsro%2f8L&attcnt=1&pn=1 - footnote117#footnote117>¹¹⁵

II.43 On April 16, 2007, the Third Commission sent their findings and recommendations¹¹⁶ to the Ministry of Health which then sent them to the MSES. Their findings included the fact that some parts of the Grozd programme module on human sexuality violate human rights and ignore scientific fact. They specifically found that the Grozd Programme needs significant changes to avoid any kind of discrimination and violation of human rights. They also found that the parts of the programme are scientifically deficient and recommended that all information which is not in accordance with World Health Organisation standards be revised. In terms of Grozd Programme’s methodology, they noted that segregating girls and boys is unacceptable. In addition, like the Second Commission, they found similar subject matters problematic; including lack of information on safe sex, incorrect formulation of contraception, and that sexual activity should take place only within marriage.

II.44 The Third Commission also noted overall problems with both the Grozd and Forum programmes, including that the proposed programmes do not cover all public health issues, and according to the Law on Education do not fulfill the criteria for an educational programme, including the lack of information on how the programmes will be monitored and evaluated, including indicators for evaluation. The Third Commission also took issue with the lack of clarity on how educators will be trained.

II.45 The Third Commission recommended: that changes need to be made to both programmes before the programmes can be accepted and implemented, they acknowledged that the programmes are a significant contribution to mandatory and comprehensive health education programme in schools and finally that in the future, the design and implementation of a comprehensive, mandatory health education programme should be done by expert institutions which have the authority, knowledge and resources for implementation.

II.46 The Third Commission’s findings and recommendations have of yet, not been made available to the general public by the MSES. The only information that has entered the public domain is via the website of one of the programmes under consideration, the Forum. Furthermore, to date, the MSES has not officially responded to any of the findings and recommendations of the Third

Commission and has not made a final decision on which programmes will be taught in schools.

2. Opinions on the Proposed Grozd Programme

II.47 Both the Ombudspersons for Children's Rights and Gender Equality have provided extensive opinions of the review process and the programmes under consideration. They are significant for their authoritativeness and credibility as impartial expert observers with detailed knowledge and understanding of sexual and reproductive health education in Croatia. In addition, the Working Group on Reproductive Health, HIV/AIDS and Development in the European Parliament has also expressed its concern regarding the content and potential implementation of the Grozd programme.

a. *Ombudsperson for Children's Rights*

II.48 On January 26, 2007, the Ombudsperson for Children's Rights issued an opinion to the MSES criticizing the sexuality education component of the Grozd programme for purportedly violating Croatian law.¹¹⁷ For example, the Ombudsperson asserted that the programme's portrayal of marriage as the preferred partnership and negative depiction of divorce, do not comply with Croatia's Family Law.¹¹⁸ Rather, she asserted that such portrayals represent "an obvious example of discrimination, for the persons concerned as well as for the children from divorced families."¹¹⁹ The Ombudsperson also noted that the Grozd programme presented particularly value-laden messages about homosexuality, as opposed to developing children's ability to understand and navigate the diversity of values, and to then make their own independent decisions.¹²⁰

II.49 The Ombudsperson then emphasised in her opinion, that it is critically important that children receive "correct, scientifically-founded, interdisciplinary" information "in accordance with the Convention on the Rights of the Child as well as the laws of the Republic of Croatia."¹²¹ In that regard, she notes that portions of the Grozd programme are not science-based, and as a result, violate Croatia's own national curriculum policy for elementary education which emphasizes "scientifically established verification and their scientific verifiability" for content and teaching.¹²²

II.50 In addition to contradicting science, the Ombudsperson asserted that portions of the Grozd programme's sexuality education component were out of step with current social research. Specifically, she asserted that sexuality education should be available to all Croatia students, not just those who have obtained parental consent to take the course, must respect human rights, gender equality, and attempt to combat all forms of discrimination, in particular

homophobia.¹²³ The Ombudsperson also emphasized that the goals of a sexuality education programme should include development of knowledge and skills to protect against STIs and unwanted pregnancy, and should promote responsible and safe sexual behaviour, which the Grozd programme does not. Finally, she noted that children should be taught about the diversity of values based on scientific information, thus enabling them to critically analyze differences, comparing divergent values and ultimately expressing their independent opinion.

II.51 With respect to the Grozd programme's potential implementation, the Ombudsperson expressed the need for the following, especially with regards to the sexuality education component: (1) qualified and trained teachers to implement the programme in an open, neutral and impartial manner; (2) more teaching hours than are currently allocated by the MSES; youth involvement in the planning, implementation and evaluation of the programmes; and (3) both internal and external expert evaluation of the programmes.¹²⁴ She noted that both proposed programmes (the Grozd programme and the Forum programme) lacked details on "personnel conditions and evaluation."¹²⁵

b. Ombudsperson for Gender Equality

II.52 The Ombudsperson for Gender Equality reviewed the proposed Grozd programme in light of gender equality and nondiscrimination standards and issued her opinion to the MSES in February 2007. In that opinion she asserted that the programme's sexuality education component violated Croatia's Gender Equality Act and bans on discrimination based on gender, marriage or family status, and sexual orientation.¹²⁶ Specifically, she noted that the Grozd programme failed to distinguish between sex and gender roles, thus potentially impeding the elimination of harmful stereotypes. She also averred that the programme's statements that "sexual intercourse only has true meaning in marriage" and when "based on love between man and woman in [a] permanent faithful union (marriage)[,]" are intolerant, discriminatory against unmarried people and divorced people, and children born out of wedlock, and violate Croatian constitutional and statutory gender equality protections.¹²⁷

II.53 With respect to sexual orientation, the Gender Equality Ombudsperson took issue with the Grozd's programme message that homosexual acts are "against the nature of sexual act[s]."¹²⁸ She interpreted this statement to be blatantly discriminatory and in violation of Croatia's Law on Same-Sex Civil Unions, which prohibits direct and indirect discrimination on the basis of same-sex unions and/or homosexual orientation.¹²⁹ In the end, the Ombudsperson expressed great dismay that, during a time when the National Legislature is seeking to develop a consciousness of tolerance and promote gender equality within education and the government, the Grozd programme fails to mention gender equality entirely, and instead promotes discrimination based on gender, marital status, family status and sexual orientation.¹³⁰

c. *European Parliament Working Group on Reproductive Health, HIV/AIDS and Development*

II.54 In April 2007, the Working Group on Reproductive Health, HIV/AIDS and Development in the European Parliament, issued a letter to the President, Prime Minister and Minister of Science Education and Sport raising their concerns regarding the content and potential implementation by the Croatian government of the sexuality education component of the proposed Grozd Programme and its potentially harmful effect on Croatian youth, its incompatibility with Croatian laws on the right to health and nondiscrimination, as well as European Union (EU) guarantees on gender equality and nondiscrimination.¹³¹

II.55 The letter specifically notes that the programme, in providing medically inaccurate and incomplete information about sexual and reproductive health, family planning, and available and legal contraceptive methods, is incompatible with Croatia's constitutional guarantees of right to health care and healthy life (Arts. 58, 69). Further, the programme could be an infringement on the right to information and choice and a healthy life, as also guaranteed by the 1978 Law on Health Care Measures for the Purpose of Effectuating the Right to Free Decision on Child Bearing. The Working Group also notes the Grozd Programme's explicit emphasis on values, rather than on facts (also an issue raised by the Children's Rights Ombudsperson) contradicts the World Health Organisation's (WHO) recommended strategies that promote strengthening the use of evidence-based high-quality interventions in reproductive health.

II.56 The Working Group also notes that the proposed Grozd Programme is gender-biased and features negative attitudes towards homosexuality, thus contradicting Croatian laws which prohibit discrimination based on gender and sexual orientation and on EU standards. Concerning the latter, the Working Group notes that the European Commission, in assessing Croatia's accession to the European Union, has expressed concern with the lack of progress made in the anti-discrimination field, noting that the "level of protection against discrimination is still far from EU standards."¹³² The Working Group further notes that "[t]he same report congratulates Croatia on the passing on the Act on Homosexual Unions in July 2003. . . . However, the proposed Experimental Health Education Programme contradicts this laudable legislative initiative and risks to jeopardize progress made, by implementing a curriculum encouraging stigma and discrimination."¹³³

II.57 The Working Group raises specific concerns regarding the content of the Grozd Programme, including its emphasis on abstinence until marriage and faithfulness and natural family planning, and lack of information on the effectiveness of modern contraceptive methods. The Group further notes various reasons why this is problematic, including the fact that such information does not reflect the reality of sexual violence, and the need to be informed about and have access to contraception and prevention methods. In addition, the emphasis on natural family planning fails to address prevention of sexually transmitted

infections. They cite several scientific and social studies supporting their position and urge the President of Croatia to "...offer the Croatian youth an open and scientifically supported sexual and reproductive health curriculum."¹³⁴

II.58 To date, the MSES has not made a final decision as to which programmes will be experimentally tested in schools during 2007-2008. This is despite the fact that the new school year began on 3 September 2007. Given the need for teacher training and other logistical organization, it appears highly likely that students will be no closer to having a mandatory, comprehensive, non-discriminatory and evidence-based sexuality education programme in the foreseeable future.

III. Violation of Articles of the European Social Charter

A. The current programme of sexuality education in schools – both in terms of level of provision and content – violates Croatia's obligations under Article 11(2).

III.1 Under Article 11 of the Charter, Croatia has undertaken to ensure the effective exercise of the right to health. As part of this commitment under Article 11(2), Croatia has accepted that appropriate measures are required to provide 'advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health'. This commitment has been interpreted by the Committee to include the provision of sexual and reproductive health education throughout the whole period of a young person's education and as part of the school curricula.¹³⁵

III.3 International and regional human rights bodies, together with international consensus documents, have consistently and repeatedly stated that all sexual and reproductive health education programmes should be comprehensive covering a number of key components. These include the prevention of teenage pregnancy, unsafe abortion, the spread of HIV and other sexually transmitted infections, together with information on family planning and contraception.

III.4 States are responsible for ensuring that such comprehensive education is mandatory, of high quality, accurate and objective delivered by properly trained teachers to children from primary through to the completion of secondary school. States must be able to demonstrate that they have taken reasonable steps to progressively fulfill these obligations and have not done anything directly themselves or indirectly in support of others which would impact negatively upon enjoyment of the right which could potentially amount to a breach¹³⁶.

1. Failure to provide comprehensive, mandatory and ongoing sexual and reproductive health education

III.5 The provision of sexual and reproductive health information as it is currently delivered—in time limited fragments through general school subjects, through occasional lectures by doctors of school-based medicine and through extra-curricular programmes such as Teen STAR—has resulted in an incoherent and inadequate approach to sexuality education in violation of Croatia’s obligations under Article 11(2) and other regional and international standards.

a. International and Regional Standards

European Social Charter and other Council of Europe standards

III.6 This Committee has established that compliance with Article 11(2) requires that sexual and reproductive health education be provided throughout the entire period of schooling and form part of school curricula.¹³⁷ More specifically, health education should be taught on a regular basis and provided at every level of primary and secondary school teaching to school-children of all ages;¹³⁸ provided in schools throughout the country so that “a large number of pupils” receive such education;¹³⁹ and equitably distributed among regions and between urban and rural areas in particular.¹⁴⁰ Health education initiatives should also be adequately funded.¹⁴¹ Taken together, these elements reflect a view of sexuality education as an essential component of primary and secondary school education that should be afforded sufficient time and resources and subject to rigorous standards as for any other school subject.

III.7 A 2004 resolution by the Parliamentary Assembly of the Council of Europe on a European strategy for the promotion of sexual and reproductive health and rights calls for Member States to provide *comprehensive* sexual and reproductive health information and education¹⁴².

United Nations

III.8 The current provision of sexuality education in Croatian schools is similarly out of line with other international standards that, like this Committee, call for sexuality to be a mandatory and robust component of all students’ schooling. International treaty bodies expressly recommend reproductive health or sex education as a mandatory subject and provided throughout schooling. The United Nations Committee on the Elimination of Discrimination against Women (“CEDAW Committee”) urges states parties to make sex education compulsory and to “systematically” provide it in schools.¹⁴³ The United Nations Committee on the Rights of the Child (CRC) similarly recommends that states parties make sex education part of the official curricula for primary and secondary school¹⁴⁴ and has expressed concern over programmes that allow parents to opt-out on behalf of their children.¹⁴⁵

III.9 In international consensus documents such as the International Conference on Population and Development (ICPD) Programme of Action, signatory states—including Croatia— themselves recognize that education about population

issues, including sexual and reproductive health, must begin in primary school and continue through all levels of formal and non-formal education to be effective.¹⁴⁶ The Joint United Nations Programme on HIV/AIDS (UNAIDS) concluded, on the basis of a comprehensive literature review, that the most effective approaches to sex education begin with educating youth before the onset of sexual activity.¹⁴⁷ According to the WHO, starting sex education early is critical because, in developing countries in particular, girls in the first classes of secondary school face the greatest risk of the consequences of sexual activity.¹⁴⁸ Beginning sex education in primary school also reaches students who are unable to attend secondary school.¹⁴⁹

III.10 World Health Organisation (WHO) guidelines prepared to assist Council of Europe Member States in developing national policies and programmes to improve sexual and reproductive health specifically call for Member States to ensure that education on sexuality and reproduction is included in all secondary school curricula¹⁵⁰ and should be comprehensive (i.e. covering all relevant topics throughout the teaching period)¹⁵¹. More broadly, they urge Member States to include reproductive rights in all school curricula.¹⁵²

III.11 The WHO has made further recommendations for how sex education should be incorporated into school curricula. It outlines three main approaches that are currently adopted by states: (1) a “separate subject,” where sex education is taught as part of a specific class on skills-based health education; (2) a “single ‘carrier’ subject,” where sex education is incorporated into an existing subject that is relevant to the issues, such as biology; and (3) “infusion across many subjects” – where sex education is included in many existing subjects through regular classroom teachers - the approach which most closely mirrors that in Croatian schools where the subject is taught as part of the curriculum (whilst recognizing that a significant amount of content is delivered through extra curricular provision such as Teen STAR).¹⁵³ It should be noted that WHO rejects this approach favouring instead teaching sex education as a separate subject as the best way of ensuring that states meet their obligation to promote health effectively through the provision of comprehensive, ongoing and mandatory sexual and reproductive health education. WHO maintains that such an approach has the advantage of ensuring that : “[t]eachers are likely to be specifically trained and focused on health, and a separate subject is most likely to have congruence between the content and teaching methods, rather than the short-cutting that may occur through infusion or ‘carrier’ subjects.”¹⁵⁴

b. Application

III.12 The current picture of sexuality education in Croatian schools is in sharp contrast to this view of sexuality education as an essential and central aspect of overall education to be provided by the state. As previously stated, students receive a minimal amount of rudimentary sexual and reproductive health information in general subjects such as biology, nature and science and physical and health education, which together adds up to no more than a few hours over

the entire course of their schooling¹⁵⁵ (see paras. II.1-7 above). According to the World Health Organisation (WHO), this approach – the “infusion” approach described above – “in isolation risks losing the salience of the issue amid the competing demands of the other subjects.”¹⁵⁶ For example, over the eight years of primary education in Croatia,¹⁵⁷ the total amount of sexual health information students receive piecemeal through general courses comes to only a little over 4-5 hours.

III.14 It is submitted that this level of sexual and reproductive education plainly falls short of the ‘appropriate measures’ required under the Charter. Additional provision in the educational system for sexuality education is not mandatory and therefore fails to meet one of the criterion suggested by international standards. The one course in primary school where students arguably receive the greatest amount of sexuality education – the elective Catholic teachings course, which is taken by about 90 percent of students and allocates approximately 17 hours for issues on sexuality – is also one of the most problematic in terms of the biased content of information students receive¹⁵⁸ (see para II.4 above, III.34-III.37, III.82-84 below).

III.15 The extracurricular programmes, which include programmes like Teen STAR, are similarly problematic in content (see paras II.8-14 above, III.38-44, III.85-100 below). Even where they are evidence-based and more comprehensive, like MemoAIDS, the extracurricular nature of these programmes means that not all students benefit from the information because some students and/or their parents may choose not to enroll.¹⁵⁹ The reach of these programmes also is limited because they usually are available only in certain cities and schools, and for discrete periods of time.¹⁶⁰ The provision of sexuality education only through these programmes thus fails to ensure that a substantial proportion of students throughout the country receive such education, as the Charter requires. They are an inadequate at best, and inaccurate and discriminatory at worst, source of sexuality education.

2. Content of sexual and reproductive health information currently provided to students is not comprehensive, evidence-based and nondiscriminatory violating both Croatia’s obligation to ensure the right to health under Article 11 and taken together with the prohibition on non discrimination.

III.16 The content of sexual and reproductive health information students currently receive as part of the school curriculum and in extra-curricular programmes is far from inclusive of the comprehensive range of topics required under Article 11(2) and by comparable regional and international standards. Key topics such as the use of effective contraception are often deliberately excluded or information is often out of date thereby failing to reflect current thinking of UN agencies. In some respects—namely the Catholic religious teachings course offered as an elective in schools and the extra-curricular Teen STAR programme—the information that is provided is also inaccurate and replete with

bias and discrimination. This violates regional and international standards, referred to below, that require information to be accurate and evidence-based and respect equality and nondiscrimination principles. In particular, Croatia's failure to date to institute a mandatory programme of sexuality education in schools has a disproportionate impact on and disadvantages the health and development of girls and young women to their right to health under Article 11 without discrimination. The absence of comprehensive and evidence-based sexual and reproductive health information leaves girls uniquely or more vulnerable than boys to certain health risks. Consequently, the government's failure constitutes unlawful discrimination on the grounds of sex.

a. *International and Regional Standards*

European Social Charter

III.17 Whilst this Committee has not elaborated extensively on the specific content of sexual and reproductive health education required by Article 11(2), it has established that Member States must, at a minimum, provide information on the prevention of HIV/AIDS and other STIs and on contraception.¹⁶¹ Furthermore, as an overarching guideline in developing programme curricula, Member States should take into account the nature of public health problems in the given country,¹⁶² something which Croatia's approach singularly fails to do despite the increasing rise in HIV and other STIs infection. In light of the Preamble to the 1961 Charter and Article E of the Revised 1996 Charter, Member States should also respect equality and non-discrimination principles in developing the content of sexuality education programmes.

III.18 The prohibition of discrimination in the enjoyment of social rights is a fundamental protection of both the 1961 and Revised 1996 Charters. The Preamble to the 1961 Charter provides as an overarching principle that "the enjoyment of social rights should be secured without discrimination" on several grounds, including sex.¹⁶³ Indicating the growing importance over the years of the principle of nondiscrimination to the realisation of Charter rights,¹⁶⁴ the Revised 1996 Charter dedicates a separate Article E on nondiscrimination.¹⁶⁵ Whilst the 1961 Charter to which Croatia is a party does not have a dedicated provision, this Committee has relied on the Preamble to make findings of unlawful discrimination in previous decisions concerning Member States similarly bound only by the 1961 Charter, and has held that equality and nondiscrimination principles are integral to the 1961 Charter's articles.¹⁶⁶ The Committee also has read its case law under Article E into decisions considering the prohibition of discrimination under the 1961 Charter.¹⁶⁷

III.19 This Committee's jurisprudence clearly establishes that the prohibition of discrimination under the 1961 and 1996 Charters protects against direct and indirect forms of discrimination. Importantly, the Committee has recognized that indirect discrimination can occur both when similarly situated people are treated differently *and* when people in different situations are not treated in ways that

respect or accommodate their difference.¹⁶⁸ Referring to the case law of the European Court of Human Rights,¹⁶⁹ the Committee has stated that the Charter prohibits all forms of indirect discrimination which can arise “by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all.”¹⁷⁰ The Committee has stated that the Charter requires Member States to take particular measures to meet the specific needs of persons whose situation distinguishes them from the majority.¹⁷¹ This broad understanding of nondiscrimination is in line with the Committee’s emphasis on ensuring equality in practice.¹⁷²

III.20 The Committee has found violations of indirect discrimination on the basis of sex¹⁷³ a prohibited ground of discrimination expressly included in both Charters.

Other Council of Europe Bodies

III.21 Other Council of Europe bodies have further elaborated on the nature and scope of information that sexuality education should include to be effective for the promotion of young people’s right to health. A Committee of Ministers resolution from 1974 already recognized the importance of addressing STIs as a serious public health concern and called for the provision in school health education programmes of information on the prevention of HIV/AIDS and other STIs.¹⁷⁴ A 2004 resolution by the Parliamentary Assembly on a European strategy for the promotion of sexual and reproductive health and rights calls for Member States to provide *comprehensive* sexual and reproductive health information and education,¹⁷⁵ including on HIV/AIDS and other STIs. And a recent, 2007 resolution by the Parliamentary Assembly on HIV/AIDS in Europe specifically “requests the inclusion of sex education in school curricula, both for boys and girls, as a means of [HIV/AIDS] prevention. . . .”¹⁷⁶

III.22 As a general matter in developing effective programmes, the Committee of Ministers has recommended that Member States take into account the needs and priorities identified by young people themselves, doctors, and the communities in which young people live *and might later live*,¹⁷⁷ as well as changes and developments occurring within the school population and its environment.¹⁷⁸ Council of Europe bodies also call for equality and nondiscrimination principles to guide the development of sexuality education programmes, as with any education curricula.¹⁷⁹

European Union

III.23 These Council of Europe standards are reflected in other regional recommendations. Bodies within the European Union – which Croatia is in the process of joining – have similarly emphasized the need for information on STI and HIV/AIDS prevention,¹⁸⁰ underlining the importance of evidence-based information in particular.¹⁸¹ These bodies have recognized the “utmost

importance” of including schools in HIV/AIDS prevention efforts¹⁸² and have explicitly called for all European Union citizens to have access to *proven, evidence-based* information and education to reduce their vulnerability to HIV/AIDS, and for condom education and promotion efforts to be widely implemented.¹⁸³ A European Commission youth policy paper based on a large-scale survey of the concerns of young people themselves found that European youth identified a need for sexuality education in general, including on STIs, contraception and the prevention of teenage pregnancy in particular.¹⁸⁴ Like Council of Europe bodies, European Union institutions also recognize the importance of equality as a guiding principle for sexuality education. In its report on sexual and reproductive health and rights, the European Parliament “[r]eminds that sexuality education should be provided in a gender-sensitive way, i.e. that account must be taken of the particular sensitivities of boys and girls”¹⁸⁵ Indeed, a general principle of the European Network of Health Promoting Schools is “to foster the emotional and social development of every individual, enabling each to attain his or her full potential free from discrimination.”¹⁸⁶

United Nations

III.24 International treaty bodies and UN agencies are even more explicit in outlining the key topics that comprehensive and effective sex education programmes should include. They also underline the importance of objective and evidence-based information, together with gender equality and nondiscrimination principles in sex education programmes.

III.25 In so doing such bodies expressly recognize sex as a prohibited ground of discrimination,¹⁸⁷ and similarly prohibit both direct and indirect forms of discrimination.¹⁸⁸ As the Committee on Economic, Social and Cultural Rights explains, “[e]limination of de jure as well as de facto discrimination is required for the equal enjoyment of economic, social and cultural rights.”¹⁸⁹ Like the European Committee on Social Rights, UN treaty bodies have recognized that indirect discrimination can result from governments’ failure to take positive measures to accommodate the particular needs of people who are situated differently. The CEDAW Committee has shown one of the strongest understandings among the treaty bodies of this concept of indirect discrimination, explaining that governments’ failure to accommodate women’s biological differences from men – for example, by failing to provide services exclusively or disproportionately needed by women – is a form of discrimination against women.¹⁹⁰ Treaty bodies have recognized that both adolescents in general and adolescent girls in particular are sometimes in need of special measures to ensure and protect their rights. The CRC explains that adolescents are entitled to “special attention and protection from all segments of society.”¹⁹¹ States parties’ special duties to adolescents include providing “a safe and supportive environment for adolescents that ensures the opportunity to . . . build life-skills [and] to acquire appropriate information. . . .”¹⁹² The Committee on Economic, Social and Cultural Rights recognizes that women can experience distinct forms

of discrimination due to the intersection of sex with other factors, including age.¹⁹³

III.26 International treaty monitoring bodies have also discussed the need for education programmes to reflect changing social patterns of behaviour and to be flexible enough to challenge conventional views. In particular, the CESCR has asserted that education must be flexible and “adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.”¹⁹⁴

Key topics for inclusion in comprehensive sex education curricula

III.27 The United Nations Committee on Economic, Social and Cultural Rights (CESCR), the United Nations Committee on the Rights of the Child (CRC), the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee), and the United Nations Human Rights Committee (HRC) have all recommended that sex education curricula should cover information for the prevention of teenage pregnancy,¹⁹⁵ unsafe abortion,¹⁹⁶ and the spread of HIV and other STIs,¹⁹⁷ as well as information on family planning and contraception.¹⁹⁸ The CRC also provides that education programmes should include initiatives to change cultural views about adolescents’ needs for contraception and STI prevention, as well as changing cultural and other taboos with respect to adolescent sexuality.¹⁹⁹ Like regional bodies, the CESCR asserts that at the very least, education must be flexible and “adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.”²⁰⁰ In order to identify adolescents’ needs and health priorities, CRC has recommended that States parties undertake a comprehensive study to assess the nature and extent of adolescent health problems and, with the full participation of adolescents, use this study as a basis to formulate adolescent health policies and programmes, with particular attention to reproductive and sexual health, the prevention of HIV/AIDS and other STIs, teenage pregnancy, and adolescent girls.²⁰¹

III.28 International consensus documents and policy guidance issued by UN agencies urge governments to provide and support sexual and reproductive health education as a strategy to address the public health imperatives of reducing adolescent pregnancies and unsafe abortion,²⁰² and preventing the transmission and spread of STIs and HIV/AIDS among young people.²⁰³ The 5-year review of the ICPD requires governments to “immediately develop, in full partnership with youth . . . [and] educators . . . youth-specific HIV education and treatment projects. . . .”²⁰⁴ The subsequent review of Beijing expounds on the relationship between sexuality education and reduced risk of STIs and HIV/AIDS: “. . . experience shows that educational programmes for young people can lead to a more positive view on gender relations and gender equality, delayed sexual initiation and reduced risk of sexually transmitted infections.”²⁰⁵ According to the Joint United Nations Program on HIV/AIDS (UNAIDS):

[A f]ocus on HIV prevention on young people . . . is imperative because young people between the ages of 15 and 24 years are both the most threatened by the AIDS epidemic—accounting for half of all new cases of HIV—and the greatest hope for turning the tide against AIDS. Vulnerability to HIV, especially among young people, is compounded by a limited knowledge of how HIV is spread and how infection can be avoided Lack of awareness also contributes to increasing stigma and discrimination. . . . Information about HIV prevention must be provided at all available opportunities. These include through inclusion in school curricula [among other methods of information dissemination]. . . .²⁰⁶

III.29 In these circumstances, UNAIDS recommends that HIV prevention [p]rogrammes should be comprehensive, promote gender equality and address gender norms and relations, be high quality and evidence-based, and should include accurate and explicit information on safer sex, including correct and consistent male and female condom use.²⁰⁷

III.30 The WHO regional guidelines concerning sexual and reproductive health policy, for example, like the Parliamentary Assembly of the Council of Europe, also call for Member States to educate adolescents on *all aspects* of sexuality and reproduction.²⁰⁸ Curricula should include explicit information on reproduction and contraception, which should be “described, their modes of action explained, and their advantages and disadvantages openly discussed – including with respect to the prevention of STDs.”²⁰⁹ Abstinence-only approaches to sexuality education are deemed to lead to ineffective protection of young people’s health in practice²¹⁰.

Objective and evidence-based information

III.31 The CESCR and CRC have made it clear that states’ right to health obligations prohibit them from “. . . censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information. . . .”²¹¹ Other treaty monitoring bodies have made similar recommendations to states—including those in the region—to provide accurate and objective sex education in their curricula, including comprehensive information about HIV/AIDS and condom use.²¹² International consensus documents and policy guidance issued by UN agencies similarly emphasize the importance of accurate and evidence-based information in sex education programmes.²¹³ The World Health Organisation (WHO) identifies this as a key characteristic that effective curricula share²¹⁴ and highlights its real-world importance:

[Y]oung people learn about family life, reproductive health, and population issues in a variety of ways, for instance, from their parents, siblings, peers, and the media. These sources may support cultural myths about sexuality and related issues, and where they do, some adolescents may not have accurate information about the physical and emotional changes they are

encountering, nor how they can manage these changes safely. Thus, it is important that schools provide accurate information, opportunities to develop healthy attitudes, and skills-based learning experiences . . . to help students make informed decisions and to reduce risk behaviours.²¹⁵

Gender equality

III.32 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) contains strong and explicit prohibitions of gender stereotyping in education. The Convention requires states parties, including Croatia, “[t]o modify the social and cultural practices of men and women . . . which are based on . . . stereotyped roles for men and women.”²¹⁶ It also addresses gender stereotyping specifically in the context of education, calling for states parties to ensure “[t]he elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation . . . and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods.”²¹⁷ The CEDAW Committee has specifically and recently addressed the problem of gender stereotypes in school curricula in Croatia: in its Concluding Observations to the government in 2005, the Committee recommended “more intensive efforts to eliminate stereotypes and to strengthen the enforcement of the principle of gender equality in Curriculum and school books.”²¹⁸ The Committee has also called for the inclusion of topics on gender relations and violence against women in sexual education programmes.²¹⁹ The HRC, in interpreting the right to equality before the law and freedom from discrimination under the Civil and Political Rights Covenant, requires States parties to eliminate discrimination against women by public and private actors in all fields, including education.²²⁰

III.33 The ICPD Programme of Action and standards issued by the WHO have also recommended gender-sensitive approaches and the elimination of gender stereotypes in sex education curricula.²²¹ The WHO has identified gender-sensitive approaches to sex education as another key characteristic that underlie proven effective curricula.²²² Gender equity and gender-based perspectives are also overarching and guiding principles of the WHO’s regional strategy on sexual and reproductive health for Europe.²²³

b. Application

National curriculum

III.34 The sexual and reproductive health information provided in fragments in Croatia as part of other school subjects is far from inclusive of the comprehensive range of topics that regional and international bodies recommend as effective to the protection and promotion of health of young people. According to a government-financed study of the national curriculum in 2004 by the Institute for Social Research (IDIZ) in Zagreb, the curricula for Physical/Health Education, Biology and Nature and Society—three compulsory subjects that currently

include some aspects of reproductive and sexual health information—were identified by teachers as out-of-date and in need of change, among other subjects.²²⁴ The study concluded that such findings indicate a need not only for updated content, but also for a new and coherent national curriculum more broadly.²²⁵

III.35 Research shows that an increasing number of Croatian youth are becoming sexually active and engaging in risky behaviour, and that Chlamydia, HPV and the threat of HIV/AIDS and other STIs are serious concerns (see “Preliminary Statement” paras I.6 and I.7). Apparently recognising that there is a need to respond to these problems, Croatia’s own national policies call for increased information on these issues in schools. The 2006-2010 National Policy for the Promotion of Gender Equality tasks the Ministries of Education and Health, among other government bodies, to expand the content of health education in elementary and secondary schools “to include topics on sexuality, with emphasis on protection from sexually transmitted diseases.”²²⁶ The 2006-2012 National Plan of Activities for the Rights and Interests of Children calls for the Ministries of Education and Health among other government bodies to develop and implement sexual education programmes, with STDs and unwanted pregnancies noted as specific topics about which young people should be educated.²²⁷

III.36 Yet there is no substantial evidence that, more than 6 years since the initial plan noted the need for sexuality education and one year into the most recent strategic plans on this issue, Croatia is implementing these parts of the plans in any meaningful way. The state has failed to take the reasonable steps of utilizing and reflecting the current state of research, developments and recommendations concerning national or regional public health priorities, as this Committee and other regional bodies have recommended.²²⁸ In failing to provide information that can protect Croatian youth against the specific and contemporary health risks they face, as its own policies urge, the government’s existing provision of reproductive and sexual health information in the national curriculum falls short of the recommendations of this Committee and other regional and international bodies.

III.37 In addition to being insufficient, some of the sexual and reproductive health information provided as part of the national curriculum—specifically in the Catholic religious teachings course—is also biased and discriminatory. The course discusses sexuality only in the context of marriage and reproduction, excludes accurate and objective information on condoms, contraception and abortion, and describes homosexuality as a “sinful” form of sexuality in the same group as prostitution, incest and transvestism.²²⁹ Discriminatory content and gender stereotypes in school textbooks appear to be a general problem in the national curriculum.²³⁰ Women are primarily portrayed as mothers who are responsible for raising children, and are very often situated in traditional rural environments. When women are portrayed in a professional role, they are engaged in traditional female occupations, such as maids and teachers. Psycho-social features also perpetuate stereotypes: women are often portrayed as

reckless, dependent, nice, tender and caring and men as decisive, brave and a leader.²³¹ The priorities of the National Policy for the Promotion of Gender Equality include eliminating gender stereotypes in the curricula and introducing gender-sensitive education in the educational system in general.²³² In addition, the 2006-2010 policy calls for the Ministry of Education to develop and implement standards in accordance with the Gender Equality Act for the approval of textbooks.²³³

Extra-curricular programmes: Teen STAR

III.38 Outside of the national curriculum, the content of certain extra-curricular sex education programmes provided by NGOs and supported by the state in various ways, including the provision of school facilities and resources, including payment to public school teachers, is also highly problematic and in violation of regional and international norms. This is partly a consequence of the lack of rigorous standards by the Croatian state for the approval and monitoring of extra-curricular programmes (see further under section 3 below).²³⁴ Whilst materials and textbooks for compulsory subjects must be approved according to set national standards, there is little evidence that similar standards exist and/or are consistently applied in the approval of curricula for extra-curricular programmes. Indeed, the government has approved some programmes without even seeing the full curricula, as discussed below.

III.39 The Teen STAR curriculum has been criticized for three main reasons: biased and inaccurate information on certain reproductive health issues, gender stereotypes, and discrimination on the basis of marital and family status and sexual orientation. The latter will be discussed separately under Article 16 below.

Biased and inaccurate information on reproductive health issues

III.40 The programme's discussion of contraception does not provide balanced and evidence-based information. It focuses entirely on negative aspects of contraception to the exclusion of any information about its medically proven benefits and advantages. For example, the programme characterizes the fact that condoms and other methods of modern contraception can be effective protection against STIs and unwanted pregnancy as a "misconception," focusing instead on an alleged 2 to 12 percent failure rate of condoms and declaring that "[n]o method of contraception gives complete and safe protection neither against unwanted pregnancy or [sic] STDs."²³⁵ These statements completely contradict the findings of UNAIDS and the WHO that the male condom is in fact "the single, most efficient, available technology to reduce the sexual transmission of HIV and other sexually transmitted infections"²³⁶ and violate regional and international standards that sex education programmes include accurate information about

contraception as a means of preventing unwanted pregnancy and the spread of HIV and other STIs.²³⁷ The programme also focuses on the possible negative side-effects of hormonal contraception,²³⁸ again, to the exclusion of any information about the high incidence of individuals who accept and use this method or the proven medical safety of such methods. The use of contraception is further discouraged as interfering with what the programme argues is the essential procreative purpose of sexual intercourse.²³⁹ Rather, natural family planning is the only method that is discussed in any positive light, and only in the context of marriage and for the purpose of planning a family.²⁴⁰ This approach is contrary to the recommendations of the WHO, which does not recommend natural family planning methods for adolescents because “adolescents are very frequently unable to comply with the stringent requirements for the correct and consistent use of [these] methods.”²⁴¹

III.41 The Office of the Ombudsperson for Children has expressed concern with the biased and incomplete information on contraception in the programme, calling for health education for adolescents to include “objective, correct and scientifically based information about the efficacy, advantages and disadvantages of . . . contraception. . . .”²⁴² The review commission established by the Ministry of Education in 2005 also concluded that Teen STAR was not a good quality programme, citing a lack of evidence-based information and bias in focusing exclusively on negative aspects of contraception without discussing any positive aspects (see paras. II.20-28 above).

Gender stereotypes

III.42 Although the absence of mandatory sexuality education disadvantages all young people in Croatia, it has a disproportionate impact on Croatian girls. For example, denying information or providing misinformation on condoms and other contraceptives leaves only girls vulnerable to unplanned pregnancy and its attendant health consequences—e.g., a high-risk pregnancy if a young girl carries it to term, or an unsafe abortion if she chooses to terminate but lacks access to a safe and legal procedure. Although both boys and girls can experience the other social and economic consequences of unplanned pregnancy and parenthood, girls are disproportionately impacted. Similarly, denying young people accurate information on STI and HIV transmission and prevention leaves girls disproportionately exposed to contracting an infection because of women and girls’ unique physiological vulnerability. In a 2007 resolution on HIV/AIDS in Europe, the Parliamentary Assembly of the Council of Europe recognized this special vulnerability of women to HIV/AIDS, both physiologically and due to discrimination.²⁴³ The Resolution specifically calls for Member States to “implement measures to increase the capacity of women and adolescent girls to protect themselves from the risk of HIV infection, *principally* through education . . .” (emphasis added).²⁴⁴

III.43 The programme includes language and messages that perpetuate stereotypical notions of proper gender roles. These include promoting beliefs

about inherent “psychosexual” differences between men and women.²⁴⁵ Such opinions are reinforced by statements by Teen STAR's Croatia country director to the effect that men and women are in fact separated by essential biological and non-biological differences, and programmes that teach adolescents otherwise and characterize non-biological differences as merely based on gender stereotypes are against scientific evidence and “dangerous” in confusing adolescents and interfering with the proper development of their sexual identity.²⁴⁶

III.44 The Offices of the Ombudspersons for Gender Equality and for Children have both expressed concern about these specific aspects of the programme, finding them contrary to Croatia's own gender equality laws²⁴⁷ and international standards.²⁴⁸ The discriminatory aspects of Teen STAR are explored in more depth under Article 16.

Continued support by Ministry of Education

III.45 Despite the increasing criticism of Teen STAR, the Ministry of Education, which had originally authorized the programme and continued to permit it to be taught thereby assuming responsibility for its content demonstrated its ongoing support by refusing to respond in any meaningful way

III.46 This is despite extensive recommendations and findings of the Ombudspersons for Children and Gender Equality, a commission established by the Ministry of Education itself, and civil society organizations. Teen STAR has not been withdrawn nor has its programme's directors been required to reform its problematic aspects in conformity with the Constitution and national and international laws. Instead, the Ministry and other relevant agencies have in fact frustrated or dismissed efforts by the Ombudspersons to investigate the programme.²⁴⁹

III.47 In response to a request in 2004 by the former Ombudsperson for Children to the Education and Teacher Training Agency (formerly the Institute of Education)—a body charged with assisting the Ministry of Education in monitoring and evaluating educational programmes—for its professional opinion on her findings, the Agency replied that it was not competent to interpret the constitution, laws or other acts for the purpose of making Teen STAR compliant with the law.²⁵⁰ This conclusion, however, misinterprets the Agency's role in relation to Teen STAR and other education providers, which is to ensure that they deliver the highest standards of education commensurate with Croatia's own national and international requirements. By refusing to intervene, the Agency failed in its supervisory duty, particularly in light of such strong criticism against Teen STAR by the former Ombudsperson for Children. The Ministry of Education was also non-responsive to repeated requests of the Ombudsperson for Gender Equality in 2005 for more detailed information about Teen STAR on which to further investigate the programme and make recommendations.²⁵¹

III.48 The Ministry of Education's response to the non-governmental organisation that originally brought the complaints about Teen STAR to the attention of the Ombudspersons continued to offer largely uncritical support of the programme, as the following extract demonstrates:

"The recommendation of the Ombudsperson [for Children] was largely relating to the questions of pedagogical approach and the accuracy of the theories and statements included in the program. Since the program got the positive expert opinion from the Institute for school education of the Republic of Croatia, there was no reason to question that opinion. [The] Ombudspersons [referring also to the Ombudsperson for Gender Equality] did not ask for the program to be abolished, but they asked for making the program compliant with the opinion (of the Ombudsperson for Children) and with valid legal provisions. As an answer to that, the Association Teen STAR delivered the opinion of the Law Faculty in Zagreb, according to which all contents of the program are in accordance with valid legal provisions."²⁵²

MemoAIDS

III.49 Whilst the government has sanctioned and supported Teen STAR, it has failed to offer the same level of support for effective and highly-regarded extra-curricular education programmes like MemoAIDS. Despite the fact that MemoAIDS has been praised by UN agencies and shown a positive trend in the knowledge and behaviour of student participants, including increased condom use, the Ministries of Education and Health remained silent in the face of attacks and criticism of it by the Catholic Bishops Conference in Croatia, although eventually with pressure from UNAIDS the MSES sent a letter to schools saying that the MemoAIDS programme is an approved programme.²⁵³ The ministries' initial silence was also despite their own previous approval of the programme for implementation in schools. This silence has been particularly damaging with the percentage of schools represented in the programme's training seminar for teachers plummeting from 80 percent to 40 percent from pre- to post-attack, and the percentage of schools actually implementing the programme dropping from 70 percent to 30 percent²⁵⁴ leaving Teen STAR as the most significant extra curricular programme in terms of numbers of students in this field. According to one of the programme's creators, implementation has continued to be more difficult since the criticism.²⁵⁵

3. Failure to ensure appropriate teacher training and qualifications by not implementing rigorous standards for providers of sexuality education in curricular and extra-curricular subjects

III.50 Given that the minimal sexual and reproductive health information students receive as part of the national curriculum is through their general courses, teachers of these subjects – who generally have no formal training or experience

as sexuality educators – nonetheless become its main providers in schools. Outside of the school curriculum, programmes like Teen STAR lack rigorous standards for the qualifications of its teachers. Providers of sexuality education in both realms thus fall far short of the high quality of teaching required by this Committee and other regional and international bodies.

a. *International and Regional Standards*

European Social Charter and Other Council of Europe Standards

III.51 This Committee has established that Member States must provide for appropriate teacher training as part of their Article 11(2) obligation to establish health education programmes in schools.²⁵⁶ The Committee has commented positively on retraining as well.²⁵⁷

III.52 The Committee of Ministers of the Council of Europe has also made specific recommendations to Member States addressing the training of teachers of school-based health education. Key among these is Recommendation (88)7 on school health education and the role and training of teachers,²⁵⁸ which this Committee has specifically referred to in several of its conclusions concerning Member States' compliance with Article 11(2).²⁵⁹ The recommendation recognizes that the establishment of school health education programmes requires “basic, in-service and further training of all teachers to allow them to contribute within their field to the programmes in question. . . .”²⁶⁰

United Nations

III.53 United Nations treaty monitoring bodies have similarly urged states parties to “ensure the rights of female and male adolescents to sexual and reproductive health education by properly trained personnel” as part of their right to health obligations.²⁶¹ These bodies have also made recommendations for teacher training in specific areas of sexuality education. In 2005, the CEDAW Committee specifically urged Croatia to improve the education of teachers in the field of gender equality—²⁶²a recommendation specifically noted by the Office of the Ombudsperson for Gender Equality in her letter to the MSES expressing her concerns about the Teen STAR programme.²⁶³ The CRC has specifically recommended training on treatment and prevention measures for HIV/AIDS, including condom promotion, to teachers and other education personnel.²⁶⁴ The Committee has also recommended that States parties undertake measures to evaluate the effectiveness of training programmes in health education, particularly with regard to reproductive health, including by allocating adequate human and financial resources.²⁶⁵

III.54 The ICPD Programme of Action recognizes the need for specific training not only for teachers in schools, but for “all who are in a position to provide guidance to adolescents concerning responsible sexual and reproductive

behaviour,²⁶⁶ which would include individuals providing reproductive and sexual health information to adolescents in extra-curricular programmes like Teen STAR.

III.55 The WHO Regional Strategy on Sexual and Reproductive Health in Europe calls for “[t]he training and retraining . . . of professionals, in both education and service delivery . . .”²⁶⁷ The World Health Organisation (WHO) specifically stresses the need for teachers of reproductive health education in particular to receive training and accurate information in order to be able to effectively address the different areas of reproductive health.²⁶⁸ Teacher training that imparts accurate and objective information is particularly important in helping teachers dispel various myths in their classrooms, including “the myth that knowledge about reproductive health, including sexuality and contraception, will increase promiscuity.”²⁶⁹ In a similar vein, appropriate training is also recommended for all teachers of sexuality education so that they are able “to communicate with adolescents in a confidential manner, and without taking a moralizing attitude.”²⁷⁰ “Teacher education should also “involve an understanding of the latest educational research, relevant discipline studies, [and] progressive pedagogical studies . . .”²⁷¹ Not surprisingly, according to health education research, training teachers improves their implementation of the curricula and can make a significant difference in student learning outcomes.²⁷²

b. Application

III.56 The fragmented provision of sexual and reproductive health education sees it being taught by Biology, Nature and Science teachers, despite their lack of appropriate training or experience.²⁷³ This approach treats sexuality education as a side topic that can be taught by virtually any teacher and without specialized training. This is contrary to the rigorous and specific training actually required for the effective implementation and impact of sexuality education programmes as recommended by regional and international bodies, such as training in the current theoretical bases of health education, the latest research and developments in the field, and specific topics such as HIV/AIDS prevention and condom promotion.²⁷⁴

III.57 Furthermore, according to a study by the Croatian institute, IDIZ, the socio-demographic characteristics of the teaching profession – most of whom are women of older age – signals “a warning that this population’s socio-demographic characteristics make its adaptation to increasingly frequent changes and innovations in the teaching profession more difficult, and therefore slow down the process of modernization of teaching.”²⁷⁵ The need for training and retraining teachers of the national curriculum in sexuality education is thus especially great, and the impact on students’ health of the government’s failure to provide such training to date is arguably especially harmful.

III.58 There are also serious problems regarding the training and qualifications of teachers at the level of government-approved extra-curricular programmes such

as Teen STAR. Teachers of the programme are not required to have a background in basic pedagogical education. Whilst the programme prefers that teachers be from the education field, this is not a formal requirement.

III.59 The Office of the Ombudsperson for Children expressed concern about the lack of rigorous standards for teachers of the programme: "...the fact that pedagogical knowledge is relativized in the education of children certainly presents a problem, especially since the subject of sexuality is still a very sensitive and taboo topic. We believe that programs of sexual education of children cannot be performed by persons without elementary pedagogical education . . . it should be taken into consideration that it is not visible from the Program whether even workshop coaches have pedagogical education. Moreover, the content of teacher's manuals is also unknown, as well as the test they are supposed to undergo. In short terms, the pedagogical foundation of the Program is entirely questionable."²⁷⁶ The Ombudsperson's Office further took issue with the lack of clarity regarding the process for determining whether individuals interested in teaching the programme meet the profile of a Teen STAR teacher: "it [remains] totally unclear who will, how, under what criteria and with which instrumentation evaluate whether the head [of the program] is [a] complete and mature person, satisfied and deeply happy, with clear personal positions on sexuality, which seeks towards deepest human values and lives [his or her] own sexuality in accordance with these values."²⁷⁷

4. Failure to ensure effective education: monitoring and evaluation

a. *International and Regional Standards*

European Social Charter and other Council of Europe standards

III.60 The Committee's conclusions under article 11(2) indicate that Member States' compliance with this provision requires not only establishing health education programmes in schools, but also effectively implementing them and demonstrating a positive impact on adolescents' health²⁷⁸. Indeed, the Committee has asked Member States to monitor and provide information on the implementation of their programmes, and evaluate the results of implementation.²⁷⁹ The Committee has looked to data showing increasing or stagnant trends on the incidence of certain health problems—not simply the incidence rates in isolation—as an indicator of poor implementation and effectiveness of health education programmes.²⁸⁰

III.61 Other Council of Europe bodies have similarly recognized the importance of importance of evaluating and assessing the impact of programmes as a component of Member States' duties to provide health education, including sexuality education. In Recommendation (88)7 on school health education and the role and training of teachers, the Committee of Ministers of the Council of Europe recommends that governments of Member States evaluate all components of their health education curriculum and assess “in a formative and summative way” their progress in achieving the objectives of the curriculum.²⁸¹ Furthermore, the process should include the participation of relevant stakeholders: “. . . teachers, pupils, parents, social and health service staff, and community representatives should all be involved in this process.”²⁸²

United Nations

III.62 This recommendation is in line with other international standards. The WHO 2001 Regional Strategy on Sexual and Reproductive Health in Europe, which calls for Member States to educate adolescents about all aspects of sexuality and reproduction, recognizes that it is necessary to create a national system in order to monitor program and strategy implementation.²⁸³ The WHO strategy also recommends that the state conduct periodic surveys on reproductive health issues to determine the effectiveness and efficacy of the various approaches taken as well as to reevaluate and possibly reformulate policies for improvement.²⁸⁴

III.63 The WHO has issued more detailed guidance on evaluating school-based health programmes. In its “Information Series on School Health,” which aims to provide “arguments that can be used to gain support for addressing important health issues in schools, it describes “[e]valuation as an important element of a school-based approach [that] must be considered from the outset and remain ongoing.”²⁸⁵ A monitoring and evaluation plan should be established at the very

beginning of the planning process for a health education programme. The guidelines also discuss the necessity of evaluation both during implementation of a programme in order to make adjustments or corrections where needed, as well as at the end of a programme in order to assess the results and impact of the interventions and to determine if the programme met its objectives or needs to be improved.²⁸⁶ Like Recommendation (88)7 of the Committee of Ministers, the guidelines also recommend the meaningful involvement of young people themselves in the evaluation process, as during all other stages of planning and implementing school health interventions.²⁸⁷ The ICPD Programme of Action echoes this recommendation, calling for adolescents to be actively involved in planning, implementing and evaluating health education programmes.²⁸⁸

b. Application

III.64 In Croatia, monitoring and evaluation of reproductive and sexual health topics in the national curriculum as well as extra-curricular sexuality education programmes is inadequate by the estimates of not just civil society actors, but also government officials. The Education and Teacher Training Agency itself concedes that it lacks enough staff to adequately carry out its duties regarding monitoring and evaluation, with only 107 advisors to cover approximately 850 primary schools and 430 secondary schools.²⁸⁹ Furthermore, it monitors and evaluates mostly the quantitative aspects of implementation of the curriculum, as opposed to doing qualitative assessments that would include soliciting students' opinions and feedback.²⁹⁰ Yet, as recommendations of regional and international bodies make clear, students should be actively involved in the evaluation of health education programmes. Given that sexuality education is not currently taught as a separate subject, monitoring and evaluating the implementation and impact of the sexual and reproductive health information provided to students through the national curriculum is particularly difficult, resulting in little available data.²⁹¹

III.65 With respect to extra-curricular sexuality education programmes outside of the national curriculum, monitoring and evaluation by the state appears to be an even more limited exercise. The Ministry of Science, Education and Sports (MSES) is responsible for monitoring and evaluating extra-curricular programmes that it approves.²⁹² In practice, however, government oversight of the implementation of such programmes is inadequate and inconsistent if not completely absent in some cases. Indeed, the Education and Teacher Training Agency has suggested that the MSES lacks capacity to adequately monitor and evaluate these programmes.²⁹³

III.66 Most notably, there has been no government evaluation of the Teen STAR programme that is known or available, despite the fact that it has been implemented in a relatively large number of schools for a decade. One of the stated tasks of the leadership of the Teen STAR organisation is to evaluate and present the results of the programme,²⁹⁴ but these internal evaluations have similarly not been made available. The objectivity of these evaluations and their

results is also questionable, as the Office of the Ombudsperson for Children expressed in a letter to the Ministry of Science, Education and Sports: “the fact that the evaluation is performed by the same subjects performing supervision and offering permanent professional training is doubtful. . . . it does not provide for sufficient objectiveness. In this regard, the question of external evaluation of the education in question arises.”²⁹⁵ The Office of the Ombudsperson for Gender Equality concluded that implementation of the programme was not properly supervised and that its efficacy had not been evaluated: “Not even the results of internal evaluation or analyses of questionnaires that are supposed to be filled out by the participants are being shown. ... Thus, for now, it is impossible to evaluate the consequences of the eight years of application of the Teen STAR Program”²⁹⁶

III.67 The MSES has continued to permit Teen STAR to be taught in Croatia’s schools, despite expert opinions confirming the programme’s discriminatory and scientifically inaccurate content, including that of the Ombudspersons for Children and Gender Equality and the First Commission. The MSES has transferred this support to Teen STAR’s successor, the Grozd programme, despite the similar dangers it poses to the country’s youth.

III.68 At present, Croatia’s quality control policies and measures for education are unclear.²⁹⁷ Whilst the Law on the National Centre for the External Evaluation of Education (NCEEE) entered into force in January 2005, and entrusted the NCEEE with the external evaluation of the education system,²⁹⁸ it appears the Croatia has made no extensive efforts to genuinely evaluate the country’s sexual education programme. In fact, according to Croatian experts reviewing the country’s educational system, the existence of a system of evaluation and quality control is a key characteristic of any educational system, yet the Croatian educational system “does not know any system of quality control”²⁹⁹

C. The current programme of sexuality education in schools violates Croatia obligations under Article 16 and taken together with the prohibition on non discrimination³⁰⁰

1. Discriminatory content violates the right of the family to social, legal and economic protection

III.69 The obligation to provide social and other protection to the family includes the obligation to provide education that enables young people to make informed and responsible choices about the development of their lives, including their family life. Moreover, the duty to protect the ‘family’ includes the protection of those family units that exist in reality, beyond the traditional nuclear family. A significant amount of the content of the teaching curriculum concerning appropriate family models and sexual behaviour being offered in those Croatian schools where sexual and reproductive health education, including Teen Star, is taught is directly at odds with both Croatia’s own laws on Gender Equality and

Same Sex Civil Partnerships, relevant international standards and an increasing amount of comparative case law from various jurisdictions.

III.70 By reinforcing prejudicial stereotypes rather than dispelling them, Croatia violates its obligation under both Article 16 of the Charter to provide protection for diverse family models and under Article 16 taken together with the provisions guaranteeing non discrimination. The consequential lack of protection can have a significantly detrimental impact on the ability of (a) individuals to make informed choices about the type of family they can and will want to form and (b) such families to deal with the stigma, harassment and discrimination they face because of the different lifestyle they have chosen or been in need to adopt.

a. *International and Regional Standards*

Includes provision of sexual and reproductive health education

European Social Charter and other Council of Europe bodies

III.71 The Committee has made clear that the right of the family to social, legal and economic protection should embrace the provision of sexual and reproductive health education. This is on the basis that social protection includes the provision of good quality child care and early childhood educational services³⁰¹ and that family planning services are included under social rights and services with some states considering such education in their public schools to be a critical part of providing these services, e.g. Sweden³⁰² and Estonia.³⁰³

III.72 In this respect other bodies, such as the Committee of Ministers, have emphasized that a comprehensive approach to sexuality education is required in order to “promote a whole range of healthy attitudes and life-styles so that within each member state’s socio-cultural context, individuals may each consciously choose the way of life best suited to their needs. . . .”³⁰⁴

Other regional and international bodies

III.73 At the same time bodies such as the World Health Organisation (WHO), European Union (EU) and Council of Europe agree that all content should be accurate and evidence-based,³⁰⁵ and respect and reflect equality and nondiscrimination principles,³⁰⁶ including gender sensitivity.³⁰⁷ This will enable young people to make informed decisions about their lifestyles rather than being subjected to cultural stereotypes and myths.

Progressive interpretations of 'the family': embracing different models

European Social Charter

III.74 The Council of Europe in its Explanatory Report to the Charter makes clear that Article 16 embraces an expansive and progressive definition of the family covering “mothers” as understood by Article 17 and that they “may be single parents, but they may also be living in a couple.”³⁰⁸ This is reinforced by the fact that the appendix to the Revised Charter specifically contains the statement that the protection afforded under Article 16 applies to single-parent families.³⁰⁹

Council of Europe and European Union

III.75 Flexible interpretations of ‘the family’ have been adopted within and by the Council of Europe (of which Croatia is a member) and the European Union (of which Croatia is a candidate country). The European Court of Human Rights in a number of decisions has been prepared to recognise that the notion of the family extends beyond marriage to cohabitation and that sexuality should not be determinative of certain aspects of family life such as custody rights. In *Keegan v. Ireland*,³¹⁰ the Court examined the relationships between two parents before their child’s birth and found that, although they had never married and had since separated, family life existed because they had lived together and had planned the pregnancy. The Court held that family “may encompass other *de facto* ‘family’ ties where the parties are living together outside of marriage.”³¹¹ In *Salgueiro da Silva Mouta v. Portugal*,³¹² the Court found a violation of equality provision in the Portuguese Court’s finding that “[a] child should live in . . . a traditional Portuguese family . . .” and, with regard to homosexuality that “. . . it is an abnormality and children should not grow up in the shadow of abnormal situations . . .”³¹³ Ultimately, the Court held that it was discrimination violating the Convention to treat the sexual orientation of a gay father as a negative factor in deciding custody.³¹⁴

III.76 In *X, Y and Z v. United Kingdom*,³¹⁵ involving the relationship between children and their ‘social father’ - their mother’s cohabitant and a female to male transsexual - the Court held that whether or not a relationship amounting to ‘family life’ protected by Article 8 of the European Convention existed was a question of fact.³¹⁶ Relevant factors to consider included whether the couple lives together, the length of their relationships and whether they have

demonstrated their commitment to each other by having children together or by any other means.³¹⁷

III.77 The European Union has been particularly active in progressing the concept of the family defining family law as encompassing “same-sex marriages, civil contracts, divorces by consent, and succession agreements.”³¹⁸ Article 9(23) of the EU Constitution Treaty states that in relation to the right to marry and right to found a family in so far as it draws on Article 12 of the ECHR the latter provision neither prohibits nor imposes the granting of the status of marriage to unions between people of the same sex. A similar approach has also been adopted by the European Parliament when, proposing an amendment to the European Union Preparatory Acts, it stated that “persons assimilated to family members’ means: persons who, under the law of a Member State, live in a registered or otherwise legalised same-sex partnership with the suspected person, persons who cohabit permanently with the suspected person in a non-marital relationship.”³¹⁹

Comparative national legal approaches

III.78 At the national level a flexible and progressive approach to the family has been affirmed in legislation and by a number of domestic courts both within Europe and beyond.³²⁰ This progressive approach in relation to how “the family” model should be viewed reflects the rapid social and demographic changes that have occurred across all European countries during the last two decades. As one pair of expert commentators have noted:

[T]he family is becoming more of an elective relationship, as association of individual persons, who each bring to it their own interests, experiences and plans and who are each subjected to different controls, risks and constraints. This does not mean that the traditional family is simply disappearing. But it is losing the monopoly it had for so long. Its quantitative significance is declining as new forms of living appear and spread—forms which (at least generally) aim not a living alone but at relationships of a different kind: for example, without formal marriage or without children; single parenting, conjugal succession, or same-sex partnerships. These in all their intermediary and secondary and floating forms represent the future of families or what I call the contours of the ‘post-familial family. . . .’³²¹

III.79 Of the 46 Council of Europe member states, nine now grant same-sex couples equal access to second-parent adoption: Belgium, Denmark, Germany, Iceland, the Netherlands, Norway, Spain, Sweden, and the UK (England and Wales with similar proposed reforms in Scotland). Of these nine member states, five grant equal access to joint adoption: Belgium, the Netherlands, Spain, Sweden, and the UK.³²² (See Annex XVI for individual country details).

III.80 Outside the EU a number of other countries, including Australia, Canada, New Zealand, South Africa and the UK have also reformed their laws and/or handed down progressive judicial decisions on the family and lifestyle behaviour (these are presented in Annex XVII).

Gender stereotyping within the family

III.81 The relevant international and regional standards are outlined under Article 11(2) analysis at paras.III.17-26, III.32-33 above).

b. Application

III.82 A significant amount of the teaching curriculum concerning appropriate family models and sexual behaviour being offered in those Croatian schools where some sexual and reproductive health education is taught is directly at odds with both Croatia's own laws on Gender Equality and Same Sex Civil Unions³²³ as well as its international and regional obligations.³²⁴ This is the conclusion of national monitoring bodies who have issued highly critical reports of the content of the teaching being provided. These conclusions outlined below, together with Croatia's clear failure to respond and take any meaningful action to address them, place it clearly in breach of its obligation under Article 16 of the Charter to provide protection for different family models.

National curriculum

III.83 Where the fragmented national curriculum is taught it frequently exhibits the same high level of bias in relation to appropriate family models, gender and sexual stereotyping as it does in respect of reproductive health. This is specifically true in relation to the Catholic religious teachings course which discusses sexuality only in the context of marriage and reproduction, excludes accurate and objective education on condoms, contraception and abortion, and describes homosexuality as a "sinful" form of sexuality.³²⁵

III.84 The CEDAW Committee has specifically and recently addressed the problem of gender stereotypes in Croatian school curricula. In its Concluding Observations to the government in 2005, the Committee recommended "more intensive efforts to eliminate stereotypes and to strengthen the enforcement of the principle of gender equality in Curriculum and school books." The Committee has also called for the inclusion of topics on gender relations and violence against women in sexual education programmes. However, there is no evidence that the government has responded positively to any of these Recommendations both in relation to its own Curriculum and that of those provided by extra-curricular organisations such as Teen STAR.³²⁶

Extra-curricular programmes

III.85 The most significant problems, both in terms of content and the numbers of young people affected, occur in relation to the Teen STAR extra-curricular programme. In addition to its biased and inaccurate information on certain reproductive health issues; the content of the Teen STAR programme has been subject to strong criticism for its gender stereotyping and discrimination on the basis of marital and family status and sexual orientation.

III.86 The fact that Teen STAR could well be supplemented or succeeded by Grozd in the near future as the main provider of the new sexual and reproductive health education curriculum to be introduced across all schools (see paras II.29-40 above) will make effectively no difference to this state of affairs. There is clear evidence both in terms of the same people being involved with both and the content of the Grozd curriculum that it is Teen STAR in all but name. Indeed, given that Grozd will be implemented across all Croatian elementary schools its negative impact will be greater.

Gender stereotyping within the family

III.87 The Teen STAR programme includes language and messages that perpetuate stereotypical notions of proper gender roles. These include the belief that a traditional family model, for example, a mother who does not work outside the home, can be more effective in preventing risky behaviour in adolescents than communication among family members: “[t]he conclusion is that communication is not as important as certain other qualities of family interaction: a bond, life in a family with both biological parents, [and] the unemployment of the mother.”³²⁷ According to the Croatian Ombudsperson for Gender Equality, statements such as this are “unacceptable in contemporary times, especially when taking account the current conformance of the Croatian legal system to the system in the European Union. . . especially from the point of sex equality and encouraging women to achieve economical and personal independence”³²⁸ and violate both Croatia’s own Gender Equality Act.³²⁹

III.88 According to the findings of a study on young people’s attitudes toward gender and sexuality, adolescents’ attitudes and beliefs about the social roles of women and men in Croatia largely reflect traditional and unequal divisions of gender roles, influenced in part by media images that present women and men according to stereotypes. Gender stereotyping promotes misconceptions among adolescents and hinders their ability to communicate their preferences clearly and openly about sex, especially concerning contraception.³³⁰ Adolescents themselves perceive a need for more equal relationships between women and men, and heightened awareness of gender-specific stereotyping and roles.³³¹ Rather than combat and change stereotypes and misconceptions, programmes such as Teen STAR perpetuate and further embed them in adolescents’ perceptions.

III.89 The Offices of the Ombudspersons for Gender Equality and for Children have both expressed concern about these specific aspects of the programme,

finding them contrary to Croatia's own gender equality laws³³² and international standards.³³³ The Ombudsperson for Children also found the statement about unemployment of the mother in violation of the Children's Rights Convention, where "contracting states agree that the education of child should be such as to prepare the child for responsible life in the light of gender equality."³³⁴ In raising her concerns about the programme with the Ministry of Education, the Ombudsperson for Gender Equality referred to the above recommendations of the CEDAW Committee to Croatia calling for "intense endeavors for the eradication of gender stereotypes and strengthening in introducing principles of gender equality in the curriculum and school textbooks" as well as "promoting education of teaching personnel on problems concerning gender equality."³³⁵

III.90 The problems with Teen STAR have been perpetuated with Grozd with its refusal following the Commission review process to make appropriate changes to incorporate relevant information on gender.³³⁶ A Commission member noted in an interview that Grozd responded by noting that gender was a "feminist invention" and not-important.³³⁷

Discrimination on the basis of marital and family status and sexual orientation.

III.91 The Teen STAR programme's discussion of healthy sexuality and family values discriminates against individuals who are not married, including persons of homosexual orientation, who—in Croatia as in most countries of the world—cannot be legally married. Marriage is described as the highest—indeed only—form of a loving and committed relationship and the only context in which meaningful and respectful sexual expression can occur. The programme provides: "[A] completely committed relationship is the commitment of both persons to one another in love. . . .Such a completely committed relationship is in fact marriage. Only in the context of such a completely committed union does physical relation ... respect the entire person and its dignity."³³⁸

III.92 Indeed, one of the goals of the programme is to help students "begin to understand that sexual activity only finds meaning in a completely committed relationship," which -- as evidenced above -- equals marriage.³³⁹ For persons who are not married, these messages imply that their relationships are less than fully loving and committed, and that their sexual activity is devoid of meaning. For gay, lesbian and transgendered persons, the implication is indeed that they will never be capable of experiencing a fully loving and committed relationship or meaningful and healthy sexual activity. In line with these messages, the programme discusses homosexuality in the same class unit as topics on masturbation and sexual harassment, suggesting that homosexuality and masturbation, like sexual harassment, are negative and socially deviant phenomena.³⁴⁰ The country directors of Teen STAR in Croatia have also made public pronouncements to the effect that heterosexuality is more valuable than homosexuality.³⁴¹

III.93 According to the Office of the Ombudsperson for Children, these aspects of the programme violate Article 35 of Croatia's constitution³⁴² and nondiscrimination laws,³⁴³ as well as Article 29(1) of the Convention on the Rights of the Child, which provides that “education of a child should be aimed at promoting a respect of human rights.”³⁴⁴ In addition to discriminating directly against persons who are not married, the programme’s approach is also “dangerous” in breeding and perpetuating prejudice and discrimination since it can trigger discriminatory attitudes and intolerance among children, toward people who are living in non-wedded communities or who no longer live together. As a consequence, this will encourage and perpetuate the development of all other types of intolerance (based on nationality, religion, etc.).³⁴⁵

III.94 In addition to being presented as the only meaningful and healthy context for sexual activity, a heterosexual marital relationship, or “life in a family with both biological parents,” is also upheld as the model family structure and a vital factor in healthy adolescent development.³⁴⁶ For parents and children whose living or family arrangements do not fit this mold, the implication is that these arrangements are detrimental to children's healthy development. According to the Ombudsperson for Gender Equality, this suggestion is “unacceptable” in light of the diverse forms of families in present-day Croatian society, since “a life with only one parent or even without biological parents is legitimate and well-known to our social practice and everyday life.”³⁴⁷ For example, according to the 2001 census, 15 percent of children live in single-parent families.³⁴⁸ The effect of the programme, according to the Office of the Ombudsperson for Children, is to make these children, “together with ones living in institutions without parents. . . feel less worthy, both in general terms, and in a sexual aspect of their personality. The same can happen to children who do not know their parents or whose parents died, or the ones that have been adopted and therefore do not live with their biological parents. Those children can feel discouraged in terms of their starting chances when entering sexual education [and w]e find this especially dangerous.”³⁴⁹

III.95 The programme also ignores the reality that in some circumstances, it may be healthier and safer for the biological parents of a child not to live together, such as in cases of domestic violence. As the Office of the Ombudsperson for Children recognizes, “if a husband and wife cannot live together satisfactorily, it is better both for them and for the children to separate and stop living together. This relates in particular to situations involving domestic violence. Unfortunately, it is a fact that those situations are numerous in Croatia.”³⁵⁰ Contrary to Teen STAR's positions, the Croatia's National Family Policy recognizes that “[p]rofound changes that have happened to the family structure have not jeopardized fundamental family values ... it is not recommended to derive fast conclusions about a crisis of family values on the basis of data concerning ... pluralization of family forms.”³⁵¹ The Ombudsperson for Gender Equality also recognized that these positions of the programme were especially problematic “having in mind the current harmonization of the Croatian legal system with the legal system of the European Union.”³⁵²

Failure to address problems with Teen STAR and the likelihood of continued problems with Grozd

III.96 No known attempts have been made either on the part of Teen STAR or the Croatian government to modify the context of its curriculum to address these concerns. Consequently, the unmodified and discriminatory Teen STAR programme has continued to be taught in a large number of Croatian schools.

III.97 Given the close relationship between Teen STAR and Grozd (see paras. II.32-33 above) and the potential likelihood that the Grozd programme may, in the near future, become part of the new mandatory health education curriculum, there is no evidence that the latter will adopt a significantly different approach in relation to gender and family stereotyping (see paras. II.33-58). As previously outlined (see paras. II.33-40) Croatia's own second expert Commission found significant failings with the content of the Grozd sexuality education module. In particular, in relation to the family, Grozd continues to maintain in its material, as Teen STAR has done, that sexual activity should exclusively take place in marriage; there is no such thing as "safe sex"; homosexuality is against human nature and that children who do not belong to a two-parent heterosexual household are alienated from society. This is combined with a lack of information on the role gender plays in relationships.³⁵³

III.98 The Children's Rights Ombudsman ("the CRO"), noting that children should be taught about the diversity of values based on scientific and precise information, so that they can critically analyze differences, compare them to other values and express their opinion, has specifically criticized the Grozd programme as being value laden and out of step with both Croatia's own laws and international standards.³⁵⁴ This is particularly the case in relation to homosexuality and Grozd's portrayal of marriage as the preferred partnership combined with a negative attitude towards divorce as not in accordance with Croatia's Family Law (NN/116/03). For the CRO, this is an "obvious example of discrimination, for the persons concerned as well as for the children of divorced families."³⁵⁵

III.99 In relation to sexuality the CRO notes that the statement in the Grozd material that "*transversal values of human sexuality and sexual education-values without which human sexuality is not human: love, abstinence, fidelity*" is not supported by any scientific evidence. The CRO goes on to comment that the relationship between parent and child as foreseen in the Grozd programme, concerning sexuality is also questionable since the conflict between parents and children, when communicating about sexuality, is assumed as well as the passiveness of parents and of them not properly addressing interaction and relationships.

III.100 The preference for marriage combined with Grozd's expressed attitude towards divorce, as well as not being in accordance with the Family law, presents, in the opinion of the CRO, an idealized image of marriage thus

preventing the child from seeking help when this image is undermined. Statements such as “... *the reasons for divorce often lay in wrong motives for entering marriage in the first place and bad predisposition of the persons entering the marriage in other words their incapability for true love*”³⁵⁶ are ungrounded and represent an obvious example of discrimination, for the persons concerned as well as for the children from divorced families. Similarly, to reduce the meaning of sexual relationship to “. . . *Complete submission, as a part of love, to the other person*”³⁵⁷ conflicts with the scientific conclusions that “*sex only has that meaning which is ascribed to it by human experience.*”³⁵⁸ The strength of the CRO’s criticism, combined with her request at the end of her letter to the Ministry of Health to bear in mind basic standards for the protection of children’s rights when reaching its decision on sexual and reproductive health programmes, indicates how far the Grozd programme falls short of these standards and, if implemented without appropriate modification, compounds the liability of the Croatian government under Article 16 and taken together with Article E.

D. Croatia’s failure to institute effective mechanisms to ensure the quality of sexuality education programmes violates its obligations under Article 17 to establish and maintain appropriate institutions and services to ensure social and economic protection.

III.101 Education, including sexual and reproductive health education, is a key service in ensuring the social protection of children and young people. In order to ensure that such services are of high quality and continue to meet the needs of young people the state must take all appropriate and necessary measures both ensure that (a) they meet certain standards and that teachers are properly trained to deliver education to those standards and (b) rigorous monitoring and oversight procedures are both in place and effectively implemented.

III.102 The Committee, Under Article 17 of the 1996 Revised Charter requires Member States to establish and maintain an educational system that is both accessible and effective. In order to for there to be an effective system, Member States must institute mechanisms to monitor the quality of the education delivered and to ensure a high quality of teaching.³⁵⁹ Whilst Croatia has not ratified the Revised Charter, it is a party to Article 17 of the 1961 Charter, and the Committee has noted in several recent conclusions that Article 17 of the Revised Charter reflects the approach of the Committee under this provision of the 1961 Charter.³⁶⁰

III.103 Yet the Croatian government lacks effective mechanisms to ensure the quality of the minimal information and instruction students receive on sexual and reproductive health issues in school. In practice, it also exercises virtually no oversight of extra-curricular programmes, with the result that the Teen STAR program has been implemented in about 100 schools over the past few years³⁶¹

despite serious problems regarding both its content and the qualifications of its teachers.

III.104 In addition, the State's current process or "mechanism" to systematize sexuality education in schools has been far from an effective, transparent or democratic means to ensure the quality of sexuality education to come and students may receive in the end as little as 2 hours per school year of sexuality education, rendering such education next to meaningless. As such, the government has failed in its obligations to ensure that the quality of sexuality education programmes and instruction meet both the requirements of Article 17 and other regional and international standards.

1. Failure to Allocate Sufficient Time to Sexuality Education

III.105 Article 17 enshrines the duty to have an effective educational system³⁶² so as to provide young people with an education that will be essential to their social and economic protection. As noted sexuality education is a critical aspect of such education. As discussed above in paras. III.17-33, if such education is to be effective it must be comprehensive, non-discriminatory and evidence-based. A brief, superficial sexuality education session is unlikely to be effective in equipping young people with the education they need to make informed responsible choices about their behaviour and to fulfill the state's protective mandate. The State when allocating time to such programs should realistically evaluate the amount of time needed to effectively teach students.

a. International and Regional Standards

III.106 The ESC has noted, when reviewing state compliance with Article 11(2), concerns about the extent to which health education is taught in schools. The ESC often requests member states in reporting on its compliance with Article 11(2), to clarify whether health education is part of the national curriculum,³⁶³ the extent it is taught at various levels of education,³⁶⁴ and the financial resources devoted to such programmes.³⁶⁵ In addition, the Croatian government itself has noted to the United Nations CEDAW Committee that Croatian youth are "relatively" unaware of the risk of HIV/AIDS, pregnancy and abortion.³⁶⁶

III.107 In terms of the amount of time that should be allocated to health education, including sexual and reproductive health, the WHO, based on extensive reviews of curricula, found that one of the key characteristics of effective programmes is that they last a sufficient length of time, i.e. at least 14 hours or more per school year.³⁶⁷

b. Application

III.108 Yet the Croatia government, during the recent call for proposals for proposed health education programmes, stated that they should not exceed more than 12 school-hours per one school year. Thus, each of the 5 modules, including the module on human sexuality, would be allocated only 2 to 3 hours

per school year. The Ombudsperson for Children's Rights criticized this aspect of the programme in her January 26, 2007 opinion, and asserted that such minimal time allocation seriously marginalizes imperative sexual and reproductive health education³⁶⁸.

III.109 It is doubtful that Croatia can meet its national and international obligations to provide comprehensive, evidence-based, non-discriminatory sexual and reproductive health education within such minimal allocations of time in the proposed mandatory program and in the existing teachings of sexuality education. It is also difficult to reconcile the government's commitment on paper to ensuring the protection of sexual health for its youth and its obligations under the ESC to prioritize and ensure effective implementation of health education programmes under Article 11(2) and to have an effective educational system under Article 17,³⁶⁹ with the little time that is being allocated to such pressing information needed by youth. Such an approach is not only ill-planned but also directly contravenes Croatia's own Council of Europe obligations and endangers the youth it purportedly aims to educate and protect.

2. Lack of Effective Oversight, Monitoring and Training

a. International and Regional Standards

III.110 International and regional standards recognize the importance of teacher training and evaluating and assessing the impact of programmes as part of a states duty to provide health education, including sexuality education. Relevant international and regional standards and their application are explored in depth above in paras. III.51-55 and III. 60-63.

b. Application

III.111 Given that the minimal sexual and reproductive health information students receive as part of the national curriculum is through their general courses, teachers of these subjects—who generally have no formal training or experience as sexuality educators—nonetheless become its main providers in schools. Outside of the school curriculum, programmes like Teen STAR have inadequate standards for teacher qualifications. Providers of sexuality education in both spheres thus fall far short of the high quality of teaching required by this Committee and other regional and international bodies.

III.112 In Croatia, monitoring and evaluation of reproductive and sexual health topics in the national curriculum as well as extra-curricular sexuality education programmes is inadequate by the estimates of not just civil society actors, but also government officials. The Ministry of Science, Education and Sports (MSES) is responsible for monitoring and evaluating extra-curricular programmes that it approves.³⁷⁰ In practice, however, government oversight of the implementation of such programmes is inadequate and inconsistent if not completely absent in some cases, such as in the case of the Teen STAR programme. According to

Croatian experts reviewing the country's educational system, the existence of a system of evaluation and quality control is a key characteristic of any educational system, yet the Croatian educational system "does not know any system of quality control" ³⁷¹ The arguments and their application are explored in depth above in paras III.60-68.

3. Failure to Adhere to the Rule of Law: Ensuring Transparent, Objective and Accountable Decision Making When Selecting a Pilot Health Education Programme

a. International and Regional Standards

European Social Charter

III.113 Croatia is required under both Article 17 ESC and its wider obligations as a Council of Europe member to promote and uphold the rule of law (see further below) to ensure that the expertise of those involved in reviewing or systematizing sexuality education programmes is adequate; that there is both the appearance and the actual neutrality of the government in the process, including ensuring the secular character of the state, ³⁷² that the government in committing both financial and human resources to the process seriously considers the recommendations of its experts, including its Ombudspersons; that all actions of the expert bodies and relevant ministries are transparent to the public and that the public have access to their work and conclusions; and that public, students and civil society, have a meaningful opportunity to comment on the proposed educational material.

Other Council of Europe Standards

III.114 The Council of Europe, through its own statute, the European Commission on Democracy through Law (Venice Commission), and the Parliamentary Assembly, makes repeated and frequent references to the rule of law as one of the fundamental principles guiding the mission of the Council and the governments of member states.

III.115 As a member of the Council of Europe, Croatia is required to ascribe to principles of democracy and the rule of law when conducting government affairs. In practice this requires Croatia when attempting to remedy any deficient public service programme, such as sexual and reproductive health education, in accordance with its Article 17 ESC obligations, to comply with and uphold rule of law standards.

III.116 The Parliamentary Assembly in agreeing that the rule of law is one of democracy's two basic principles ³⁷³ defined the concept in a recent resolution outlining the parameters for the evaluation of democratic development in a given country:

- i. the transparency of governmental action and administration;

- ii. the accountability of decision-making bodies towards the public;
- iii. the openness of political decision-making processes to the public;
- iv. the possibilities and the degree of motivation for citizens to effectively participate in the decision-making process;

. . .

vii. the development of civil society and the extent to which its structures and entities are neither controlled by the state nor act as disguised opposition parties lacking democratic legitimacy;

viii. the secular character of the state, meaning that the state should remain at an equal distance from all religions and confessions, including agnostics

. . .

xxii. the effectiveness of the anti-discrimination rules and regulations . . .

³⁷⁴

III.117 Thus, in accordance with basic principles of democracy and the rule of law, governments must ensure transparency, accountability, openness in decision-making processes, and public participation in the development of educational policies and programmes. These are principles to which Croatia has failed to adhere to in attempting to reform its sexual and reproductive health education

b. Application

III.118 To date, Croatia, through the work of the MSES and its commissions, has evaded its obligations under Article 17 of the ESC and its rule of law obligations by making inappropriate appointments to the review commissions, engaging in non-transparent decision-making, exerting undue influence over commission members to endorse the problematic Grozd programme, failing to solicit civil society and youth input and heeding expert opinions in the curriculum development process, and permitting excessive delays in the programme selection process, to the detriment of Croatian youth and in violation of Article 17 and in contrary to its rule of law obligations under the Council of Europe.

III.119 In particular, the process has been tainted by five factors: (i) lack of expertise and appointment of inappropriate commission members; (ii) lack of transparency in decision making; (iii) undue influence of the MSES on the Commission members; (iv) failure to include civil society in the process and heed the opinions of its experts and Ombudspersons; and (v) continuing delay in implementing a scientifically accurate, non-discriminatory and gender sensitive sexuality education programme. Each of these problems is outline briefly below with a more detailed facts provided in section II B, above.

III.120 It should be noted that in 2005 Croatia was criticized by the Open Society Institute (OSI), a leading NGO working on democratic good governance and

human rights, for failing on its obligations to deliver education context when it stated that “the education system “. . . does not know any system of quality control . . . [its] decision-making is not transparent and relevant information is not sufficiently available to the interested parties . . . [; and it] does not stimulate professional public discussion and especially does not take into account its results in decision-making.”³⁷⁵

Lack of Expertise and Appointment of Biased Commission Members

III.121 In response to this internal and external pressure to overhaul its health education curriculum, the MSES has established three review commissions. Their brief was to review the adequacy of the existing curricula and extra-curricula programmes that address sexuality issues and to develop and select a comprehensive, systematic health education programme, with a sexuality education component.³⁷⁶ Clearly, the Commissions’ membership would be vital in ensuring that the bodies were sufficiently objective and expert in ensuring that assessed programmes complied with national and international gender equality and human rights obligations. However, composition of the first two review bodies was problematic.

III.122 The MSES appointed as Chair of the twenty-eight member Commission, Dr. Vladimir Gruden, a psychiatrist with a record of expressed homophobic views and refused to replace him despite his clear unsuitability for the position.

III.123 Contrary to Croatia’s own National Policies for the Promotion of Gender Equality (2001-2005 and 2006-2010) and its obligations under CEDAW to ensure gender representation in government bodies,³⁷⁷ the MSES appointed members to the Second Commission lacked imperative gender equality and human rights experience with no representatives of institutional mechanisms for gender equality or NGOs and/or experts on the issue.³⁷⁸ This is despite the fact that the Second Commission was initially formed in response to complaints about the existing Teen STAR sexuality education programme’s breaches on gender equality and human rights, and that therefore one of the evaluation criteria for the proposed programmes was the promotion of gender equality.

III.124 This failure to accommodate appropriate gender expertise is symptomatic of a wider problem within the country with both the European Union³⁷⁹ and CEDAW³⁸⁰ being strongly critical of Croatia’s record.

Lack of Transparency

III.125 Croatia’s rule of law obligations and Article 17 ESC requirements for establishing an education system that is effective, not only should require appointment of non-biased and qualified decision-makers, but the Commission members and the Commissions they represent must engage in transparent decision-making. As noted above in the Parliamentary Assembly resolution, markers of democratic development include, among other things, transparency in

governmental action and administration, and accountability by decision-making bodies, and openness of political decision-making processes, to the public.³⁸¹

III.126 The 2005 Open Society Institute-Croatia report confirms the overall lack of transparency in decision-making and the state's failure to provide relevant information to the public and interested parties, as a serious flaw in Croatia's educational system.³⁸² This report specifically noted the reluctance by state institutions to consult relevant professional and NGOs on issues concerning education, resulting in their failure to take into account their views in the decision-making process.³⁸³ In addition, the European Commission, in its latest progress report on Croatia, has noted the need to implement reforms for "professional, efficient, accountable, transparent and independent public administration. . . ."³⁸⁴

III.127 In-line with these with more general observations by the OSI and the European Commission, the MSES' appointed commissions have engaged in non-transparent decision-making during the entire review process. Deliberations of the First Commission took place behind closed-doors, without consultation with outside experts, civil society and students and the final conclusions and recommendations were never made them available to the public.

III.128 A similar lack of transparency dominated the proceedings of the Second Commission. Crucial information, such as the findings and conclusions of the Second Commission, was withheld from the public domain and, yet again, civil society and relevant government offices (e.g. Ombudspersons) were not involved in the process. Despite repeated requests, proposed programmes were only sent for comment by the MSES after it had already agreed in principle with the final recommendations of the Commission.

III.129 The Third Commission has followed this pattern of secrecy with the MSES/Min of Health refusing to issue any information on the body's mandate let alone its deliberations or findings. Information on the Commission's membership has not even been released, beyond the identity of the Chair and that members are health experts, on the grounds that the Ministry of Health does not want it to be subject to external influence. Whilst this might be an admirable objective given the history of attempts at influencing the review process (see further below) it does not justify the high levels of secrecy surrounding the Commission to date.

Undue Influence combined with a Failure to Solicit Adequate Input and Participation of Croatian youth, Civil Society and Ombudspersons; deliberate dismissal of expert opinion

III.130 Croatia's rule of law commitments and Article 17 ESC obligations to ensure an effective education system also require engaging in democratic decision-making. Specifically, the process to select a sexual and reproductive health programme should be driven by the consensus of the appointed commission members.

III.131 Yet there are significant examples, most notably in relation to the work of the second Commission, where the MSES (itself the subject of criticism for being subject to undue influence by religious institutions)³⁸⁵ has attempted to unduly influence the review process. This took the form of overriding the Second Commission's continued recommendations that programmes include objective, science-based sexual health information that is non-discriminatory whilst repeatedly pressuring the review body to approve the Grozd programme. This the body eventually did, changing its position, despite the former's serious concerns regarding the programme's content and the repeated refusal of Grozd to amend its programme accordingly. Subsequently, at least one member of the second Commission has publicly confirmed that the MSES has placed strong pressure on the decision-making body to accept the Grozd programme.³⁸⁶

III.132 The MSES' obligation to ensure an accessible and effective educational system under Article 17 and to engage in transparent and democratic decision-making also requires the state to engage Croatian youth and civil society in the curriculum development process, in line with its own national policies, together with its membership of the Council of Europe³⁸⁷ and the European Network on Health Promoting Schools (ENHPS).³⁸⁸ These obligations are specifically reflected in the National Plan of Activities for the Rights and Interests of Children and the National Policy on Gender Equality where they require that relevant ministries, including the MSES and the Ministry of Health, include children in the creation, implementation and monitoring of preventative health programmes and cooperate with NGOs in developing educational programmes and expanding health education programmes in schools to include issues of sexuality, reproductive health, and preventing transmission of sexually transmitted infections.³⁸⁹

III.133 However, in contravention of its national and international obligations, the MSES has made no attempt to solicit youth participation in the sexual and reproductive health education curriculum development process. This is also despite the fact that Croatian youth, as key beneficiaries of school-based programmes, believe that comprehensive sexuality education should be implemented in school curricula.³⁹⁰

III.134 This lack of consultation is mirrored in the government's approach to civil society and national experts, in particular the Ombudspersons on Children's Rights and on Gender Equality. The MSES has not merely excluded them from the review process but actively rejected their expert opinions. This is despite the fact that these opinions, supported by some external commentators, have repeatedly highlighted the physical dangers and discriminatory effect amounting to violation of human rights obligations that the Grozd programme would have on youth.

III.135 Yet, immediately after the Children's Rights Ombudsperson issued her opinion on the Grozd programme, the Minister of Health repudiated it, stating that he "will not take into account the Ombudsperson for Children's opinion...because

she is not a medical doctor and thus has displayed a complete disrespect for another state body.”³⁹¹ The Minister in stating this is calling into question the Ombudsperson’s well-established legal mandate of criticizing relevant government offices when children’s rights are threatened by state actions.³⁹²

III.136 The Second Commissions’ recommendations, if accepted by the MSES, will mean that the Grozd programme, including a component on sexuality education which fails to meet internationally accepted scientific standards on prevention of STIs and unwanted pregnancy and breaches the right not to be discriminated against on the grounds of sexuality, would be tested in 10 schools with a view to implementing the programme for all Croatian children from the age of 10 onwards until they reach the age of 19. This would result in children receiving inadequate education during their most formative years.

III.137 The Ombudsperson for Children’s Rights and the European Parliament Working Group on Reproductive Health, HIV/AIDS and Development have both criticized the Grozd Programme for potentially being harmful to health of youth and emphasize the need for scientifically accurate, evidence-based information in accordance with international law and World Health Organisation (WHO) standards (see paras II.49-51, II.54-58 above).

III.138 The Ombudsperson for Gender Equality specifically noted in her February 12, 2007 opinion, that implementation of the Grozd programme may perpetuate sex and gender stereotypes and deny children the opportunity to adopt tolerant and non-discriminatory outlooks, and a consciousness towards human rights (see above facts section for details).³⁹³ She also explicitly stated that some of the content of the Grozd Programme violates Croatia’s law on Gender Equality, and bans on discrimination based on gender, marriage or family status, and sexual orientation. The Children’s Rights Ombudsperson and the European Parliament Working Group have raised similar concerns, with the latter adding how the programme contravenes EU standards which prohibit discrimination based on gender and sexual orientation.³⁹⁴

III.139 In addition, the Ombudsperson for Children’s Rights asserted in her January 26, 2007 opinion, that the Grozd’s programme’s parental consent requirement risks depriving children of essential health education, and further, denying them educational, participation, protection and long-term survival rights.³⁹⁵

Excessive Delay Causing Further Potential Harm to Croatia’s Youth

III.140 Croatia’s obligation to remedy its poor quality, biased and factually inaccurate sexual education is long overdue with an explicit policy requirement, in the form of the 2001-2005 National Policy for the Promotion of Gender Equality, dating back to 2001 to establish a sexuality education programme, which would include enhanced information on sexually transmitted diseases, for Croatian schools to commence 2002-2003.³⁹⁶ To date, the MSES has not only

failed to implement this Policy but has acted negligently in continuing to delay implementation, in violation of not just Article 17 but also its substantive obligations under Article 11(2).

III.141 On January 26, 2007, the Children's Rights Ombudsperson issued an opinion expressing concern that the lengthy decision-making processes by the MSES, and now the Ministry of Health, on the "choice and implementation of the programme of health education in schools" have significantly deprived children of their rights and has subjected them to various developmental risks.³⁹⁷

III.142 The ultimate outcome of the review process remains unclear continuing to leave all students without access to comprehensive and high quality sexual and reproductive health education. If the Grozd programme were to be approved the potential negative effects would be considerable. Even if these children were to subsequently receive science-based, non-discriminatory sexuality information in secondary school, many of them would already have adopted a particular view, attitude and behaviour toward sexual and reproductive health, endangering their health and welfare. As such, the adoption of the Grozd programme, or a substantially similar programme, would directly contravene the government's laws and policies and international obligations on youth, gender equality, and human rights.

IV. CONCLUSIONS

In light of the above failures to comply with its Charter obligations the Republic of Croatia should:

- Establish a dedicated sexual and reproductive health education as a core element of the national curriculum that meets international standards and best practice.
- Ensure sexuality education is compulsory and available in all schools from the beginning of the elementary level to the completion of a young person's education.
- Develop sexuality education curricula in accordance and consultation with appropriate national and international individual experts and institutions.
- Ensure content of sexuality education curricula is evidence-based, gender sensitive, non discriminatory and in accordance with other international standards.
- Ensure content of sexuality education curricula enables young people to have access to accurate information necessary to make informed choices about their sexual and reproductive lives and protect their health whilst avoiding perpetuating outdated and discriminatory stereotypes.
- Appropriately train and educate teachers on sexuality education.
- Subject compulsory and extra-curricular sexuality education programmes to independent and periodic monitoring, inspection and evaluation.
- Ensure that approval and/or support of any extra-curricular programmes taught in schools is dependent on the programmes being non-discriminatory and evidence-based.
- Withdraw permission and support for any existing school programmes, whether they are extra-curricular programs or programs that are part of national curricula that include sexuality education component, that are discriminatory and/or non-evidence-based currently being taught in schools.
- Ensure that existing and future governmental processes regarding development of a compulsory sexuality education programme is transparent and respects the rule of law.

V. NOTES

¹ *Tysic v. Poland*, no. 5410/03, Eur. Ct. H.R. (2007).

² *I.G. and Others v. Slovakia*, no. 15966/04 Eur. Ct. H.R. (decision pending).

³ *Bevacqua and S. v. Bulgaria*, no. 71127/01 Eur. Ct. H.R. (decision pending)

⁴ *M.C. v. Bulgaria*, no. 39272/98, Eur. Ct. H.R. (2003).

⁵ *Opuz v. Turkey*, no.33401/02, Eur. Ct. H.R. (decision pending)

⁶ *Purohit and Moore v. The Gambia*, Communication No. 241/2001, Sixteenth Activity Report 2002-2003, Annex VII.

⁷ *Egyptian Initiative for Personal Rights and INTERIGHTS (on behalf of Al Kheir and others) v. Egypt*, Communication, no. 323/2006, African C.H.R..

⁸ See Eur. Soc. Chart., *Slovenia: Conclusion for Report Covering 01/01/2001–12/31/2002* [hereinafter Eur. Soc. Chart. *Slovenia 01/01/2001–12/31/2002*].

⁹ See CONSTITUTION OF CROATIA, arts. 14, 35, 41(1), 61(1), 62, 69, Official Gazette, no. 56/Dec. 22, 1990, Pub. No. 1092, Amended on Dec. 15, 1997, Official Gazette, no. 8/ Jan. 26, 1998, Pub. No. 121, Nov. 16 2000, Official Gazette, no. 113/00, Apr. 2, 2001, Official Gazette, no. 28/01 [hereinafter CONSTITUTION OF CROATIA], The English translation can be found at http://www.servat.unibe.ch/law/icl/hr00000_.html (last visited, July 26, 2007). Article 14 of the Croatian Constitution guarantees that “(1) [e]veryone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, color, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. (2) All shall be equal before the law.” *Id.* at art. 14. Article 35 provides that “[e]veryone shall be guaranteed respect for and legal protection of personal and family life, dignity, reputation and honor.” *Id.* at art 35. Article 41(1) provides that “[a]ll religious communities shall be equal before the law and shall be separated from the State.” *Id.* at art. 41(1). Article 61(1) guarantees that “[t]he family shall enjoy special protection of the State.” *Id.* at art. 61(1). Article 62 guarantees that “[t]he State shall protect maternity, children and young people, and shall create social, cultural, educational, material and other conditions promoting the right to a decent life.” *Id.* at 62. Article 69(1) & (2) guarantees that “(1) [e]veryone shall have the right to a healthy life (2) The State shall ensure conditions for a healthy environment.” *Id.* at 69(1) & (2).

¹⁰ See, e.g., REPUBLIC OF CROATIA, GENDER EQUALITY ACT, Official Gazette, no. 116/03 (July 30, 2003), available at <http://www.prs.hr/content/view/105/36/> (last visited Aug. 7, 2007) [hereinafter REPUBLIC OF CROATIA, GENDER EQUALITY ACT]; REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS, § 3, art. 20, Official Gazette, no. 01-081-03-2597/2 (July 14, 2003) [hereinafter REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS] This law grants same-sex partners who have been in a relationship for at least three years the same rights as enjoyed by unmarried cohabiting opposite sex partners (inheritance, financial support). *Id.* Article 20(1) of the law prohibits, “(1) Any form of discrimination, direct or indirect on the basis of same sex civil union, as well as on the basis of sexual orientation is prohibited.” *Id.* at art. 20(1). Furthermore, Article 20(3) specifies that “Direct Discrimination” means “any act which puts or has put a person who is a member of same sex civil union into an unfavorable position in regards [*sic*] to a comparable situation . . .” *Id.* at art. 20(3).

¹¹ In addition to the European Social Charter, Croatia has also ratified the rights to health and education under Articles 12 and 13 of the International Covenant on Economic, Social and Cultural Rights. See International Covenant on Economic, Social and Cultural Rights arts. 12 &13, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, at 49, U.N. Doc A/6316 (1966), 999 U.N.T.S. 3 (entered into force Jan. 3, 1976) [hereinafter Economic, Social and Cultural Rights Covenant]. In addition, Croatia guarantees the right of children to the highest attainable standard of health under Article 24 of the Convention on the Rights of Child including Article 24(f) ensuring access to teaching on preventive health care and family planning and Article 29(d) guaranteeing access to education which teaches tolerance and equality between the sexes. See Convention on the Rights of the Child arts. 24 & 29, adopted Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, at 166, UN Doc. A/44/49 (1989), reprinted in 28 I.L.M. 1448 (entered into force Sept. 2, 1990) [hereinafter Children’s Rights Convention]. Furthermore, Croatia is bound by Articles 10 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women outlawing discrimination against women in education and health care provision, including family planning. Convention on the Elimination of All Forms of Discrimination against Women, arts. 10 & 12, adopted Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1979) (entered into force Sept. 3, 1981) [hereinafter CEDAW].

¹² *Natasha Bijelic “Parallel Analysis of Program Teen STAR and Association Grozd’s Program, 2007, Civil Coalition to Stop High Risk Sexual Education (citing to: A call to a seminar – The Complete Sexual Education Program «Teen STAR», eljka ubari, dr. med., Zagreb: Sexuality and (or) love; Renata Vivek, Religion teacher, Krievci: Sexuality in Religion class’ program, parish teaching and newlywed courses;*

Kristina Pavlović, prof., Zagreb (author), Zrinka Vitković, prof., Zagreb (teacher): Presentation of The Complete Sexual Education Program «Teen STAR»; Program «Teen STAR» in Croatia; Anđelka Jalušić, prof., Zagreb: Teen STAR – experiences; Ladislav Ilčić, prof., Varaždin: Teen STAR program for boys; The Complete Sexual Education Program «Teen STAR»: The procedure of implementing the program into school; Informative pamphlet «Teen STAR» no. 5, Dec. 2004 (ANNEX I) [hereinafter Bijelic].

¹³ See AMIR HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS: RECOMMENDATIONS AND A PROPOSAL FOR SEXUAL HEALTH EDUCATION PILOT PROGRAM § 2 (2002/2003) [hereinafter HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13] (referencing, e.g., THE MINISTRY OF EDUCATION AND SPORT OF THE REPUBLIC OF CROATIA, THE CURRICULUM FOR PRIMARY SCHOOL, Prosvjetni vjesnik 99/2: Special Edition No. 2 (1999); NATIONAL CATECHISTICAL BUREAU OF THE CROATIAN EPISCOPAL CONFERENCE AND THE MINISTRY OF EDUCATION AND SPORT OF THE REPUBLIC OF CROATIA, PLAN AND PROGRAM FOR CATHOLIC RELIGIOUS EDUCATION IN PRIMARY SCHOOL (1998); CENTER FOR COOPERATION WITH NON-MEMBERS - OECD & STABILITY PACT FOR SOUTH EASTERN EUROPE, THEMATIC REVIEW OF NATIONAL POLICIES FOR EDUCATION: CROATIA (2001)).

¹⁴ See WORLD HEALTH ORGANIZATION (WHO), HOW DO PERCEPTIONS OF GENDER ROLES SHAPE THE SEXUAL BEHAVIOUR OF CROATIAN ADOLESCENTS? WORLD HEALTH ORGANIZATION series 1, no. 1 (2004).

¹⁵ See Aleksandar Štulhofer et al., *HIV/AIDS-Related Knowledge, Attitudes and Sexual Behaviors as Predictors of Condom Use Among Young Adults in Croatia*, 33(2) INT'L FAM. PLANNING PERSPECTIVES 63 (2007). The study showed that whilst almost a quarter of young people have had only one sex partner in their lifetimes, 23 percent have had 4–6 partners, 11 percent have had 7–10 partners and 7 percent have had more than 10 partners. *Id.* at 62 tbl. 3.

¹⁶ See United Nations Children's Fund (UNICEF), *Facts on Children, HIV and AIDS*, Press Centre, http://www.unicef.org/media/media_35904.html (last visited July 26, 2007).

¹⁷ See Noeleen Heyzer, Executive Director of UNIFEM, *quoted in* Policy Update, SIECUS, International Women's Day 2004 Highlights Women's Vulnerability to HIV/AIDS (Mar. 2004), *available at* <http://www.siecus.org/policy/PUupdates/arch04/arch040095.html#INT> (last visited Aug. 7, 2007).

¹⁸ See Interview with Luka Maderić, Head of Office, Office of Human Rights, in Zagreb, Croatia (Nov. 3, 2006).

¹⁹ RAYMOND J. NOONAN, ED., THE CONTINUUM COMPLETE INTERNATIONAL ENCYCLOPEDIA OF SEXUALITY, 254, *available at* <http://www.kinseyinstitute.org/ccies/> (last visited August 27, 2007).

²⁰ NOONAN, *supra* note 19.

²¹ *Id.*

²² Štulhofer et al., *supra* note 15.

²³ See, e.g., REPUBLIC OF CROATIA, CRIMINAL CODE, Official Gazette, no. 110/97, 27/98, 129/00, 51/01, 111/03, 105/05, *available at* <http://www.legislationline.org/?tid=218&jid=12&less=false> (changes have been made to the criminal code provisions on hate crimes to include crimes motivated by sexual orientation); REPUBLIC OF CROATIA, GENDER EQUALITY ACT, *supra* note 10; REPUBLIC OF CROATIA, LAW ON PROTECTION AGAINST FAMILY VIOLENCE, Official Gazette, no. 116/03 (July 18, 2003); GOVERNMENT OF THE REPUBLIC OF CROATIA MINISTRY OF FAMILY, VETERANS' AFFAIRS AND INTERGENERATIONAL SOLIDARITY, NATIONAL STRATEGY OF PROTECTION AGAINST FAMILY VIOLENCE FOR THE PERIOD FROM THE YEAR 2005 TILL THE YEAR 2007 AND RULES OF PROCEDURE IN CASES OF FAMILY VIOLENCE (2006) [hereinafter GOVERNMENT OF THE REPUBLIC OF CROATIA MINISTRY OF FAMILY, VETERANS' AFFAIRS AND INTERGENERATIONAL SOLIDARITY, NATIONAL STRATEGY OF PROTECTION AGAINST FAMILY VIOLENCE FOR THE PERIOD FROM THE YEAR 2005 TILL THE YEAR 2007 AND RULES OF PROCEDURE IN CASES OF FAMILY VIOLENCE].

²⁴ CROATIAN PARLIAMENT, GOVERNMENT'S COMMISSION FOR GENDER EQUALITY, NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010, at 18 (2006), *available at* <http://www.ured-ravnopravnost.hr/slike/File/Nacionalna/nacionalna-engl.doc> (last visited July 26, 2007) [hereinafter NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010].

²⁵ See, e.g., GOVERNMENT OF THE REPUBLIC OF CROATIA MINISTRY OF FAMILY, VETERANS' AFFAIRS AND INTERGENERATIONAL SOLIDARITY, NATIONAL STRATEGY OF PROTECTION AGAINST FAMILY VIOLENCE FOR THE PERIOD FROM THE YEAR 2005 TILL THE YEAR 2007 AND RULES OF PROCEDURE IN CASES OF FAMILY VIOLENCE], *supra* note 23.

²⁶ REPORT ON WOMEN'S HUMAN RIGHTS IN 2005 4-26, Zagreb, January 2006, *available at* <https://www.zenska-mreza.hr> (last visited on August 21, 2007).

²⁷ See ALEKSANDRA PIKIC AND IVANA JUGOVIC, LESBIAN GROUP KONTRA, VIOLENCE AGAINST LESBIANS, GAYS AND BISEXUALS IN CROATIA: RESEARCH REPORT 31 (2006) (stating that physical and psychological violence against sexual minorities is a problem); Iskorak & Kontra 2005 *Annual Report on the Status of Human Rights of Sexual and Gender Minorities in Croatia* 10 (2005) (stating that violence is largely ignored by the state).

²⁸ See ALEKSANDRA PIKIC AND IVANA JUGOVIC, LESBIAN GROUP KONTRA, VIOLENCE AGAINST LESBIANS, GAYS AND BISEXUALS IN CROATIA: RESEARCH REPORT 59 (2006).

²⁹ GOVERNMENT OF THE REPUBLIC OF CROATIA MINISTRY OF FAMILY, VETERANS' AFFAIRS AND INTERGENERATIONAL SOLIDARITY, NATIONAL STRATEGY OF PROTECTION AGAINST FAMILY VIOLENCE FOR THE PERIOD FROM THE YEAR 2005 TILL THE YEAR 2007 AND RULES OF PROCEDURE IN CASES OF FAMILY VIOLENCE], *supra* note 23, at 43–61; REPORT ON WOMEN'S HUMAN RIGHTS IN 2005, *supra* note 26, 17.

³⁰ REPORT ON WOMEN'S HUMAN RIGHTS IN 2005, *supra* note 23, at 17-18.

³¹ *Id.*

³² *Id.* at 3, 11-13.

³³ WHO, HOW DO PERCEPTIONS OF GENDER ROLES SHAPE THE SEXUAL BEHAVIOUR OF CROATIAN ADOLESCENTS? *supra* note 14.

³⁴ UNITED NATIONS CHILDREN'S FUND (UNICEF), STATE OF THE WORLD'S CHILDREN 2007 EXECUTIVE SUMMARY 15 (2007); Press Release, Committee on Elimination of Discrimination against Women, Women's Anti-Discrimination Committee Concludes Thirty-Third Session, Stressing Need to Eliminate Stereotypes, Withdraw Convention Reservations, Experts Examined Reports of 8 States Parties to the Convention, U.N. DOC. WOM/1519 (2005), available at <http://www.un.org/News/Press/docs/2005/wom1519.doc.htm> (last visited Aug. 7, 2007).

³⁵ See e.g., HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

³⁶ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13; Interview with Baranka B., Center for Educational Research and Development, in Zagreb, Croatia (Nov. 6, 2006) [hereinafter Interview with Baranka B., Nov. 6 2006]; Interview with Marija Gabelica Šupljika & Lora Vidović, Deputy Ombudspersons for Children, Office of the Ombudsperson for Children, in Zagreb, Croatia (Nov. 8, 2006) [hereinafter Interview with Šupljika and Vidović, Nov. 8, 2006].

³⁷ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

³⁸ See INSTITUTE FOR SOCIAL RESEARCH – ZAGREB (IDIZ) & the Centre for Educational Research and Development, Evaluation of Syllabi and Development of Curriculum Model for Compulsory Education in Croatia 12 (2004) [hereinafter INSTITUTE FOR SOCIAL RESEARCH – ZAGREB (IDIZ) & the Centre for Educational Research and Development].

³⁹ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

⁴⁰ See *Id.*

⁴¹ See *Id.*; Iskorak & Kontra, *supra* note 27, 10; Republic of Croatia, Gender Equality Ombudsperson, *Annual Report for 2005* ¶ 9.1.8, f74 (2006) [hereinafter *Annual Report for 2005*].

⁴² See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

⁴³ Interview with Baranka B., Nov. 6 2006, *supra* note 36.

⁴⁴ See Interview with Dunja Skoko Poljak, Ministry of Health and Social Welfare, in Zagreb, Croatia (Nov. 8, 2006).

⁴⁵ See Interview with Darko Tot, Education and Teacher Training Agency, in Zagreb, Croatia (Nov. 7, 2006) [hereinafter Interview with D.Tot, Nov.7, 2006]; Mladen Petrovečki et al., *Can Croatia Join Europe as Competitive Knowledge-based Society by 2010?* 47 CROAT. MED. J. 809, 812 (2006).

⁴⁶ See Interview with D.Tot, Nov.7, 2006, *supra* note 45.

⁴⁷ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13 (referencing, e.g., CHILDREN HOSPITAL ZAGREB, PEER-EDUCATION MANUAL: MEMO AIDS: YOUTH EDUCATING YOUTH ABOUT AIDS (2000)).

⁴⁸ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

⁴⁹ See Interview with Aleksander Stulhofer, 2nd Committee on Health Education, Ministry of Education, in Zagreb, Croatia (Nov. 2, 2006) (on file with authors) [hereinafter Interview with A. Stulhofer, Nov. 2, 2006]; See also Letter dated March 10, 2003 from Prof. DSc Josip Milat, Assistant Minister in MSES on the Teen STAR Programme to Vesna Bulić, MSc Directorate for Education, Mrs. Željka Šubarić, Dr., Croatian Catholic Medical Association; Mr. Davor Đurinović, Prof., Croatian Catholic Association of Educational Workers (ANNEX II) [hereinafter Letter dated March 10, 2003].

⁵⁰ Interview with Ladislav Ilcic, Vice-President of Teen STAR & Coordinator of Health Education Program Development at Grozd Association, in Zagreb, Croatia (Nov. 6, 2006) [hereinafter Interview with L. Ilcic, Nov. 6, 2006]. This represents nearly 8 percent of the total number of 1280 schools, which include 850 primary and 430 secondary public and private schools. GOV'T OF THE REPUBLIC OF CROATIA, MINISTRY OF FAMILY, VETERANS' AFFAIRS & INTERGENERATIONAL SOLIDARITY, NATIONAL PLAN OF ACTIVITIES FOR THE RIGHTS AND INTERESTS OF CHILDREN from the Year 2006 until the Year 2012 148–49 (2006) [hereinafter GOV'T OF THE REPUBLIC OF CROATIA, MINISTRY OF FAMILY, VETERANS' AFFAIRS & INTERGENERATIONAL SOLIDARITY, NATIONAL PLAN OF ACTIVITIES FOR THE RIGHTS AND INTERESTS OF CHILDREN].

⁵¹ Although there are no available figures for the actual number of students who have participated in Teen STAR, partly due to poor government monitoring of extra-curricular programmes, it can be reasonably calculated that several thousand students have gone through the programme over the past decade. See Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50. See also Teen STAR News Letter, 4, Sept 2006, available at www.teenSTAR.hr (last visited on August 23, 2007) (stating that from 2004-2006 there were 2,485 students who took Teen STAR program).

⁵² Letter dated March 10, 2003, *supra* note 49.

⁵³ Interview with Ljubica Matijevec Ursaljko, former Children's Ombudsperson, in Zagreb, Croatia (Nov. 3, 2006) (on file with authors) [hereinafter Interview with L.M. Ursaljko, Nov. 3, 2006]; Interview with Gordana Lukač-Koritnik, Gender Equality Ombudsperson, in Zagreb, Croatia (Nov. 7, 2006) (on file with authors).

- ⁵⁴ Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50.
- ⁵⁵ Interview with L.M. Ursalijko, Nov. 3, 2006, *supra* note 53.
- ⁵⁶ See Letter from Ljubica Matijević Ursaljk, former Ombudsperson for Children to the Minister of Science, Education and Sport (Nov. 2, 2004) (ANNEX III) [hereinafter Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004].
- ⁵⁷ See Civil Coalition, Stop High-Risk Sexual Education, <http://www.zamirnet.hr/stoprso/eng/koalicija.html> (last visited July 27, 2007).
- ⁵⁸ See Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.
- ⁵⁹ See *Id.*
- ⁶⁰ See *Id.*
- ⁶¹ See Letter from the Office of the Ombudsperson for Gender Equality, Gordana Lukač-Koritnik, to Sanja Juras, Coordinator of Kontra & Kristijan Grđan, President of Iskorak (Dec. 9, 2005) (ANNEX IV) [hereinafter Letter from G. Lukač-Koritnik, Dec. 9, 2005].
- ⁶² Interview with L.M. Ursalijko, Nov. 3, 2006, *supra* note 53; See Opinion and conclusions of the working group as a part of the member of the Commission for the Assessment of all programmes about sexual education implemented in primary and secondary schools with the proposition for introducing comprehensive and separate programme of health education, 3 May 2005 to the Ministry of Science, Education and Sport, Attn. Dragan Primorac Commission for the Assessment of all programmes about sexual education implemented in primary and secondary schools, Attn: chair Vladimir Gruden (ANNEX V) [hereinafter Opinion and conclusions, 3 May 2005].
- ⁶³ See Interview with Dr. Hirsl, Reproductive Health Dep't, Zagreb Children's Hospital, in Zagreb, Croatia (Nov. 7, 2006) [hereinafter Interview with Dr. Hirsl, Nov. 7, 2006].
- ⁶⁴ See Interview with Dr. Hirsl, Nov. 7, 2006, *supra* note 63; Interview with Iva Jovović, United Nations Population Fund (UNDP), Joint United Nations Programme on HIV/AIDS (UNAIDS) Focal Point Team Leader, in Zagreb, Croatia (Nov. 3, 2006) [hereinafter Interview with I. Jovović, Nov. 3, 2006].
- ⁶⁵ See Interview with Dr. Hirsl, Nov. 7, 2006, *supra* note 63.
- ⁶⁶ See *Id.*
- ⁶⁷ See *Id.*; Interview with I. Jovović, Nov. 3, 2006, *supra* note 64.
- ⁶⁸ See OPEN SOCIETY INSTITUTE, CROATIA, OPENNESS OF SOCIETY, CROATIA 196 (2005) [hereinafter OSI, OPENNESS OF SOCIETY, CROATIA].
- ⁶⁹ See *Id.* at 197.
- ⁷⁰ See *Id.*
- ⁷¹ See NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2001-2005, § 6, ¶ 10 (2001).
- ⁷² See *Id.*
- ⁷³ Opinion and conclusions, 3 May 2005, *supra* note 62.
- ⁷⁴ See Iskorak & Kontra, *supra* note 27, at 12. Prior to his appointment as Chair of the First Commission, Dr. Gruden was reprimanded by the Croatian Physicians Association because of his public statements against homosexuality, including that homosexuality is an illness and that homosexuals should be isolated from the general population. The reprimand noted that if he were to state such homophobic views in public, he needed to clarify that such opinions were contrary to the position of the Croatian Physicians Association and to scientific fact. *Id.*
- ⁷⁵ See, for example, media reports on complaints Marina Cvrtila, *Sexual Disorientation*, Feb. 1 2005, NACIONAL; Marina Bilus, *Sexual Education of Croats in the Hands of Homophobe*, Jan. 22 2005, JUTARNJI LIST.
- ⁷⁶ Opinion and conclusions, 3 May 2005, *supra* note 62.
- ⁷⁷ *Id.*
- ⁷⁸ See *Annual Report for 2005*, *supra* note 41, 70, ¶ 9.1.2.
- ⁷⁹ See *Id.*
- ⁸⁰ See Letter from Ingrid Jurela Jarak, Coordinator for Sex Equality, Ministry of Science, Education and Sport, Republic of Croatia to Bojana Genov, Croatia Women's Network (Jan. 20, 2006) (on file with author) [hereinafter Letter from I.J. Jarak to B. Genov, Jan. 20, 2006]; Press Announcement, Teen STAR Program (Dec. 3, 2004) (noting itself that Teen STAR requested the opinion from Dr. sc. Dubravka Hrabar, Zagreb Faculty of Law) (ANNEX VI).
- ⁸¹ See Letter dated March 10, 2003, *supra* note 49.
- ⁸² *Request for Resolving the Conflict of Competences between Executive and Legislative Bodies*, ¶ IV [Republic of Croatia, Constitutional Court] (no date) (on file with author) [hereinafter *Request for Resolving the Conflict of Competences between Executive and Legislative Bodies*]. On December 10, 2004, the Institute for School Education of the Republic of Croatia reported to the Ombudsperson for Children that "... we can conclude that we are an expert institution and, in accordance to mentioned Law on the Institute for school education, it is not in our competence to interpret laws, Constitution of other normative acts." *Id.*
- ⁸³ In addition, it is unclear what information the Institute for Education used to evaluate the Teen STAR programme. For example, the GEO repeatedly asked the MSES for copies of the text of the Teen STAR programme, in order for her to thoroughly evaluate the content of the programme and provide feedback on whether it meets standards regarding Croatia's commitment to gender equality. However, the material she was provided with was a 3 page document simply

outlining the programme without any details. It appears that this is the information that the Institute for Education used to base its decision to recommend the extra-curricular programme to schools. *Annual Report for 2005, supra* note 41, 65.

⁸⁴ See REPUBLIC OF CROATIA, MINISTRY OF SCIENCE, EDUCATION AND SPORT, DECISION ON THE ESTABLISHMENT OF TASKS OF COMMITTEE FOR HEALTH EDUCATION AND UPBRINGING TO BE CONDUCTED IN PRIMARY AND SECONDARY SCHOOLS (2005) (on file with author) [hereinafter MSES, DECISION ON THE ESTABLISHMENT OF TASKS OF COMMITTEE FOR HEALTH EDUCATION AND UPBRINGING TO BE CONDUCTED IN PRIMARY AND SECONDARY SCHOOLS].

⁸⁵ See Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Summary Records of the 673rd Meeting*, ¶ 3, U.N. Doc. CEDAW/C/SR.673 (2005) (Ms. Štimac-Radin presenting) [hereinafter CEDAW, *Summary Records of the 673rd Meeting*].

⁸⁶ See Iskorak & Kontra, *supra* note 27, at 10.

⁸⁷ See Letter from Sanja Juras, Kontra et al. to the Minister of Science, Education and Sports (Dec. 17, 2005) (on file with author).

⁸⁸ Letter from Ingrid Jurela Jarak, Coordinator for Sex Equality, Ministry of Science, Education and Sport, Republic of Croatia to Helena Štimac-Radin, Head, Office for Gender Equality, at 2 (Jan. 18, 2006) (on file with author) [hereinafter Letter from I.J. Jarak to H. Štimac-Radin, Jan. 18 2006] The Ministry, instead, simply responded to such complaints by noting that respect for human rights, diversity and gender equality will be an integral part of any health education programme and that it was confident that “the Committee will fulfill its tasks, and that it will choose the best programmes that will provide pupils, and the others, with knowledge based on scientific facts, principles of respect of human rights and gender equality.”.

⁸⁹ MSES, DECISION ON THE ESTABLISHMENT OF TASKS OF COMMITTEE FOR HEALTH EDUCATION AND UPBRINGING TO BE CONDUCTED IN PRIMARY AND SECONDARY SCHOOLS, *supra* note 84.

⁹⁰ See also Minutes from Health Education Commission [Second Commission] meeting, Nov. 3, 2006 (ANNEX VII) [hereinafter Minutes from Health Education Commission, Nov. 3, 2006].

⁹¹ See Letter from Hanna Klaus, Teen STAR International Director to Mr. Stjepan Mesic, President of the Republic of Croatia, Mr. Ivo Sanader, Prime Minister of the Republic of Croatia, Dr. Dragan Primorac, Minister of Science, Education and Sports of the Republic of Croatia (May 15, 2007) (on file with author) (indicating that Teen STAR is taught by Grozd Association).

⁹² *Id*; Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50.

⁹³ The Grozd programme was added to the Croatian Register of Associations approximately 10 days before the deadline for proposal submissions. See Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50.

⁹⁴ See Interview with A. Stulhofer, Nov. 2, 2006, *supra* note 49.

⁹⁵ See Minutes from Health Education Commission meeting, Oct. 24, 2006 [hereinafter Minutes from Health Education Commission, Oct. 24, 2006] (ANNEX VIII); Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90, See also Minutes from Health Education Commission meeting, Nov. 23, 2006 (ANNEX IX) [hereinafter Minutes from Health Education Commission, Nov. 23, 2006].

⁹⁶ See Interview with A. Stulhofer, Nov. 2, 2006, *supra* note 49.

⁹⁷ See Minutes from Health Education Commission, Oct. 24, 2006, *supra* note 95. Concerns supported by World Health Organization curriculum based on a skills-based health-education model which strives “to change not only a student’s level of knowledge but to enhance his or her ability to translate that knowledge into specific positive behaviors.” On Condom use: the activities give participants and opportunity to practice communicating with potential partners about condom use as well as demonstrating how condoms are used and providing information on how they can be obtained. Education International (EI) and World Health Organization (WHO), EI/WHO Training and Resources Manual on School Health and HIV and AIDS Prevention, WHO Information Series on School Health, 5, 51-2, 171,175 (2004) *available at* http://www.who.int/school_youth_health/resources/sch_document61_HIV_prevention_env2.pdf

⁹⁸ See Minutes from Health Education Commission, Oct. 24, 2006, *supra* note 95.

⁹⁹ Interview with A. Stulhofer, Nov. 2, 2006, *supra* note 49; Minutes from Health Education Commission, Oct. 24, 2006, *supra* note 95.

¹⁰⁰ Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90.

¹⁰¹ Conclusion from the Health Education Commission, September 7th 2006, (ANNEX X).

¹⁰² Minutes from Health Education Commission, Oct. 24, 2006, *supra* note 95.

¹⁰³ See Ivana Kalogjera-Brkić, *Štulhofer: Message Sent to Young People – Sex Before Marriage Leads You to Eternal Misery*, Jan. 7 2007, JUTARNJI LIST, available at http://www.jutarnji.hr/clanak/art-2007,1,7seks_odgoj57316.jl (last visited on August 23, 2007) (ANNEX XI) [hereinafter Kalogjera-Brkić]; See also Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90, at 4, noting that there was a written statement by Grozd Association on the threat to withdrawal as well.

¹⁰⁴ Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90.

¹⁰⁵ *Id.*

¹⁰⁶ Minutes from Health Education Commission, Oct. 24, 2006, *supra* note 95.

¹⁰⁷ Minutes from Health Education Commission, Nov. 23, 2006, *supra* note 95.

¹⁰⁸ Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90.

¹⁰⁹ See Kalogjera-Brkić, *supra* note 103; Minutes from Health Education Commission, Nov. 23, 2006, *supra* note 95.

¹¹⁰ In fact, the CRO has over the past six months asked the MSES to share the proposed programmes with the CRO but the MSES has not adhered to these requests. Interview with Šupljika and Vidović, Nov. 8, 2006, *supra* note 36. Under the law governing the CRO, requests by the CRO to a government office should be responded to within 15 days. See REPUBLIC OF CROATIA, LAW ON THE OMBUDSMAN FOR CHILDREN, Official Gazette, no. 96/2003 (May 29, 2003) [hereinafter REPUBLIC OF CROATIA, LAW ON THE OMBUDSMAN FOR CHILDREN].

¹¹¹ Letter from I.J. Jarak to B. Genov, Jan. 20, 2006, *supra* note 80; Letter from I.J. Jarak to H. Štimac-Radin, Jan. 18 2006, *supra* note 88].

¹¹² Interview with Šupljika and Vidović, Nov. 8, 2006, *supra* note 36.

¹¹³ Letter from I.J. Jarak to B. Genov, Jan. 20, 2006, *supra* note 80; Letter from I.J. Jarak to H. Štimac-Radin, Jan. 18, 2006, *supra* note 88.

¹¹⁴ At a round table organized in Croatian parliament (February 13, 2007) on health education programmes Marina Kuzman and her colleague from Ministry of Health, Dr. Renato Mittermayer, explained that the Ministry of Health has established a Commission which consists of 5 members and Marina Kuzman is chairperson. She provided no information about the mandate of the Commission nor of its members.

¹¹⁵ See Mirela Lilek, *The Decision About Sexual Education, Coming Soon*, Mar. 2007, VIJESNIK.; *Ljubicic Refused Both Programs of Sexual Education*, Apr. 2007, METRO; Goranka Juresko, *Wrong Definitions in Both Programs of Sexual Education for Schools*, Apr. 26, 2007, JUTARNJI LIST.

¹¹⁶ Opinion of the Commission of the Ministry of Health and Social Care on the Health Education Programmes in Schools, available at

<http://www.fso.hr/misljenje-povjerenstva-mzss.pdf> (last visited Oct. 1, 2007) (ANNEX XII).

¹¹⁷ See Opinion from Mila Jelavić, Ombudsman for Children to Neven Ljubičić, Minister of Health and Social Welfare (Jan. 26, 2007) (ANNEX XIII) [hereinafter Jelavić, Jan. 26, 2007].

¹¹⁸ *See Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ See Opinion from the Ombudsperson for Gender Equality, to the MSES Ombudsperson (Feb. 12, 2007) (ANNEX XIV) [hereinafter Opinion from the Ombudsperson for Gender Equality, Feb. 12, 2007].

¹²⁷ *See Id.*

¹²⁸ *Id.*

¹²⁹ *See Id.* (citing Same-Sex Civil Unions Law art. 21, ¶ 4).

¹³⁰ *See Id.*

¹³¹ Letter from Anne Van Lancker MEP et al., Working Group on Reproductive Health, HIV/AIDS and Development in the European Parliament to Mr. Stjepan Mesic, President, Republic of Croatia Mr. Ivo Sanader, Prime Minister, Republic of Croatia, Dr. Dragan Primorac, Minister of Science, Education and Sports, Republic of Croatia (received Apr. 10, 2007) (on file with author) [hereinafter Letter from A. V. Lancker et al., received Apr. 10, 2007].

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ See Eur. Soc. Chart., *Slovenia 01/01/2001–12/31/2002*, *supra* note 8.

¹³⁶ See Committee on Economic, Social, and Cultural Rights, *General Comment 3: The Nature of States Parties Obligations*, art. 2 ¶1, U. N. Doc.14/12/90 (1990).

¹³⁷ See, e.g., Eur. Soc. Chart., *Slovenia 01/01/2001–12/31/2002*, *supra* note 8; Eur. Soc. Chart., *Lithuania: Conclusion for Report Covering, 08/01/2001–12/31/2002* [hereinafter Eur. Soc. Chart., *Lithuania*].

¹³⁸ See, e.g., Eur. Soc. Chart., *Greece: Conclusion for Report Covering 01/01/1993–12/31/1998*.

¹³⁹ See Eur. Soc. Chart., *Portugal: Conclusion for Report Covering 01/01/1999 – 12/31/2002* [hereinafter Eur. Soc. Chart., *Portugal, 01/01/1999 – 12/31/02*].

¹⁴⁰ See, e.g., Eur. Soc. Chart., *Estonia: Conclusion for Report Covering 11/01/2000–12/31/2002*; Eur. Soc. Chart., *Turkey: Conclusion for Report Covering 01/01/1999–12/31/2002*; Eur. Soc. Chart., *Greece: Conclusion for Report Covering 1/1/1999-12/31/2002* [hereinafter Eur. Soc. Chart., *Greece, 1/1/1999-12/31/2002*]. ¹³⁷ See, e.g., Eur. Soc. Chart., *Denmark: Conclusion for Report Covering 01/01/1999–12/31/2002* [hereinafter Eur. Soc. Chart., *Denmark, 01/01/1999–12/31/2002*].

¹⁴¹ See e.g., Eur. Soc. Chart., *Denmark, 01/01/1999–12/31/2002*, *supra* note 140; Eur. Soc. Chart., *Denmark: Conclusion for Report Covering 1/1/93 – 12/31/98* [hereinafter Eur. Soc. Chart., *Denmark, 01/01/93 – 12/31/98*]; Eur. Soc. Chart., *Norway: Conclusion for Report Covering 01/01/93 – 12/31/98* [hereinafter Eur. Soc. Chart., *Norway 01/01/93 – 12/31/98*]; Eur. Soc. Chart., *Portugal: Conclusion for Report Covering 01/01/96 – 12/31/98* [hereinafter Eur. Soc. Chart., *Portugal, 01/01/96 – 12/31/98*].

¹⁴² See Council of Europe, Parl. Ass., *Resolution 1399 on European Strategy for the Promotion of Sexual and Reproductive Health and Rights*, 27th Sess., ¶ 11(i) (2004) at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta04/ERES1399.htm> [hereinafter Council of Europe, Parl. Ass., *Resolution 1399 on European Strategy for the Promotion of Sexual and Reproductive Health and Rights*].

¹⁴³ Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations*, see, e.g., Turkmenistan, 02/06/2006, U.N. Doc. CEDAW/C/TKM/CO/2, ¶ 31; Republic of Moldova, 25/08/2006, U.N. Doc. CEDAW/C/MDA/CO/3, ¶ 31.

¹⁴⁴ Children's Rights Committee (CRC), *Concluding Observations*: see, e.g., Antigua and Barbuda, 03/11/2004, U.N. Doc. CRC/C/15/Add.247, ¶ 54 [hereinafter CRC *Concluding Observations 2004, Antigua and Barbuda*]; Trinidad and Tobago, 17/03/2006, U.N. Doc. CRC/C/TTO/CO ¶ 54.

¹⁴⁵ Children's Rights Committee (CRC), *Concluding Observations*: see, e.g., Ireland, 29/09/2006, U.N. Doc. CRC/C/IRL/CO/2, ¶ 52.

¹⁴⁶ See *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, ¶ 11.9 U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter *ICPD Programme of Action*].

¹⁴⁷ See JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), *IMPACT OF HIV AND SEXUAL HEALTH EDUCATION ON THE SEXUAL BEHAVIOR OF YOUNG PEOPLE: A REVIEW UPDATE 27* (1997).

¹⁴⁸ See WORLD HEALTH ORGANIZATION (WHO), *ADOLESCENT PREGNANCY: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT 63* (2004) [hereinafter WHO, *ADOLESCENT PREGNANCY REPORT*].

¹⁴⁹ See *Id.*

¹⁵⁰ WORLD HEALTH ORGANIZATION REGIONAL OFFICE FOR EUROPE (WHO Europe), *WHO REGIONAL STRATEGY ON SEXUAL AND REPRODUCTIVE HEALTH*, EUR/01/5022130 14 (2001) [hereinafter WHO REGIONAL STRATEGY REPORT].

¹⁵¹ See WORLD HEALTH ORGANIZATION (WHO) REGIONAL OFFICE FOR EUROPE AND IPPF-EUROPEAN NETWORK, *SEXUALITY EDUCATION IN EUROPE, SAFE PROJECT REPORT*,

at 8, available at <http://www.ippfen.org/NR/rdonlyres/7DDD1FA1-6BE4-415D-B3C2-87694F37CD50/0/sexed.pdf>.

¹⁵² WHO REGIONAL STRATEGY REPORT, *supra* note 150, at 9.

¹⁵³ WORLD HEALTH ORGANIZATION (WHO), *FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION: KEY ELEMENTS OF A HEALTH PROMOTING SCHOOL*, INFORMATION SERIES ON SCHOOL HEALTH, DOC. 8 39, available at http://www.who.int/school_youth_health/media/en/family_life.pdf (last visited July 31, 2007) [hereinafter WHO, *FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT*].

¹⁵⁴ *Id.*

¹⁵⁵ See HODZIC, *SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS*, *supra* note 13; Interview with Baranka B., Nov. 6 2006, *supra* note 36; Interview with Šupljika and Vidović, Nov. 8, 2006, *supra* note 36.

¹⁵⁶ WHO, *FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT*, *supra* note 153, at 8, 39.

¹⁵⁷ See HODZIC, *SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS*, *supra* note 13 Eight-year elementary education is compulsory and free for all children between the ages of six and fifteen. *Id.*

¹⁵⁸ See HODZIC, *SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS*, *supra* note 13; Iskorak & Kontra, *supra* note 27, 10; *Annual Report for 2005*, *supra* note 41, 74, ¶ 9.1.8.

¹⁵⁹ Cf. HODZIC, *SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS*, *supra* note 13 (stating that a few programmes supported by nongovernmental organisations and public health institutions is insufficient for the population at large).

¹⁶⁰ Cf. HODZIC, *SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS*, *supra* note 13.

¹⁶¹ Cf. Eur. Soc. Chart., *Slovenia 01/01/2001–12/31/2002*, *supra* note 8; Eur. Soc. Chart., *Turkey: Conclusion for Report Covering 01/01/1994–12/31/1998* [hereinafter Eur. Soc. Chart., *Turkey, 01/01/1994–12/31/1998*]; Eur. Soc. Chart., *Bulgaria: Conclusion for Report Covering 01/01/2001–12/31/2002*.

¹⁶² See Eur. Soc. Chart., *Belgium: Conclusion for Report Covering 01/01/1996–12/31/1998* [hereinafter Eur. Soc. Chart., *Belgium 01/01/1996–12/31/1998*] (stating that “. . . the activities may be more or less developed in accordance with the nature of the public health problems in the countries.”).

¹⁶³ Council of Europe, European Social Charter preamble, Oct. 18, 1961, E.T.S. No. 35, 529 U.N.T.S. 89 (declaring that “. . . the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin . . .”).

¹⁶⁴ Council of Europe, European Committee of Social Rights, Digest of the Case Law § II, at 163 (Dec. 2006) (discussing Article E) [hereinafter ECSR, Digest of the Case Law § II].

¹⁶⁵ See Council of Europe, European Social Charter (revised) art. E, May 3, 1996, E.T.S. No. 163 [hereinafter European Social Charter (revised) art. E].

¹⁶⁶ See European Roma Rights Center (ERRC) v. Greece, Complaint No. 15/2003, Dec. 8, 2004, § 26 [hereinafter ERRC v. Greece, Complaint No. 15/2003].

¹⁶⁷ See *Id.* at § 21.

¹⁶⁸ See ECSR, Digest of the Case Law § II, *supra* note 164, at 40, 163.

¹⁶⁹ See *Thlimmenos v. Greece*, no. 34369/97 ¶ 44, Eur. Ct. H.R., (2000), available at <http://cmiskp.echr.coe.int/tkp197/viewhbkkm.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=1142&sessionId=1645886&skin=hudoc-en&attachment=true>.

¹⁷⁰ International Association Autism-Europe (IAAE) v. France, Complaint No. 13/2002 (European Committee of Social Rights), Nov. 4, 2003, § 52 [hereinafter IAAE v. France, Complaint No. 13/2002].

¹⁷¹ European Roma Rights Center (ERRC) v. Italy, Complaint No. 27/2004, (European Committee of Social Rights), Dec. 7, 2005, § 20 (quoting IAAE v. France, Complaint No. 13/2002, *supra* note 170, at § 52). See also ERRC v. Greece, Complaint No. 15/2003, *supra* note 166, at § 42 (acknowledging the need for special measures to protect Roma communities in finding that Greece had failed to take such measures in violation of the Charter).

¹⁷² See IAAE v. France, Complaint No. 13/2002, *supra* note 170, at § 52. See also ECSR, Digest of the Case Law § II, *supra* note 164, at 134.

¹⁷³ See Council of Europe, European Committee of Social Rights, Digest of the Case Law § III, at 276, n.592, n.594 (Dec. 2006) (citing Conclusions XVI-1, Greece, article 1§2, at 208–209 (Indirect discrimination occurs where men and women are disproportionately affected for no legitimate reason); Conclusions XIII-5, Sweden, art. 1 of the protocol, at 272–276 (The principle of equal treatment of women and men is understood to mean the absence of any discrimination on grounds of sex. Equal treatment precludes any discrimination, whether direct or indirect).

¹⁷⁴ Council of Europe, Committee of Ministers, Resolution 74(5) on the Control of Sexually Transmitted Diseases (1974) (stating that the “Introduction in schools of programmes allowing children to acquire progressive knowledge of human sexuality in its biological, behavioural and other aspects, and information in STD” are among principles and practices that should be given the fullest effect).

¹⁷⁵ Council of Europe, Parl. Ass., *Resolution 1399 on European Strategy for the Promotion of Sexual and Reproductive Health and Rights*, *supra* note 142, at ¶ 11(v), (i)(c).

¹⁷⁶ Council of Europe, Parl. Ass., *Resolution 1536 on HIV/AIDS in Europe*, 8th Sess., ¶ 13 (2007) [hereinafter *Resolution 1536 on HIV/AIDS in Europe*].

¹⁷⁷ Council of Europe, *Recommendation No. R. 88(7) of the Comm. of Ministers to Member States on School Health Education and the Role and Training of Teachers*, app. at 2, ¶¶ 3.2., 3.3 (adopted Apr. 18, 1988) [hereinafter *Comm. of Ministers Recommendation No. R. 88(7)*]. “Through a participative process, planners should develop a school health programme reflecting identified needs and priorities.” *Id.* at ¶ 3.3. In identifying needs and priorities, “[p]rogramme planners should take account of: i. state of health needs and health-related behaviour as identified by children and young people themselves, and by their parents; ii. state of health needs, as identified by doctors, practitioners and health inspectors; iii. the state of health needs and types of health-related behaviour as they are seen by the community in which the children and young people live and by that in which they might later live.” *Id.* at ¶ 3.2.

¹⁷⁸ *Id.* at 2, ¶ 3.4

¹⁷⁹ See Council of Europe, Parl. Ass., *Recommendation 1346 on Human Rights Education*, 32nd Sess. (1997) [hereinafter *Recommendation 1346 on Human Rights Education*]. “The Assembly therefore recommends that the Committee of Ministers call on member states: i. to review curricula from primary school to university, with a view to: a. eliminating elements that might contribute to the creation of negative stereotypes . . .” *Id.* at ¶ 11(i)(a). “. . . introducing elements to promote tolerance and respect for people from different cultures . . .” *Id.* at ¶ 11(i)(c); see also Council of Europe, *Recommendation No. R (99)2 of the Comm. of Ministers to Member States on Secondary Education*, app. at 3, ¶ (i) (adopted Jan. 19, 1999) (“Even more than in the past, secondary education should play a decisive role within the education system in: transmitting the common values of respect for human rights . . . tolerance, pluralism . . . and mutual respect between individuals, the sexes, social groups and peoples . . .”); Council of Europe, *Recommendation No. R (85) 7 of the Comm. of Ministers to Member States on Teaching and Learning about Human Rights in Schools*, at 1 (adopted May 14, 1985) (“Convinced that schools are communities which can, and should, be an example of respect for the dignity of the individual and for difference, for tolerance, and for equality of opportunity . .

.”); Council of Europe, *Recommendation No. R (83)13 of the Comm. of Ministers to Member States on the Role of the Secondary School in Preparing Young People for Life*, at 1 “Believing that the future of European society depends on the ability and willingness of all its members: i. to accept, preserve and promote human values, democracy and human rights; [and] . . . to understand and respect others, to be tolerant, to recognise the right to be different and to combat prejudice . . .”).

¹⁸⁰ See General Secretariat, Eur. Union, *Statement on HIV Prevention for an AIDS Free Generation*, at ¶ 9(a), no. 14925/05 (Nov. 24, 2005) available at <http://www.ippf.org/en/Resources/Statements/EU+Statement+on+HIV+Prevention.htm> (last visited Sept. 26, 2007) [hereinafter *Statement on HIV Prevention*] (“...we suggest that the following are critical components of a comprehensive and evidence based response: a. Universal access to sexual and reproductive health information and services for women, men and young people, including people living with HIV and AIDS, to ensure that they have access to a full range of reproductive choices in accordance with the Cairo/ICPD Agenda”); European Parliament Report on Sexual and Reproductive Health and Rights (2001/2128 (INI)), at ¶¶ 16, 21, C 6 June 2002, A5-0223/2002 [hereinafter Eur. Parl., Report on Sexual and Reproductive Health and Rights].

¹⁸¹ See *Statement on HIV Prevention*, *supra* note 180, at ¶ 8 (“... HIV prevention requires that governments and communities have the courage to confront difficult issues in an open and informed way. We understand that in many settings there is a cultural resistance to openly discussing sex, sexuality and drug use. We are profoundly concerned about the resurgence of partial or incomplete messages on HIV prevention which are not grounded in evidence and have limited effectiveness.”).

¹⁸² Commission of the Eur. Communities, *Communication from the Commission to the Council and the European Parliament on Combating HIV/AIDS within the European Union and in the Neighbouring Countries, 2006-2009*, at 7, COM (2005) 654 final (Dec. 15, 2005) (stating that education and other primary prevention efforts are “the cornerstone for all other activities within the comprehensive approach to tackle HIV/AIDS,” at 3); Eur. Parl., Report on Sexual and Reproductive Health and Rights, *supra* note 180 at ¶¶ 16, 21.

¹⁸³ *Id.*

¹⁸⁴ *Commission Whitepaper on A New Impetus for European Youth*, at 48–49, COM (2001) 681 final (Nov. 21, 2001) [hereinafter *A New Impetus for European Youth*] (stating that young people perceive the need for more information on sexuality, especially sex education, contraception, STIs, etc., and single out teenage pregnancy as a specific problem that must be addressed).

¹⁸⁵ Eur. Parl., Report on Sexual and Reproductive Health and Rights, *supra* note 180, at ¶ 16.

¹⁸⁶ MARY STUART BURGHER ET AL., EUROPEAN NETWORK OF HEALTH PROMOTING SCHOOLS: THE ALLIANCE OF EDUCATION AND HEALTH 17 (1999).

¹⁸⁷ See, e.g., International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171 (entered into force Aug. 10, 1991) [hereinafter Civil and Political Rights Covenant]; Economic, Social and Cultural Rights Covenant, *supra* note 11; CEDAW, *supra* note 11; Children’s Rights Convention, *supra* note 11.

¹⁸⁸ See, e.g., Committee on Economic, Social and Cultural Rights, *General Comment 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3)*, 34th Sess., at 2, ¶ 7 U.N. Doc. E/C.12/2005/4 (2005) [hereinafter CESCR *Gen. Comm. 16*] (“Guarantees of non-discrimination and equality in international human rights treaties mandate both de facto and de jure equality. . . Substantive equality is concerned . . . with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.”); Committee on Economic, Social and Cultural Rights, *General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)* (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at ¶ 18 90, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CESCR *Gen. Comm. 14*] (“... the Covenant proscribes any discrimination in access to health care . . . which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health.”); Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health* (20th Sess., 1999), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 244, U.N. Doc. HRI/GEN/1/Rev.5 (2001) [hereinafter CEDAW *Gen. Rec. 24*].

¹⁸⁹ CESCR *Gen. Comm. 16*, *supra* note 188, at 2, ¶ 41.

¹⁹⁰ CEDAW *Gen. Rec. 24*, *supra* note 188, at ¶ 11.

¹⁹¹ [Committee on the Rights of the Child, General Comment 4: Adolescent Health and Development in the Context of the Convention of the Rights of the Child](#), 33d Sess., ¶ 6, U.N. Doc. CRC/GC/2003/4 (2003) [hereinafter *CRC Gen. Comm. 4*].

¹⁹² CESCR *Gen. Comm. 14*, *supra* note 188, at 90, ¶ 23.

¹⁹³ CESCR *Gen. Comm. 16*, *supra* note 188, at 2, ¶ 5.

¹⁹⁴ Committee on Economic, Social and Cultural Rights, *Gen. Comment 13: The Right to Education*, ¶ 6(d) U.N. Doc. E/C.12/1999/10 (1999) [hereinafter CESCR *Gen. Comm. 13*].

- ¹⁹⁵ CESCR, Concluding Observations, *see, e.g.*, Honduras, 21/05/2001, U.N. Doc. E/C.12/1/Add.57, ¶¶ 27, 48; CEDAW, Concluding Observations, *see, e.g.*, Estonia, 07/05/2002, U.N. Doc. A/57/38, ¶ 77; [Mexico, 09/06/2006, U.N. Doc. E/C.12/MEX/CO/4, ¶ 44](#) [hereinafter *CESCR Concluding Observations 2006, Mexico*]; Uruguay, 07/05/2002, U.N. Doc. A/57/38, ¶ 170.
- ¹⁹⁶ CESCR, Concluding Observations, *see, e.g.*, [Benin, 05/06/2002, U.N. Doc. E/C.12/1/Add.78, ¶¶ 23, 42](#); [Bolivia, 21/05/2001, U.N. Doc. E/C.12/1/Add.60, ¶ 43](#) [hereinafter *CESCR Concluding Observations 2001, Bolivia*]; [Mexico, 08/12/1999, U.N. Doc. E/C.12/1/Add.41, ¶ 43](#); [CESCR Concluding Observations 2006, Mexico, supra note 195, at ¶ 44](#); [Senegal, 24/09/2001, U.N. Doc. E/C.12/1/Add.62, ¶ 47](#).
- ¹⁹⁷ [CESCR Concluding Observations 2001, Bolivia, supra note 196, at ¶ 43](#); CESCR, Concluding Observations, *see, e.g.*, [Cameroon, 08/12/1999, U.N. Doc. E/C.12/1/Add.40, ¶ 45](#); [Chile, 26/11/2004, U.N. Doc. E/C.12/1/Add.105, ¶¶ 27, 55](#); [Libyan Arab Jamahiriya, 25/01/2006, U.N. Doc. E/C.12/LYB/CO/2, ¶ 36](#); [People's Republic of China, 13/05/2005, U.N. Doc. E/C.12/1/Add.107, ¶ 60](#); [Republic of Moldova, 12/12/2003, U.N. Doc. E/C.12/1/Add.91, ¶ 48](#); [Russian Federation, 12/12/2003, U.N. Doc. E/C.12/1/Add.94, ¶ 62](#); [Trinidad and Tobago, 05/06/2002, U.N. Doc. E/C.12/1/Add.80, ¶ 47](#); [Ukraine, 24/09/2001, U.N. Doc. E/C.12/1/Add.65, ¶ 31](#); CRC, Concluding Observations, *see, e.g.*, [Indonesia, 26/02/2004, U.N. Doc. CRC/C/15/Add.223, ¶ 59\(c\)](#); [Sao Tome and Principe, 01/07/2004, U.N. Doc. CRC/C/15/Add.235, ¶ 47\(b\)](#); [Togo, 31/03/2005, CRC/C/15/Add.255, ¶ 55](#).
- ¹⁹⁸ Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding Observations, see, e.g.*, [Antigua and Barbuda, 12/08/1997, U.N. Doc. A/52/38/Rev.1, Part II, ¶ 267](#); [Belize, 01/07/1999, U.N. Doc. A/54/38, ¶¶ 56–57](#); [Bosnia and Herzegovina, 02/06/2006, U.N. Doc. CEDAW/C/BIH/CO/3, ¶ 36](#); [Chile, 09/07/1999, U.N. Doc. A/54/38, ¶ 227](#); [Dominican Republic, 14/05/1998, U.N. Doc. A/53/38, ¶ 349](#); [Greece, 01/02/1999, U.N. Doc. A/55/38, ¶ 208](#); [Peru, 08/07/1998, U.N. Doc. A/53/38, ¶ 342](#); [Slovakia, 30/06/1998, U.N. Doc. A/53/38/Rev.1, ¶ 92](#); [Slovenia, 12/08/1997, U.N. Doc. A/52/38/Rev.1, ¶ 119](#); [Zimbabwe, 14/05/1998, U.N. Doc. A/53/38, ¶ 161](#).
- ¹⁹⁹ *See CRC Gen. Comm. 4, supra note 191, at ¶ 30, at 8.*
- ²⁰⁰ CESCR *Gen. Comm. 13, supra note 194 at 74, ¶ 6(d).*
- ²⁰¹ CRC *Concluding Observations 2004, Antigua and Barbuda, supra note 144, at ¶ 54(a)*; CRC, Concluding Observations, *see, e.g.*, [Democratic People's Republic of Korea, 01/07/2004, U.N. Doc. CRC/C/15/Add.239, ¶ 53\(a\)](#); [Liberia, 01/07/2004, U.N. Doc. CRC/C/15/Add.236, ¶ 49\(b\)](#); [Nepal, 21/09/2005, U.N. Doc. CRC/C/15/Add.261, ¶ 64\(a\)](#); [Nigeria, 13/04/2005, U.N. Doc. CRC/C/15/Add.257, ¶ 51\(a\)](#); [Saint Lucia, 21/09/2005, U.N. Doc. CRC/C/15/Add.258, ¶ 58\(a\)](#); [Uganda, 30/09/2005, U.N. Doc. CRC/C/15/Add.270 \(unedited version\), ¶ 54\(a\)](#); [United Republic of Tanzania, 21/06/2006, U.N. Doc. CRC/C/TZA/CO/2, ¶ 47\(a\)](#) [hereinafter *CRC Concluding Observations 2006, United Republic of Tanzania*].
- ²⁰² *See ICPD Programme of Action supra note 146, ¶¶ 7.44 (a), (b), 7.47; Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development, U.N. GAOR, 21st Special Sess., New York, United States, June 30 - July 2, 1999, at ¶¶ 35(b), 73(c), (e)* [hereinafter *ICPD+5 Key Actions Document*].
- ²⁰³ *See ICPD Programme of Action, supra note 146, ¶¶ 8.29(a), 8.31, 8.32; see also id. at ¶ 7.43; Beijing +5 Review Document, supra note 203, at ¶ 44.*
- ²⁰⁴ *ICPD+5 Key Actions Document, supra note 202, at ¶ 68.*
- ²⁰⁵ *Beijing +5 Review Document, supra note 203, at ¶ 44.*
- ²⁰⁶ JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), INTENSIFYING HIV PREVENTION: UNAIDS POLICY POSITION PAPER 35–37 (2005) [hereinafter INTENSIFYING HIV PREVENTION: UNAIDS POLICY POSITION PAPER].
- ²⁰⁷ *Id.* at 33.
- ²⁰⁸ WHO REGIONAL STRATEGY REPORT, *supra note 150, at 14.*
- ²⁰⁹ *See WHO, ADOLESCENT PREGNANCY REPORT, supra note 148, at 63.*
- ²¹⁰ *See Id.*
- ²¹¹ CESCR *Gen. Comm. 14, supra note 188, at ¶ 34; see also Committee on the Rights of the Child, General Comment 3: HIV/AIDS and the Rights of the Child 32nd Sess., at 5, ¶ 16, U.N. Doc. CRC/GC/2003/3 (2003)* [hereinafter *CRC Gen. Comm. 3*].
- ²¹² Human Rights Committee (HRC), *Concluding Observations, see, e.g.*, [Poland, 02/12/2004, U.N. Doc. CCPR/CO/82/POL, ¶ 9](#) [hereinafter *HRC Concluding Observations 2004, Poland*]; [CRC Concluding Observations Philippines, 21/09/2005, U.N. Doc. , ¶ 63](#) [hereinafter *CRC Concluding Observations 2005, Philippines*].
- ²¹³ *See ICPD Programme of Action, supra note 146, at ¶ 7.5(a)*; WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra note 153, at 8, 30, 38*; INTENSIFYING HIV PREVENTION: UNAIDS POLICY POSITION PAPER, *supra note 206, at 33.*
- ²¹⁴ WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra note 153, at 8, 38.*
- ²¹⁵ WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra note 153, at 8, 30.*
- ²¹⁶ CEDAW, *supra note 11.*
- ²¹⁷ *Id.*
- ²¹⁸ *See Committee on the Elimination of Discrimination against Women, Concluding Observations, Croatia, ¶ 201, U.N. Doc. A/60/38, (Jan. 28, 2005)* [hereinafter *CEDAW Concluding Observations 2005, Croatia*].

- ²¹⁹ See Committee on the Elimination of Discrimination against Women, *Concluding Observations Slovenia*, ¶ 207, U.N. Doc A/58/38 (July 18, 2003).
- ²²⁰ See Human Rights Committee, *General Comment 28: Equality of Rights Between Men and Women (Art. 3)* (68th Sess., 2000), in *Compilation of General Comments and General Recommendations by Human Rights Treaty Bodies*, at 168, U.N. Doc. HRI/GEN/1/Rev.5 (2001).
- ²²¹ *ICPD Programme of Action*, *supra* note 146, at ¶¶ 4.19, 11.13; WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra* note 153, at 8, 38.
- ²²² *Id.*
- ²²³ WHO REGIONAL STRATEGY REPORT, *supra* note 150.
- ²²⁴ See INSTITUTE FOR SOCIAL RESEARCH – ZAGREB (IDIZ) & THE CENTRE FOR EDUCATIONAL RESEARCH AND DEVELOPMENT, *supra* note 38, at 8, 1.
- ²²⁵ See *Id.* at 9.
- ²²⁶ See NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010, *supra* note 24, at ¶ 6.4.3.
- ²²⁷ See GOV'T OF THE REPUBLIC OF CROATIA, MINISTRY OF FAMILY, VETERANS' AFFAIRS & INTERGENERATIONAL SOLIDARITY, NATIONAL PLAN OF ACTIVITIES FOR THE RIGHTS AND INTERESTS OF CHILDREN, *supra* note 50, 171–72, ¶¶ 13.2, 14.1–14.2.
- ²²⁸ See Eur. Soc. Chart., *Belgium 01/01/1996–12/31/1998*, *supra* note 162; Comm. of Ministers Recommendation No. R. 88(7), *supra* note 177.
- ²²⁹ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13; Iskorak & Kontra, *supra* note 27, 10; *Annual Report for 2005*, *supra* note 41, 74, ¶ 9.1.8.
- ²³⁰ See NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010, *supra* note 24; NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY, *supra* note 71.
- ²³¹ Baranović, Branislava., “Slika” žene u udžbenicima (“Image” of women in textbooks), 113–119. (2000). Zagreb.
- ²³² NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010, *supra* note 24, at ¶ 3.1.
- ²³³ *Id.* at ¶ 3.1.1–3.1.2.
- ²³⁴ See Interview with D. Tot, Nov. 7, 2006, *supra* note 45.
- ²³⁵ Bijelic, *supra* note 12.
- ²³⁶ INTENSIFYING HIV PREVENTION: UNAIDS POLICY POSITION PAPER, *supra* note 206, at 33; see also WORLD HEALTH ORGANIZATION (WHO), CONTRACEPTION: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT 11 (2004) [hereinafter WHO, CONTRACEPTION: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT].
- ²³⁷ INTENSIFYING HIV PREVENTION: UNAIDS POLICY POSITION PAPER, *supra* note 206, at 33; see also WHO, CONTRACEPTION: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT, *supra* note 236, at 11; CESCR *Gen. Comm. 14*, *supra* note 188, at ¶ 34; see also CRC *Gen. Comm. 3*, *supra* note 211 at ¶ 16; *ICPD Programme of Action*, *supra* note 146, at ¶ 7.5(a); HRC *Concluding Observations 2004, Poland*, *supra* note 212, at ¶ 9; CRC *Concluding Observations 2005, Philippines*, *supra* note 212, at ¶ 63.
- ²³⁸ Bijelic, *supra* note 12.
- ²³⁹ Bijelic, *supra* note 12.
- ²⁴⁰ Bijelic, *supra* note 12;
- ²⁴¹ WHO, CONTRACEPTION: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT, *supra* note 236, at 34.
- ²⁴² See Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.
- ²⁴³ *Resolution 1536 on HIV/AIDS in Europe*, *supra* note 176, ¶ 4.2.
- ²⁴⁴ *Id.* at ¶ 9.5 (2007).
- ²⁴⁵ Anđelka Jelusic, Account of Experiences as Teen STAR Professor 3 (2004) (ANNEX XV); Lecture held within the seminar on Integral sexual education «Teen STAR», The catholic view of certain sexuality issues: SOME SPECIAL ISSUES CONCERNING MARITAL AND SEXUAL MORALS, 25th to 29th June 2003 (ANNEX XIV).
- ²⁴⁶ Ladislav Ilcic, Vice-President of Teen STAR & Coordinator of Health Education Program Development at Grozd Association, in Zagreb, Croatia Statement on Teen STAR Young Men Programme (on file with authors); Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50.
- ²⁴⁷ See REPUBLIC OF CROATIA, GENDER EQUALITY ACT, *supra* note 10; The Gender Equality Act provides that “[e]ducation in gender equality shall be an integral part of the system of elementary, secondary and tertiary education as well as of life-long learning,” and calls for the “abolishment of all gender/sexual inequalities and gender stereotypes at all levels of education,” for “[a]ll government bodies, legal entities vested with public authority and especially all educational institutions and other legal entities that participate in the promotion and realisation of gender equality shall be obliged to systematically engage in education and awareness raising in gender equality.” *Id.* at arts. 14(1)–(3).
- ²⁴⁸ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61; Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.
- ²⁴⁹ *Annual Report for 2005*, *supra* note 41 This lack of cooperation is apparently not unique to the Ombudspersons for Children and Gender Equality. According to the European Commission’s 2005 report on Croatia’s progress in preparing for EU membership, “the lack of discipline on the part of some administrative bodies in responding to

questions to the questions of the [general] Ombudsman was also noted”; EUROPEAN COMMISSION, CROATIA 2005 PROGRESS REPORT, at 14, COM (2005) 561 final (Nov. 9, 2005) [hereinafter EUROPEAN COMMISSION, CROATIA 2005 PROGRESS REPORT].

²⁵⁰ See *Request for Resolving the Conflict of Competences between Executive and Legislative Bodies*, *supra* note 82, at ¶ IV.

²⁵¹ See Interview with Mihaela Jovic & Tamara Sterk, Office for Gender Equality, in Zagreb, Croatia (Nov. 2, 2006).

²⁵² Letter from I.J. Jarak to B. Genov, Jan. 20, 2006, *supra* note 80.

²⁵³ OSI, OPENNESS OF SOCIETY, CROATIA, *supra* note 68, at 197.

²⁵⁴ Interview with Dr. Hirsl, Nov. 7, 2006, *supra* note 63.

²⁵⁵ *Id.*

²⁵⁶ See, e.g., Eur. Soc. Chart., *Turkey, 01/01/1994–12/31/1998*, *supra* note 161; Eur. Soc. Chart., *France: Conclusion for Report Covering 01/01/1993–12/31/1998*; Eur. Soc. Chart., *Denmark, 01/01/93 – 12/31/98*, *supra* note 141; Eur. Soc. Chart., *Austria: Conclusion for Report Covering 01/01/1996–12/31/1998*.

²⁵⁷ See Eur. Soc. Chart., *Greece: Conclusion for Report Covering 01/01/1993–12/31/1994* [hereinafter Eur. Soc. Chart., *Greece 01/01/1993–12/31/1994*].

²⁵⁸ Comm. of Ministers Recommendation No. R. 88(7), *supra* note 177.

²⁵⁹ See, e.g., Eur. Soc. Chart., *Slovenia 01/01/2001–12/31/2002*, *supra* note 8; Eur. Soc. Chart., *Portugal, 01/01/1999 – 12/31/02*, *supra* note 139.

²⁶⁰ Comm. of Ministers Recommendation No. R. 88(7), *supra* note 177. Specifically, it provides:

In view of its differences from other “taught” subjects, all teachers need to be prepared for working in the field of health education, whether they are to play a major or a minor role;

- ◆ Teacher training should be organized for primary school teachers preferably at both initial training and in-service levels. Secondary school teachers should be introduced to health education during their basic training, and should have the opportunity to extend their knowledge during the course of their work;
- ◆ In general, teachers should be familiar with current theoretical bases of health education and aware of national developments in the field both within the educational system and in the community at large;
- ◆ Teachers who are identified as having specific roles in the school health education programmes, for example, coordinators, those involved in teaching particular parts of the curriculum or particular groups of children, need to have appropriate skills in addition to those of other teachers. They should be familiar with all aspects of the curriculum related to health. They should, in particular have special knowledge of how to develop comprehensive programmes and how to identify possible gaps, and assess the achievement of objectives, evaluate both the appropriateness of the methods employed and the effectiveness of the curriculum in contributing to pupils' health;
- ◆ Training institutions responsible for the pre-service and in-service training of teachers should have at their disposal guidelines in the form of training documents which should be prepared at national level through cooperation between the health and education sectors. Such documents should contain a guide to the training including both method and content, and all the necessary materials for teachers participating in the course.

²⁶¹ CEDAW *Gen. Rec. 24*, *supra* note 188, at 244, ¶ 18.

²⁶² See Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding Observations, Croatia*, ¶ 201, U.N. Doc. A/60/38 (28/01/2005).

²⁶³ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

²⁶⁴ Children's Rights Committee, *Concluding Observations*, see e.g., Benin, 20/10/2006, U.N.Doc. CRC/C/BEN/CO/2, ¶ 58(h); Thailand, 17/03/2006, U.N.Doc. CRC/C/THA/CO/2, ¶ 58(e); [CRC Concluding Observations 2006, United Republic of Tanzania](#), *supra* note 201, at ¶ 49(b).

²⁶⁵ Children's Rights Committee, *Concluding Observations*, see e.g., Albania, 31/03/2005, U.N. Doc. CRC/C/15/Add.249, ¶ 57(b); Bangladesh, 10/27/2003, U.N. Doc. CRC/C/15/Add.221, ¶ 60(d); France, 30/06/2004, U.N. Doc. CRC/C/15/Add.240, ¶ 45; Georgia, 10/27/2003, U.N. Doc. CRC/C/15/Add.220, ¶ 51; Sweden, 30/03/2005, U.N.Doc. CRC/C/15/Add.248, ¶ 34.

²⁶⁶ *ICPD Programme of Action*, *supra* note 146, at ¶ 7.48; *ICPD+5 Key Actions Document*, *supra* note 202, at, ¶ 73(e).

²⁶⁷ WHO REGIONAL STRATEGY REPORT, *supra* note 150, at 17.

²⁶⁸ WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra* note 15, at 8 53.

²⁶⁹ *Id.* at 8 52–53 (citing M. Rice, *Reproductive Health within the School Setting: A Feeder Paper for the*

Expert Committee on Comprehensive School Health Education and Promotion, WORLD HEALTH ORGANIZATION (WHO) (1995) (unpublished document; available on request from FAMILY AND COMMUNITY HEALTH, WORLD HEALTH ORGANIZATION, 1211 Geneva 27, Switzerland.)).

²⁷⁰ WHO, ADOLESCENT PREGNANCY REPORT, *supra* note 148, at 72 (citing Görden et al. (1993)).

²⁷¹ WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra* note 15, at 8 54 (citing Education International, *The Second World Congress of Education International Meeting in Washington, D.C. (USA), from 25 to 29 July 1998* (1998)).

²⁷² *Id.* at 8, 53.

²⁷³ HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.

²⁷⁴ See WHO, Family Life, Reproductive Health and Population Education report, *supra* note 15, at 8, 54; Comm. of Ministers Recommendation No. R. 88(7), *supra* note 177.

²⁷⁵ INSTITUTE FOR SOCIAL RESEARCH – ZAGREB (IDIZ) & THE CENTRE FOR EDUCATIONAL RESEARCH AND DEVELOPMENT, *supra* note 38, 6.

²⁷⁶ Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

²⁷⁷ *Id.*

²⁷⁸ See Eur. Soc. Chart., *France: Conclusion for Report Covering 01/01/2001–12/31/2002* [hereinafter Eur. Soc. Chart., *France 01/01/2001–12/31/2002*] (“Information available from the Ministry of Education shows that, despite the increasing number and variety of awareness-raising campaigns, the consumption of drugs, tobacco and alcohol among young people is continuing to riseThe Committee requests that the next report explain the poor effectiveness of these campaigns and asks whether other measures are envisaged in order to reverse this negative trend.” See also Eur. Soc. Chart., *Belgium: Conclusion for Report Covering 01/01/1999–12/31/2002*.

²⁷⁹ See Eur. Soc. Chart., *Greece 01/01/1993–12/31/1994*, *supra* note 257; Eur. Soc. Chart., Turkey: Conclusion for Report Covering 01/01/1990–12/31/1991; Eur. Soc. Chart., Portugal: Conclusion for Report Covering 01/01/1991–12/31/1993; Eur. Soc. Chart., Iceland: Conclusion for Report Covering 01/01/1993–12/31/1998.

²⁸⁰ See Eur. Soc. Chart., *Greece, 01/01/1999–12/31/2002*, *supra* note 140 (noting a marked decline in children’s oral health).

²⁸¹ Comm. of Ministers Recommendation, No. R. 88(7), *supra* note 177, at 3, ¶ 4.2.

²⁸² *Id.*

²⁸³ WHO REGIONAL STRATEGY REPORT, *supra* note 150, at 14, 18, ¶ 2.7 (2001).

²⁸⁴ WHO REGIONAL STRATEGY REPORT, *supra* note 150, at 18, ¶ 2.7 (2001).

²⁸⁵ WHO, FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION REPORT, *supra* note 15, at 8, 55.

²⁸⁶ *Id.*

²⁸⁷ *Id.*

²⁸⁸ *ICPD Programme of Action*, *supra* note 146, at 60, ¶ 7.47; *ICPD+5 Key Actions Document*, *supra* note 202, at ¶ 73(c).

²⁸⁹ See Interview with D. Tot, Nov. 7, 2006, *supra* note 45.

²⁹⁰ See *Id.*

²⁹¹ See Interview with Baranka B., Nov. 6 2006, *supra* note 36; INSTITUTE FOR SOCIAL RESEARCH – ZAGREB (IDIZ) & THE CENTRE FOR EDUCATIONAL RESEARCH AND DEVELOPMENT, *supra* note 38, 910.

²⁹² See Letter dated March 10, 2003, *supra* note 49.

²⁹³ See Interview with D.Tot, Nov. 7, 2006, *supra* note 45.

²⁹⁴ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

²⁹⁵ Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

²⁹⁶ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

²⁹⁷ In addition, it is unclear what information the Institute for Education used to evaluate the TS programme. For example, the GEO repeatedly asked the MSES for copies of the text of the Teen STAR programme in order for her to thoroughly evaluate the content of the programme and provide feedback on whether it meets standards regarding Croatia’s commitment to gender equality. However, the material she was provided with was a 3-page document simply outlining the programme without any details. It appears that this is the information that the Institute for Education used to base its decision to recommend the extra-curricular programme to schools. See *Annual Report for 2005*, *supra* note 41; See also Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

²⁹⁸ See EUROPEAN COMMISSION, CROATIA 2005 PROGRESS REPORT, *supra* note 249, at 97.

²⁹⁹ OSI, OPENNESS OF SOCIETY, CROATIA, *supra* note 68, at 93, 101–02, 104.

³⁰⁰ Croatia has accepted Article 16 in the original charter. This article is identical in the revised charter. See Council of Europe, European Social Charter, Oct. 18, 1961, E.T.S. No. 35, 529 U.N.T.S 89; European Social Charter (revised) art. E, *supra* note 165.

³⁰¹ See Eur. Comm. of Social Rts., *Turkey: Conclusion for Report 01/01/2002*, art. 16, 656–57, (“ . . . [P]rovision of good-quality child care is a key aspect of the social protection of the family and the growth and development of its

members. Good early childhood education helps children to integrate better into the education system later on, and into society.”).

³⁰² See Eur. Comm. of Social Rts., *Sweden: Conclusion for Report 01/09/2002*, art. 16, 248–49.

³⁰³ See Eur. Comm. of Social Rts., *Estonia: Conclusion for Report 30/09/2004*, art. 16, 182.

³⁰⁴ Council of Europe, *Recommendation No. R. (82) 5 of the Comm. of Ministers to Member States Concerning the Prevention of Drug Dependence and the Special Role of Education for Health*, at 1 (adopted Mar. 16, 1982).

³⁰⁵ See, e.g., *Statement on HIV Prevention*, *supra* note 180 “. . . HIV prevention requires that governments and communities have the courage to confront difficult issues in an open and informed way. We understand that in many settings there is a cultural resistance to openly discussing sex, sexuality and drug use. We are profoundly concerned about the resurgence of partial or incomplete messages on HIV prevention which are not grounded in evidence and have limited effectiveness.”

³⁰⁶ See *Recommendation 1346 on Human Rights Education*, *supra* note 179 ¶ 11(i)(a),(c).

³⁰⁷ See Council of Europe, Parl. Ass., *Resolution 1399 on European Strategy for the Promotion of Sexual and Reproductive Health and Rights*, *supra* note 142, ¶ 16 **Error! Hyperlink reference not valid.** (stressing that sexuality education should be provided in a gender-sensitive way, *i.e.* that account must be taken of the particular sensitivities and vulnerabilities of boys and girls).

³⁰⁸ Council of Europe, *Explanatory Report to the European Social Charter*, available at

<http://conventions.coe.int/treaty/en/Reports/Html/163.htm> (last visited, Aug. 3, 2007).

³⁰⁹ See Council of Europe, *European Social Charter (revised) app.*, May 3, 1996, E.T.S. No. 163. See also Council of Europe, *Equality Between Women and Men in the European Social Charter as prepared by the Secretariat of the European Social Charter* (Sept. 20, 2005) (reiterating that the protection afforded under Article 16 covers single-parent families), available at http://www.coe.int/t/e/human_rights/esc/7_resources/factsheet_equality.pdf (last visited Aug. 7, 2007).

³¹⁰ *Keegan v. Ireland*, App. no. 16969/90, Eur. Ct. of H.R. (1994).

³¹¹ *Id.*

³¹² App. No. 33290/96 Eur. Ct. of H.R. (1999).

³¹³ *Salgueiro da Silva v. Portugal*, App. No. 33290/96, ¶ 30 Eur. Ct. of H.R. (1999).

³¹⁴ *Id.*

³¹⁵ *X, Y and Z v. United Kingdom* App. no. 21830/93, Eur. Ct. Of H.R. (1997).

³¹⁶ *Id.* at ¶ 36.

³¹⁷ See also *X and Y v. Switzerland*, (Joined Applications 7289/75 and 7349/76) 9 D.R. 57, 20 *Yearbook E.C.H.R.*.

³¹⁸ *Opinion of the European Economic and Social Committee on the ‘Green Paper on Applicable Law and Jurisdiction in Divorce Matters,’* 2006 O.J. (C 24), 20, 21, ¶ 1.4.

³¹⁹ *European Parliament Legislative Resolution on the Proposal for a Council Framework Decision on Certain Procedural Rights in Criminal Proceedings Throughout the European Union*, at amend. 13 art. 1(a)(new), COM (2004) 0328 - C6-0071/2004 - 2004/0113(CNS), available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT/percent2BTA/percent2BP6-TA-2005-0091/percent2B0/percent2BDOC/percent2BXML/percent2BV0//EN> (last visited, Aug. 3, 2007).

³²⁰ For countries that recognize or proposed to recognize same-sex relationships, see Stonewall: *Equality & Justice for Lesbians, Gay Men & Bisexuals*, http://www.stonewall.org.uk/information_bank/partnership/international/137.asp. See also ILGA Europe, http://www.ilga-europe.org/europe/issues/marriage_and_partnership/same_sex_marriage_and_partnership_country_by_country#uk (outlining same-sex couples’ rights across Europe).

³²¹ ALISON DIDUCK & FELICITY KAGANAS, *FAMILY LAW, GENDER AND THE STATE: TEXT CASES AND MATERIALS* 8 (2006) (quoting Beck & Beck-Gernsheim, *Individualization: Institutionalized Individualism and its Social and Political Consequences*, 97–98, London: Sage 2002).

³²² Robert Wintemute, *Toward Equal Access to Parenting for LGBT Persons in Europe* (ILGA-EUROPE), Spring, 2006, at 9.

³²³ REPUBLIC OF CROATIA, GENDER EQUALITY ACT, *supra* note 10; REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS, *supra* note 10. In addition to legislation guaranteeing Gender Equality, Croatia has allowed unregistered cohabitation of same-sex couples since 2003 passing the Law on Same Sex Civil Unions. REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS, *supra* note 10.

³²⁴ For example, Croatia (through succeeding the obligations of the Former Republic of Yugoslavia) has ratified the International Covenant on Civil and Political Rights, Convention on the Elimination of Discrimination Against Women, Children’s Rights Convention, European Convention on Human Rights

including the relevant non-discrimination provisions.

³²⁵ HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13; Iskorak & Kontra, *supra* note 27, 10; *Annual Report for 2005*, *supra* note 41, 74, ¶ 9.1.8.

³²⁶ REPORT ON WOMEN'S HUMAN RIGHTS IN 2005, *supra* note 23, at 12-13.

³²⁷ Bijelic, *supra* note 12.

³²⁸ See Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

³²⁹ REPUBLIC OF CROATIA, GENDER EQUALITY ACT, *supra* note 10; REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS Republic, *supra* note 10.

³³⁰ AMIR HODZIC, SEXUALITY EDUCATION AND GENDER EQUALITY IN SCHOOL CURRICULA IN CROATIA: ARGUMENTS AND RECOMMENDATIONS, § 6, available at http://www.policy.hu/hodzic/research_paper.htm (2003).

³³¹ *A New Impetus for European Youth*, *supra* note 184.

³³² REPUBLIC OF CROATIA, GENDER EQUALITY ACT, *supra* note 10; The Gender Equality Act provides that “[e]ducation in gender equality shall be an integral part of the system of elementary, secondary and tertiary education as well as of life-long learning . . .” and calls for the “abolishment of all gender/sexual inequalities and gender stereotypes at all levels of education . . .” for “[a]ll government bodies, legal entities vested with public authority and especially all educational institutions and other legal entities that participate in the promotion and realisation of gender equality shall be obliged to systematically engage in education and awareness raising in gender equality.” *Id.* at arts. 14(1)–(3).

³³³ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61; Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

³³⁴ *Id.*

³³⁵ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

³³⁶ Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90.

³³⁷ See Kalogjera-Brkić, *supra* note 103.

³³⁸ Bijelic, *supra* note 12.

³³⁹ *Id.*

³⁴⁰ *Id.*

³⁴¹ Interview with L. Ilcic, Nov. 6, 2006, *supra* note 50.

³⁴² CONSTITUTION OF CROATIA, *supra* note 9, art. 35. The English translation can be found at http://www.servat.unibe.ch/law/icl/hr00000_.html (last visited, Aug. 3, 2007) (guaranteeing “respect for and legal protection of personal and family life, dignity, reputation and honor . . .” to every individual).

³⁴³ See, e.g., REPUBLIC OF CROATIA, LAW ON SAME-SEX CIVIL UNIONS, *supra* note 10, arts. 20 (1) & (2), § 3, art. 20 (prohibiting discrimination on the basis of sexual orientation).

³⁴⁴ See Children’s Rights Convention, *supra* note 11. The Office of the Ombudsperson for Children also found the programme in violation of Articles 29(1)(a) and (c). See Letter from the Ombudsperson for Children to the Ministry of Science, Education and Sports, (Feb. 11, 2004).

³⁴⁵ Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

³⁴⁶ Bijelic, *supra* note 12;

³⁴⁷ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

³⁴⁸ Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

³⁴⁹ *Id.*

³⁵⁰ *Id.*

³⁵¹ Letter from G. Lukač-Koritnik, Dec. 9, 2005, *supra* note 61.

³⁵² *Id.*

³⁵³ See Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90.

³⁵⁴ See Jelavić, Jan. 26, 2007, *supra* note 117.

³⁵⁵ See Letter from L.M. Ursalijko to the Minister of Science, Education and Sport, Nov. 2, 2004, *supra* note 56.

³⁵⁶ See Jelavić, Jan. 26, 2007, *supra* note 117.

³⁵⁷ See *Id.*

³⁵⁸ See *Id.*

³⁵⁹ See Eur. Comm. of Social Rts., *Bulgaria: Conclusion for Report 30/09/2003*, art. 17, 64, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) [hereinafter Eur. Comm. of Social Rts., *Bulgaria 30/09/2003*]. *Identical language* is also found in the following conclusions: *Italy: Conclusion for Report 30/09/2003*, art. 17, 300, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) [hereinafter Eur. Comm. of Social Rts., *Italy 30/09/2003*]; *Slovenia: Conclusion for Report 30/09/2003*, art. 17, 511, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) [hereinafter Eur. Comm. of Social Rts., *Slovenia 30/09/2003*]; *Sweden: Conclusion for Report 30/09/2003*, art. 17, 616, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007)) [hereinafter Eur. Comm. of Social Rts., *Sweden 30/09/2003*]. *Similar language* is found in the following conclusions: *France: Conclusion for Report 30/09/2003*, art. 17, 173, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) [hereinafter Eur. Comm. of Social Rts., *France 30/09/2003*] (stating that “[t]herefore Article 17 as a whole requires

states to establish and maintain an education system that is both accessible and effective. In assessing whether the system is effective the Committee will examine under Article 17: . . . whether there is a mechanism to monitor the quality of education delivered both in public and private schools and to ensure a high quality of teaching . . . The Committee wishes to receive further information on: . . . any mechanism to monitor and ensure the adequacy of the educational system. . . .”); *France: Conclusion for Report 30/09/2005*, art. 17, 239–44, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) (stating that “. . . [t]he report does not contain any information concerning education as requested in the previous conclusion. The Committee therefore repeats its request for the following information: . . . any mechanism to monitor and ensure the adequacy of the educational system. . . .”); *Moldova: Conclusion for Report 30/09/2005*, art. 17, 469–76, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) (stating that “. . . [t]herefore Article 17 as a whole requires states to establish and maintain an education system that is both accessible and effective. States need to ensure a high quality of teaching . . . The Committee asks the next report to explain in detail how the Government plans to ensure that all children benefit from educational institutions, how it will raise the quality of education and facilities at schools and how it will tackle the problem of ensuring better access to schools, especially in the rural areas . . . The Committee wishes to receive information on any mechanism to monitor and ensure the adequacy of the educational system”); *Romania: Conclusion for Report 30/09/2003*, art. 17, 406, available at <http://hudoc.esc.coe.int/esc/search/default.asp?mode=esc&language=en&source=co> (last visited Aug. 6, 2007) [hereinafter *Eur. Comm. of Social Rts., Romania 30/09/2003*] (stating that “. . . [t]herefore Article 17 as a whole requires states to establish and maintain an education system that is both accessible and effective. In assessing whether the system is effective the Committee will examine under Article 17: . . . whether there is a mechanism to monitor the quality of education delivered and to ensure a high quality of teaching in both public and private schools”); See also Digest of the Case Law of the ESCR, at art. 17, 76 available at http://www.coe.int/t/e/human_rights/esc/2_escr_european_committee_of_social_rights/Digest.pdf (last visited Aug. 6, 2007).

³⁶⁰ See, e.g., *Eur. Comm. of Social Rts., Bulgaria 30/09/2003*, *supra* note 359, at art. 17, 64; *Eur. Comm. of Social Rts., France, 30/09/2003* at arts. 17, 173; *Eur. Comm. of Social Rts., Italy 30/09/2003*, *supra* note 359, at art. 17, 300; *Eur. Comm. of Social Rts., Romania, 30/09/2003*, *supra* note 359, at art. 17, 406; *Eur. Comm. of Social Rts., Slovenia 30/09/2003*, *supra* note 358, at art. 17, 511; *Eur. Comm. of Social Rts., Sweden, 30/09/2003*, *supra* note 359, at art. 17, 616.

³⁶¹ According to information on the Teen Star website, Teen Star was conducted: school- year 2005/6- 26 schools (in 17 elementary and 9 secondary); school-year 2004/5- 57 schools (40 elementary and 17 secondary); school-year 2003/4- in 32 schools (no data according to type of school). See <http://www.teenSTAR.hr> (last visited July 21, 2007)

³⁶² See *Eur. Soc. Chart., France 01/01/2001–12/31/2002*, *supra* note 278.

³⁶³ See e.g. *Eur. Soc. Chart., Denmark, 01/01/93 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., France: Conclusion for Report Covering 01/01/93 – 12/31/98*; *Eur. Soc. Chart., Belgium 01/01/1996–12/31/1998*, *supra* note 162; *Eur. Soc. Chart., Portugal, 01/01/96 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., Hungary: Conclusion for Report Covering 8/07/99 -12/31/01*; *Eur. Soc. Chart., Lithuania*, *supra* note 137.

³⁶⁴ See e.g. *Eur. Soc. Chart., Denmark, 01/01/93 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., Italy: Conclusion for Report Covering 01/01/93 – 12/31/98*; *Eur. Soc. Chart., Turkey, 01/01/1994–12/31/1998*, *supra* note 161; *Eur. Soc. Chart., Belgium 01/01/1996–12/31/1998*, *supra* note; *Eur. Soc. Chart., Poland – Conclusion for Report Covering 01/01/01 – 12/31/02*; *Eur. Soc. Chart., Portugal, 01/01/1999 – 12/31/02*, *supra* note 139.; *Eur. Soc. Chart., Lithuania*, *supra* note 137.

³⁶⁵ See e.g. *Eur. Soc. Chart., Denmark, 01/01/93 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., Norway 01/01/93 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., Portugal, 01/01/96 – 12/31/98*, *supra* note 141; *Eur. Soc. Chart., Denmark, 01/01/1999–12/31/2002*, *supra* note 140.

³⁶⁶ See Statement of Ms. Ivanda on behalf of the Republic of Croatia, Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Summary Records of the 674th Meeting*, [2005] ¶ 36, U.N. Doc. CEDAW/C/SR.674.

³⁶⁷ WORLD HEALTH ORGANIZATION (WHO), FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION: KEY ELEMENTS OF A HEALTH PROMOTING SCHOOL, INFORMATION SERIES ON SCHOOL HEALTH, Doc. 8, at 38, available at http://www.who.int/school_youth_health/media/en/family_life.pdf (last visited Aug. 6, 2007).

³⁶⁸ See Jelavić, Jan. 26, 2007, *supra* note 117.

³⁶⁹ See *Eur. Soc. Chart., France 01/01/2001–12/31/2002*, *supra* note 278.

³⁷⁰ See Letter dated March 10, 2003, *supra* note 49.

³⁷¹ OSI, OPENNESS OF SOCIETY, CROATIA, *supra* note 68, at 93, 101–02, 104.

³⁷² Council of Europe, European Social Charter art. 17, Oct. 18, 1961, E.T.S. No. 35, 529 U.N.T.S 89. See also CONSTITUTION OF CROATIA, *supra* note 9, art. 41 (declaring that all religious communities shall be equal before the law and shall be separated from the State).

- ³⁷³ Council of Europe, Parl. Ass., *Resolution 800 on Principles of Democracy*, 1983, at ¶ D(i), available at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta83/eres800.htm> (last visited Aug. 6, 2007).
- ³⁷⁴ Council of Europe, Parl. Ass., *Resolution 1407 on New Concepts to Evaluate the State of Democratic Development*, 2004, ¶ 9, available at <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta04/eres1407.htm> (last visited Aug. 6, 2007) [hereinafter Council of Europe, Parl. Ass., *Resolution 1407 on New Concepts to Evaluate the State of Democratic Development*].
- ³⁷⁵ OSI, OPENNESS OF SOCIETY, CROATIA, *supra* note 68, at 104.
- ³⁷⁶ MSES, DECISION ON THE ESTABLISHMENT OF TASKS OF COMMITTEE FOR HEALTH EDUCATION AND UPBRINGING TO BE CONDUCTED IN PRIMARY AND SECONDARY SCHOOLS, *supra* note 84.
- ³⁷⁷ CEDAW General Recommendation 23 on Article 7, Political and Public Life (16th session, 1997); CEDAW, *Summary Records of the 673rd Meeting*, *supra* note 85, ¶ 3.
- ³⁷⁸ See Iskorak & Kontra, *supra* note 27, 10.
- ³⁷⁹ See EUROPEAN COMMISSION, CROATIA 2005 PROGRESS REPORT, *supra* note 249, at 19.
- ³⁸⁰ See CEDAW *Concluding Observations 2005, Croatia*, *supra* note 218, at ¶ 200.
- ³⁸¹ Council of Europe, Parl. Ass., *Resolution 1407 on New Concepts to Evaluate the State of Democratic Development*, ¶ 9.
- ³⁸² OSI, OPENNESS OF SOCIETY, *supra* note 68, at 104.
- ³⁸³ *Id.* at 103–04.
- ³⁸⁴ EUROPEAN COMMISSION, CROATIA 2005 PROGRESS REPORT, *supra* note 249, at 13.
- ³⁸⁵ See OSI, OPENNESS OF SOCIETY, CROATIA, *supra* note 68, 198; Committee on the Elimination of Discrimination Against Women (CEDAW), *Concluding Observation, Croatia*, ¶108, U.N. Doc. A/53/38 (1998).
- ³⁸⁶ Interview with A. Stulhofer, Nov. 2, 2006, *supra* note 49; See also Minutes from Health Education Commission, Nov. 3, 2006, *supra* note 90, at 4 (noting that there was a written statement by Grozd Association on the threat to withdrawal as well).
- ³⁸⁷ The Parliamentary Assembly of the Council of Europe has urged member states to include young people in the development of sexuality education programmes. See Council of Europe, Parl. Ass., *Resolution 1399 on European Strategy for the Promotion of Sexual and Reproductive Health and Rights*, *supra* note 142, at ¶ 12(ii).
- ³⁸⁸ The ENHPS is a programme established by the Council of Europe, World Health Organization (WHO) Europe, and the European Commission, to support, in part, health education curricula. One principle the ENHPS members have adopted is to ensure that educational policies and practices provide opportunities for young people to participate in critical decision-making. See MARY STUART BURGHER ET AL., EUROPEAN NETWORK OF HEALTH PROMOTING SCHOOLS: THE ALLIANCE OF EDUCATION AND HEALTH 4, 17 (1999).
- ³⁸⁹ See GOV'T OF THE REPUBLIC OF CROATIA, MINISTRY OF FAMILY, VETERANS' AFFAIRS & INTERGENERATIONAL SOLIDARITY, NATIONAL PLAN OF ACTIVITIES FOR THE RIGHTS AND INTERESTS OF CHILDREN FROM THE YEAR 2006 UNTIL THE YEAR 2012, at 169 (2006); NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2006-2010, *supra* note 24, at ¶ 6.4.3; see also NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2001-2005, *supra* note 71, e(3).
- ³⁹⁰ See HODZIC, SYSTEMATIC SEXUALITY EDUCATION IN CROATIAN SCHOOLS, *supra* note 13.
- ³⁹¹ Irena Kustura, *In a Couple of Words*, VERCENIJ LIST, Jan. 30, 2007; see also Ly Bratonja, Martinovic, *Grozd's Program Is Not Scientifically Based*, GLAS SLAVONJIE, Jan. 30, 2007.
- ³⁹² See REPUBLIC OF CROATIA, LAW ON THE OMBUDSMAN FOR CHILDREN, *supra* note 110.
- ³⁹³ See Opinion from the Ombudsperson for Gender Equality, Feb. 12, 2007, *supra* note 126.
- ³⁹⁴ See Jelavić, Jan. 26, 2007, *supra* note 117; Letter from A. V. Lancker et. al., received Apr. 10, 2007, *supra* note 131.
- ³⁹⁵ See Jelavić, Jan. 26, 2007, *supra* note 117.
- ³⁹⁶ NATIONAL POLICY FOR THE PROMOTION OF GENDER EQUALITY 2001-2005, *supra* note 71, § 2 ¶ e(3).
- ³⁹⁷ Jelavić, Jan. 26, 2007, *supra* note 117.

VI. ANNEXES

I

Natasha Bijelic "Parallel Analysis of Program Teen Star and Association Grozd's Program, 2007, Civil Coalition to Stop High Risk Sexual Education

II

Letter dated March 10, 2003 from Prof. DSc Josip Milat, assistant Minister in MSES on the Teen Star Programme to Vesna Bulić, MSc Directorate for Education, Mrs. Željka Šubarić, Dr., Croatian Catholic Medical Association; Mr. Davor Đurinović, Prof., Croatian Catholic Association of Educational Workers

III

Letter from Ljubica Matijević Ursaljko, former Ombudsperson for Children to the Minister of Science, Education and Sport (Nov. 2, 2004)

IV

Letter from the Office of the Ombudsperson for Gender Equality, Gordana Lukač-Koritnik, to Sanja Juras, Coordinator of Kontra & Kristijan Grđan, , President of Iskorak (Dec. 9, 2005)

V

Opinion and conclusions of the working group as a part of the member of the Commission for the Assessment of all programmes about sexual education implemented in primary and secondary schools with the proposition for introducing comprehensive and separate programme of health education, 3 May 2005 to the Ministry of Science, Education and Sport, Attn. Dragan Primorac
Commission for the Assessment of all programmes about sexual education implemented in primary and secondary schools, Attn: chair Vladimir Gruden.

VI

Press Announcement, Teen STAR Program (Dec. 3, 2004) (noting itself that Teen STAR requested the opinion from Dr. sc. Dubravka Hrabar, Zagreb Faculty of Law)

VII

Minutes from Health Education Commission [Second Commission] meeting (Nov. 3, 2006)

VIII

Minutes from Health Education Commission [Second Commission] meeting (Oct. 24, 2006)

IX

Minutes from Health Education Commission meeting (Nov. 23, 2006)

X

Conclusion from the 12th session of the Committee for Health Education (Sep. 7, 2006)

XI

Ivana Kalogjera-Brkić, "Štulhofer: Message sent to young people – sex before marriage leads you to eternal misery," 7 January 2007, Jutarnji list, available at http://www.jutarnji.hr/clanak/art-2007,1,7seks_odgoj57316.il (last visited on August 23, 2007)

XII

Opinion of the Commission of the Ministry of Health and Social Care on the Health Education Programmes in Schools (Mar.29, 2007)

XIII

Opinion from Mila Jelavić, Ombudsman for Children to Neven Ljubičić, Minister of Health and Social Welfare (Jan. 26, 2007)

XIV

Opinion from the Ombudsperson for Gender Equality, to the MSES Ombudsperson (Feb. 11, 2007)

XV

Andelka Jelusic, Account of Experiences as Teen STAR Professor 3 (2004) Lecture held within the seminar on Integral sexual education «Teen Star»,.The catholic view of certain sexuality issues.: SOME SPECIAL ISSUES CONCERNING MARITAL AND SEXUAL MORALS , 25th to 29th June 2003.

XVI

Council of Europe member states granting same-sex couples equal access to second-parent adoption.

XVII

Progressive interpretations of the family by non European countries.