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Chairperson, Human Rights Committee
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Office of the United Nations High Commissioner
for Human Rights (OHCHR)
UNOG-OHCHR
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By post and email (ccpr@ohchr.org)

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Dear Ms Majodina

CROATIA: List of Issues Prior to Reporting

We note that the Committee will be considering the List of Issues prior to reporting in respect of Croatia at its 105th session in July 2012. We write to draw your attention to a 2009 decision of the European Committee of Social Rights (*INTERIGHTS v. Croatia*). The case raises serious questions of sexual orientation discrimination, falling within the mandate of the Human Rights Committee. We therefore respectfully suggest that the Committee seek information from the Croatian Government as to the current state of implementation of the case.

The European Committee of Social Rights' Decision in *INTERIGHTS v Croatia*

As you may know, in a decision of 30 March 2009, the European Committee of Social Rights decided that the inclusion of homophobic and prejudiced statements in textbooks used in the ordinary school curriculum constituted a violation of the right to health in the light of the non-discrimination clause of the European Social Charter.¹ The Committee found that certain parts of the educational materials used in the ordinary curriculum were “manifestly biased, discriminatory and demeaning, notably in how

¹ European Committee of Social Rights, *International Centre for the Legal Protection of Human Rights, (INTERIGHTS) v. Croatia*, Complaint No. 45/2007, Decision on Merits (30 March 2009), paras. 60-66.



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persons of non-heterosexual orientation are described and depicted.”² It quoted statements included in the mandatory biology course textbook used at secondary school level:

*“Many individuals are prone to sexual relations with persons of the same sex (homosexuals –men, and lesbians –women). It is believed that parents are to blame because they impede their children’s correct sexual development with their irregularities in family relations. Nowadays it has become evident that homosexual relations are the main culprit for increased spreading of sexually transmitted diseases (e.g. AIDS)”, or “The disease [AIDS] has spread amongst promiscuous groups of people who often change their sexual partners. Such people are homosexuals because of sexual contacts with numerous partners, drug addicts because of shared use of infected drug injection equipment and prostitutes”.*³

The Committee held that “such statements serve to attack human dignity and have no place in sexual and reproductive health education”.⁴ Noting the positive obligation of States to ensure the effective exercise of the right to health, the Committee held:

*“... this positive obligation extends to ensuring that educational materials do not reinforce demeaning stereotypes and perpetuate forms of prejudice which contribute to the social exclusion, embedded discrimination and denial of human dignity often experienced by historically marginalised groups such as persons of non-heterosexual orientation... By permitting sexual and reproductive health education to become a tool for reinforcing demeaning stereotypes, the authorities have failed to discharge their positive obligation not to discriminate in the provision of such education, and have also failed to take steps to ensure the provision of objective and non-exclusionary health education.”*⁵

Referring to elective Catholic religious and extra-curricular health education courses, the Committee again noted the positive obligations of states to “ensure that state-approved sexual and reproductive health education is objective and non-discriminatory”.⁶

² *Id.*, para. 60.

³ *Id.*, para. 61.

⁴ *Id.*, para. 60.

⁵ *Id.*

⁶ *Id.*, para. 62.

Post-Decision Developments

Since the decision, the Permanent Representative of Croatia has informed the Committee of Ministers that this particular biology course textbook has been withdrawn from the list of standard education material and as of the school year 2009/2010 is no longer used in the ordinary curriculum.⁷ The Croatian Representative also informed the Committee that the National Textbook Standard sets out clear criteria for eradicating any form of discrimination by promoting gender equality, equality of individuals and social groups and the right to diversity.⁸

Nevertheless, the European Committee of Social Rights in its monitoring of compliance with the decision requested the Croatian authorities to provide information on the enforcement of the National Textbook Standard and whether a thorough review has been undertaken to ensure that biased and discriminatory statements do not appear in other educational material.⁹ The Committee also requested detailed information on the reforms to sexual and reproductive health education which have been initiated in recent years according to the Government's submission in the case.¹⁰

Thomas Hammarberg, when Council of Europe Commissioner for Human Rights, pointed to the problem of homophobic messages in schools and stressed that "there is a strong need to review curricula and teaching materials in all member states of the Council of Europe."¹¹ Referring to the decision in *INTERIGHTS v. Croatia*, Mr. Hammarberg noted that whilst "Croatia withdrew the textbook as a result of the Committee's findings ... NGOs in the country still report similar problems with other textbooks."¹²

⁷ Council of Europe, Committee of Ministers, 1068th meeting of the Ministers' Deputies, 21 October 2009, *Appendix to Resolution CM/ResChS(2009)7*: Information provided by the Permanent Representative of Croatia during consideration by the Committee of Ministers of the report transmitted by the European Committee of Social Rights concerning Collective complaint No. 45/2007, available at <https://wcd.coe.int/ViewDoc.jsp?Ref=CM/ResChS%282009%297&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

⁸ *Id.*

⁹ European Committee of Social Rights, Conclusions XIX-2 (2009) (CROATIA): Articles 11,13 and 14 of the Charter, January 2010, available at http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/CroatiaXIX2_en.pdf, p. 9.

¹⁰ *Id.*

¹¹ Council of Europe Commissioner for Human Rights Thomas Hammarberg, *Schools must stop spreading homophobic and transphobic messages*, Human Rights Comment, published on 27 September 2011, available at

http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=181.

¹² *Id.*

Suggested action by the Human Rights Committee

The Human Rights Committee has held that the prohibition against discrimination under Article 26 of the International Covenant on Civil and Political Rights includes discrimination based on sexual orientation.¹³ In its General Comment No. 18 on non-discrimination the Committee advised State parties to include in their reports on Articles 2(1), 3 and 26 of the Covenant information on “any problems of discrimination in fact which may be practiced either by public authorities, by the community or by private persons or bodies.”¹⁴ In the same General Comment, the Committee invited State parties to report on legal provisions and administrative measures directed at diminishing or eliminating such discrimination.

We therefore encourage the Committee to include in the List of Issues questions under Articles 2, 24 and/or 26 of the Covenant relating to the following:

- 1. The steps taken by Croatia to ensure that educational materials used in the ordinary curriculum do not contain discriminatory statements. In particular has the State party conducted a thorough review of all educational materials used in the Croatian schools so as to ensure that they do not contain discriminatory statements? When approving standard national textbooks, how does the Government ensure that their content is non-discriminatory?**
- 2. The steps taken by the State party to ensure that state-approved sexual and reproductive health education is objective and non-discriminatory, including in the context of Catholic education.**

Yours sincerely,



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¹³ Human Rights Committee, Communication No. 941/2000, *Young v. Australia*, Views of 6 August 2003, para. 10.4.

¹⁴ Human Rights Committee, *General Comment No. 18: Non-discrimination*, 10/11/1989, para. 9.

CC: Kate Fox, Human Rights Committee Secretariat

Encls:

- European Committee of Social Rights, *International Centre for the Legal Protection of Human Rights, (INTERIGHTS) v. Croatia*, Complaint No. 45/2007, Decision on Merits (30 March 2009).
- Council of Europe Commissioner for Human Rights Thomas Hammarberg, *Schools must stop spreading homophobic and transphobic messages*, Human Rights Comment, published on 27 September 2011.

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