



OPEN SOCIETY INSTITUTE
EU MONITORING AND ADVOCACY PROGRAM



OPEN SOCIETY INSTITUTE
MENTAL HEALTH INITIATIVE

Rights of People with Intellectual Disabilities

Access to Education
and Employment

CROATIA

Monitoring Report

HRVATSKA

Prava osoba s
intelektualnim teškoćama

Pristup obrazovanju
i zapošljavanju

Izvješće o monitoringu

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Rights of People with Intellectual Disabilities

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Preface

The **EU Monitoring and Advocacy Program (EUMAP)** of the Open Society Institute monitors human rights and rule of law issues throughout Europe, jointly with local NGOs and civil society organisations. EUMAP reports emphasise the importance of civil society monitoring and encourage a direct dialogue between governmental and non-governmental actors on issues related to human rights and the rule of law. In addition to its reports on the Rights of People with Intellectual Disabilities, EUMAP has released monitoring reports focusing on Minority Protection, Judicial Independence and Capacity, Corruption and Anti-corruption Policy, and Equal Opportunities for Women and Men. Reports on the Regulation and Independence of the Broadcast Media are also forthcoming in 2005. EUMAP is currently preparing reports on Equal Access to Quality Education for Roma; publication is expected in 2006.

EUMAP reports are elaborated by independent experts from the countries being monitored. They are intended to highlight the significance of human rights issues and the key role of civil society in promoting governmental compliance with human rights standards throughout an expanding Europe. All EUMAP reports include detailed recommendations targeted at the national and international levels. Directed at Governments, international organizations and other stakeholders, the recommendations aim to ensure that the report findings directly impact on policy in the areas being monitored.

The present reports have been prepared in collaboration with the **Open Society Mental Health Initiative (MHI)**, part of OSI's Public Health Programs. MHI seeks to ensure that people with mental disabilities (mental health problems and/or intellectual disabilities) are able to live as equal citizens in the community and to participate in society with full respect for their human rights. MHI promotes the social inclusion of people with mental disabilities by supporting the development of community-based alternatives to institutionalisation and by actively engaging in policy-based advocacy.

Throughout Europe people with intellectual disabilities still face serious stigma, prejudice and significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment for people with intellectual disabilities is key to ensuring their social inclusion, and enabling them to live and work in the community as equal citizens. The EUMAP reports focus specifically on these two areas because of their importance to people with intellectual disabilities and because of the existence of international standards, and national law and policy, relating to these areas.

Monitoring of the rights of people with intellectual disabilities was based on a detailed methodology (available at www.eumap.org), intended to ensure a comparative approach

across the countries monitored. The reports cover the eight Central and Eastern European (CEE) countries that joined the EU in May 2004 (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia), Bulgaria and Romania, expected to join in 2007, one candidate country (Croatia), and three older EU member States (Greece, the Netherlands, and the United Kingdom).

The preparation of reports on both member and non-member States highlights the fact that international human rights standards apply equally, and provides an opportunity to comment on general trends in the development and the policy application of these standards. The States selected represent a geographical spread and illustrate a spectrum of policy, practice and implementation.

Reports on each of the 14 countries monitored, plus an overview report resuming the main findings across all the countries, will be published separately. First drafts of each of the country reports were reviewed at national roundtable meetings. These were organised in order to invite comments on the draft from Government officials, civil society organisations, self-advocates, parents, and international organisations. The final report reproduced in this volume underwent significant revision based on the comments and critique received during this process. EUMAP assumes full responsibility for its final content.

Foreword

This report is one of a series of 14 country reports prepared by the Open Society Institute's EU Monitoring and Advocacy Program and the Open Society Mental Health Initiative. The report presents an overview of the opportunities and challenges facing people with intellectual disabilities in accessing education and employment. It provides an important contribution to research on this group, one of the most vulnerable groups throughout Europe.

The initiative of producing this report fulfils important objectives. There is a clear need for comprehensive studies based on reliable research about the situation of people with intellectual disabilities in Europe. Without reliable information, the strategies and policies targeting this particular group of people are often inadequate in terms of meeting their real needs. The monitoring underlying the reports also aims to provide a comparative overview on the countries analysed. The present report goes far beyond previous reports that have brought this issue to the attention of European and national decision-makers.

Presenting a wider picture, this series of reports provides a thorough analysis of the situation of people with intellectual disabilities in their access to education and employment in eight new EU Member States (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia), two accession countries (Bulgaria and Romania) and one candidate country (Croatia). To give a broader view of practice across Europe, Greece, the Netherlands and the United Kingdom have also been studied. The conclusions of the series of reports indicate that people with intellectual disabilities in Europe continue to face significant barriers as far as real access to education and employment is concerned. Discrimination also remains a major issue, despite measures taken at the national level and within a larger European context.

The reports also stand for the importance of civil society monitoring and the overall involvement of different stakeholders in dialogue regarding the human rights of people with intellectual disabilities. A local expert in each country prepared the monitoring report, while local NGOs were involved throughout the monitoring process, providing the basis for broad consultation wherever possible. A central goal of this monitoring is to promote greater awareness and discussion of the issues at stake for people with intellectual disabilities at the local, national, and international levels.

Across the countries monitored, common problems continue to block access to education and employment for people with intellectual disabilities. In many countries, data on the situation of this group is extremely limited or insufficiently disaggregated, making it difficult for Governments to develop policy tailored to their needs. What data there is, shows that while integration of children with intellectual disabilities in mainstream schools is generally increasing, a more fundamental process towards

inclusion, as presented in the 1994 Salamanca Declaration on Special Needs Education, has made little headway. Many children throughout the region are still segregated in special schools or denied an education altogether, leaving little hope that they will be able to find jobs as adults. In most countries monitored, there is only the most basic support for the transition from education to employment.

Existing incentive schemes in many countries, particularly hiring quotas, have not been successful in increasing the number of people with intellectual disabilities who have entered the work force. More specifically targeted programmes must be developed to meet the needs of this group. Throughout Europe, NGOs have piloted effective projects offering supported employment to people with intellectual disabilities, providing assistance such as job coaches, specialised job training and individually tailored supervision. However, this approach has not yet been adopted as Government policy and therefore the opportunities it offers cannot be extended to a much larger group of people.

The reports highlight numerous obstacles that people with intellectual disabilities face in accessing education and employment in various countries across Europe. Improved legislation still needs to be adopted and implemented nationally as well as at the EU level. Existing models of good practice in inclusive education and supported employment should be replicated on a more extensive scale. These reports should help domestic and European decision-makers to develop effective policies ensuring the inclusion of people with intellectual disabilities into society.

From the perspective of Inclusion Europe, the European Association of People with Intellectual Disabilities and their Families, this report makes a very important contribution to the present discussion on access to education and employment for people with intellectual disabilities. We only can encourage local, national and European decision-makers, service providers and disability and social NGOs to consider and follow the recommendations developed in this report.

Geert Freyhoff

Director
Inclusion Europe

I. Executive Summary and Recommendations

1. EXECUTIVE SUMMARY

Throughout Europe people with intellectual disabilities¹ face major stigma and prejudice and are confronted with significant barriers to realising their fundamental human rights. Discrimination against people with intellectual disabilities is deeply rooted and widespread, standing in the way of positive change. Providing real access to education and employment for people with intellectual disabilities is critical to ensuring that they can live and work in the community as equal citizens. There is a strong link between education and employment: without access to adequate education, people with intellectual disabilities cannot secure meaningful employment. This denial of access leads to life long dependency, poverty and social exclusion adding to the stigma of intellectual disability. This monitoring report focuses specifically on the areas of education and employment because of their importance to people with intellectual disabilities, and because of the existence of both international standards and national legislation that specifically address them.

Croatia is undergoing a period of intensive reform, as it enters the accession process to the European Union. However, the pace of change for people with intellectual disabilities remains slow, and more focused efforts to support the inclusion of this group is needed. While a national strategy for people with disabilities has been adopted, legislation remains inconsistent, implementation continues to be irregular, and a lack of coordination among the various responsible bodies leaves many people with intellectual disabilities without the support they need to fully engage in society. Education is for the most part segregated, as only children with *mild* intellectual disabilities are placed in mainstream schools; those in special schools often receive a substandard education that leaves them unprepared for employment or any form of independent living. Access to the employment market is equally limited for people with intellectual disabilities; services are not tailored to the needs of this population, and supported employment opportunities are offered only through NGOs that can reach only a tiny fraction of those who would benefit. Croatia should take advantage of this period where international attention and support is at its strongest to demonstrate a clear will to improve the situation of people with intellectual disabilities in all aspects of society.

¹ The term “intellectual disability” (also described as “learning disability” or “mental retardation”) here refers to a lifelong condition, usually present from birth or which develops before the age of 18. It is a permanent condition that is characterised by significantly lower than average intellectual ability and results in significant functional limitations in intellectual functioning and in adaptive behaviour as expressed in conceptual, social and practical adaptive skills.

General

Generally, Croatia is a party to the major human rights instruments with provisions relating to people with intellectual disabilities, but has yet to ratify the Revised European Social Charter. As a candidate for membership in the European Union (EU), Croatia will be obliged to bring its national laws into line with the EU's anti-discrimination acquis, but at present, there is no comprehensive anti-discrimination legislation. A Government policy addressing the situation of people with disabilities was adopted in 2002, and other policy reforms also include provisions relating to people with disabilities. Although many laws contain references to people with disabilities, poor supporting and implementing regulations affect the impact that legislation has for this group.

Different terms and definitions are used in different sectors of law and policy in Croatia. These variations in terminology can lead to inconsistent application of the law, and even denial of certain benefits. A clear, precise and consistent definition of intellectual disability should be adopted in all law and policy across all relevant fields. The process of diagnosing disability is regulated by a Government Ordinance, which defines four levels of intellectual disability, in line with the ICD-10 classifications. For both adults and children, an Expert Body – an interdisciplinary team, including medical professionals, social workers and psychologists –, establishes the type and level of disability to determine eligibility for social benefits. There is a separate assessment procedure for educational purposes; enrolment commissions conduct an evaluation of each child seeking to enrol.

In Croatia, there are two forms of guardianship, *partial* and *plenary*. If people with intellectual disabilities are placed under guardianship, they are usually placed under *plenary* guardianship. In 2004, there were nearly 15,000 people under guardianship in Croatia. However, detailed statistical data on people under guardianship is lacking. Guardians are usually family members, but in some cases a social worker may be appointed as a guardian. Concerns have been raised regarding the extent to which the current system of monitoring guardianship arrangements is adequate to prevent abuse. Statistical data is limited, again due to inconsistent definitions of intellectual disability, and improving the collection and coordination of data should be a Government priority. There is still a high level of institutionalisation in Croatia; currently, NGO projects on deinstitutionalisation are focused on developing community alternatives to large residential facilities.

Access to education

Children with disabilities have a Constitutional right to education. The broader term “children with developmental difficulties” is used in education legislation, and generally includes children with intellectual disabilities. Current legislation does not provide for comprehensive inclusive education of children with disabilities; only children with *mild* intellectual disabilities are expressly given the right to education in mainstream schools, while those with more serious intellectual disabilities may be

placed in separate, special schools or institutions. Educational funding presents certain obstacles to effective support for children with disabilities: because the school's budget must be approved at the national level, the process of adding staff as support for children with intellectual disabilities is difficult.

An enrolment committee comprised of health and education professionals makes an initial assessment as to whether a child is eligible to enrol in school. On the basis of the assessment, the committee may decide on the most appropriate form of education for the child, which may be one of the following: integration with an applied curriculum, partial integration, a special programme in a mainstream school or special school, or a programme for pupils with severe developmental disorders, within a social care institution. Those children believed to have disabilities of a longer-term duration, which render them incapable of enrolling are placed under observation in the nearest school for up to three months. However, legislation does not appear to specify the criteria that determine whether a child is considered "capable" of entering a mainstream school. The final decision on the educational option for a child is issued by the county administrative body for education, based on the evaluation of the enrolment committee. Limited early intervention services are available, but these are far too few to meet demand, and waiting lists are years long. Moreover, parents have expressed concern that early intervention services available to families do not adequately support caring for children at home, rather than in an institution. Healthcare reforms have also resulted in cutbacks to the services available for young children with intellectual disabilities, such as speech therapy.

As part of the process of application for EU candidacy, Croatia has developed a number of reforms targeting the education system and specifically the education of people with disabilities. While the "National Strategy of Unique Policy for the Disabled for the period from 2003 to 2006" does cover education, it does not call for comprehensive inclusion, and implementation of the measures it does set out has been limited.

The Ministry of Education has developed curricula for children with intellectual disabilities based on the individual child's level of disability, the type of school the child attends (mainstream or special, and the level of inclusion in a mainstream class (partial or full integration). While teachers are encouraged to adapt classroom lessons to meet the individual needs of pupils, including those with intellectual disabilities, training and support for this process are minimal. The Faculty of Special Education in Zagreb trains and prepares teachers for working with children with intellectual disabilities, and has developed a number of model curricula and other teaching aids that could greatly improve the quality of teaching for children with intellectual disabilities, if the Ministry supported their dissemination and use.

In practice, the inclusion of children with intellectual disabilities in mainstream schools is very limited. Only children with *mild* intellectual disabilities are referred to mainstream classes, but even for this small number of children, the level of support in most schools is inadequate. Almost all children with *moderate* to *severe* intellectual

disabilities are placed in special schools, and even some children with *mild* intellectual disabilities are referred to these segregated facilities. According to parents, the quality of education in many special schools is poor, and children fail to acquire even the most basic life skills. Children who remain at home due to their disabilities are entitled to home schooling, but generally children with intellectual disabilities who are cared for at home do not receive any formal education. Children in institutions may likewise lack access to education, as not all residential institutions provide educational programmes. Those that do are not subject to regular inspections that would help to ensure the quality of education provided.

Transition from education to employment

Very limited support for the transition from education to employment is available to people with intellectual disabilities in Croatia. Several forms of vocational education are open to people with intellectual disabilities, some offering a diploma and others only a certificate, which is of very limited use on the employment market. People with intellectual disabilities are entitled to register at their local employment office upon completing their education, but studies suggest few actually do so, and therefore only a small number of people with intellectual disabilities take advantage of the services these employment offices provide. More intensive efforts on the part of the Ministry of the Economy, Labour, and Entrepreneurship to promote these services among people with intellectual disabilities could result in better access to the employment market.

Access to employment

Croatia's Constitution guarantees the right to work, and provides for special protection at work for people with disabilities. Legislation also provides for the right to professional rehabilitation, training for employment, for people with disabilities. Croatia does not yet comply with the requirements of the EU's Employment Directive (2000/78/EC), which will be a condition of entry to the EU. The Labour Law does explicitly prohibit discrimination in hiring and employment on the basis of physical or mental disability.

Eligibility for social benefits is assessed by an expert body at the local centre for social welfare; concerns have been raised that these assessments vary greatly in quality and focus on incapacity, rather than taking into account an individual's potential. The Service for Professional Orientation conducts assessments to determine eligibility for vocational training programmes; this process has come under criticism as it places an undue emphasis on IQ, rather than on specific capacity to perform a given job. People under *plenary* guardianship often do not receive a separate assessment of their capacity to work, as the loss of full civil capacity is presumed to preclude any employment. Several different forms of social benefit are available to people with intellectual disabilities, but the administration of these benefits is problematic; in certain cases, parents have sought to have their children declared unqualified for work so the child retains eligibility for one type of benefit, for example, the family pension.

The EU has placed little emphasis on employment for people with disabilities in its reports on Croatia; however, some EU funds are directed towards vocational training for vulnerable groups such as people with disabilities. Croatia has adopted several employment incentive programmes, with specific provisions relating to people with disabilities. These measures have had some success in finding jobs for people with disabilities, and people with intellectual disabilities have found work through this programme, although there are no initiatives targeting the population with intellectual disabilities. The long-term success of these efforts remains unclear, as there are indications that retention of employees hired under these measures is poor beyond the period of State salary co-financing. Quota requirements are in place for governmental bodies, and a penalty is applied to workplaces that do not meet hiring quotas for people with disabilities. These penalties are too low to be an effective means of enforcement, however.

Very few people with intellectual disabilities have any form of employment. Exact figures on the number of people with intellectual disabilities who are unemployed are unreliable, as many people do not register as unemployed. Supported employment is available only on an extremely limited basis in Croatia.² One NGO, with international support, has developed a supported employment programme, and other organisations may follow, but there is no Government support for such initiatives. Around 400 people with disabilities work in sheltered workplaces, which are segregated and do not enhance inclusion. Although some of these workshops are intended to give participants the skills and training necessary to make the transition to work on the open market, few people are able to actually make the transition from sheltered employment to any other form of work.

2. RECOMMENDATIONS

General Recommendations

International standards

1. Croatia should ratify the Revised European Social Charter and bind itself to Article 15 on the right of persons with disabilities to independence, social integration and participation in the life of the community.
2. Croatia should ratify ILO Convention 142, concerning Vocational Guidance and Vocational Training in the Development of Human Resources.

² Supported employment is an employment option that facilitates competitive work in integrated work settings for people with disabilities. It provides assistance such as job coaches, transportation, assistive technology, specialised job training and individually tailored supervision.

3. The Government should take steps to develop comprehensive anti-discrimination legislation in line with the EU anti-discrimination directives 2000/43/EC (the Race Equality Directive) and 2000/78/EC (the Employment Directive).

Coordination of policy

4. The Government should create effective coordination mechanisms among the bodies participating in the “National Strategy for a Unique Policy for the Disabled 2003 to 2006”, to ensure that policy related to people with disabilities is consistent and effectively implemented.
5. The Government should improve the efficiency of its coordination with civil society by organising meetings with groups and individuals to solicit input on policy, and take concrete steps to inform the general public on disability policy and implementation.

Terminology

6. The Government should ensure that all legislation and regulations related to people with intellectual disabilities contains consistent definitions of intellectual disability, which conform to international standards (ICD-10, ICF).

Data collection

7. The Government should improve its system for the comprehensive and consistent collection of statistical data on the situation of people with intellectual disabilities by increasing transparency, improving public awareness, and enhancing communication among professionals who access the data. Information on the number of people educated at home, or not receiving education at all, should be gathered and maintained in particular.

Guardianship

8. The Government should provide all necessary human and financial resources to ensure that guardianship arrangements are monitored comprehensively and in line with current requirements.
9. The Government should elaborate regulations implementing legislation that would allow active civil capacity to be assessed in a separate procedure in all cases, thereby offering people under guardianship greater opportunities for employment.
10. The Government should ensure that the capacity to work of adults with intellectual disabilities who are under guardianship is assessed separately and consistently, to give them an increased opportunity to find employment.

Early intervention and other services

11. The Ministry of Health and Social Welfare, should take steps to ensure that there is adequate funding and staff to fulfil the needs for early intervention services throughout the country and should establish cooperation with the Ministry of Education, Science and Sport in order to ensure continuity with educational rehabilitation services.
12. The Ministry of Health and Social Welfare and the Ministry of the Economy, Labour and Entrepreneurship should establish regular training for all staff of local social welfare and employment centres, to ensure that they are informed of all the services available to people with intellectual disabilities and their families, and sensitive to the needs of these clients.

Recommendations on education*Inclusion*

13. The Ministry of Science, Education and Sports should draft amended legislation that adopts an inclusive approach to education, and prioritises mainstreaming for children of all levels of disabilities, not only for children with *mild* intellectual disabilities.

Resources and support

14. The Ministry of Science, Education and Sports should ensure that sufficient financial, technical, and human resources and appropriate support are available for children with all levels of intellectual disabilities in mainstream kindergartens, elementary and secondary schools throughout the country.
15. The Ministry of Science, Education and Sports should ensure that all pre-school teachers, elementary and secondary school teachers have appropriate training in individualised instruction, including adapting curricula, managing classroom diversity, and addressing the specific needs of children with intellectual disabilities.
16. The Ministry of Science, Education and Sports should take steps to disseminate existing materials to assist teachers in adapting curricula, such as resources developed by the Faculty of Special Education in Zagreb, making such materials available to teachers throughout the country.
17. The Ministry of Science, Education and Sports should formally recognise training and certification programmes NGOs offer to teachers on working with children with disabilities as a means of increasing the number of teachers trained and prepared to work with this group.

Education outside the school system

18. The Ministry of Science, Education and Sports and the Ministry of Health and Social Welfare should cooperate to introduce a quality monitoring system to oversee educational activities in social welfare or healthcare institutions. In institutions where no education is currently available, the ministries should establish programmes to offer an educational option to residents.
19. The Ministry of Science, Education and Sports should develop appropriate standards and allocate all necessary material and human resources towards making home schooling a genuine educational option for children and adults with intellectual disabilities.

Recommendations on the transition from education to employment

20. The Ministry of Science, Education and Sports, and the Ministry of the Economy, Labour and Entrepreneurship should closely cooperate to ensure that vocational and other training available to people with intellectual disabilities is adjusted to meet the needs of the market, taking full advantage of available EU funds.
21. The Ministry of Science, Education and Sports should reform the system of vocational training to give people with *moderate* to *severe* intellectual disabilities the opportunity to participate in professional education, rather than only “training for independent living”, thereby enhancing their potential for employment.
22. The Ministry of the Economy, Labour and Entrepreneurship should develop a programme to encourage people with disabilities to register with the employment office after completing their education, in order to access the services available with these local offices.

Recommendations on employment

Legislation and enforcement

23. The Government should undertake an analysis to ensure that legislation in each of the health, pension, education, and employment spheres use consistent definitions of people who are capable of working.
24. The Ministry of Science, Education and Sports should enforce the requirement that vocational schools provide three years of follow-up guidance to their graduates, through the assurance of adequate staff levels, as a means of supporting employment for people with intellectual disabilities.
25. The Ministry of Health and Social Welfare should take steps to amend legislation withdrawing family pensions from people who merely have

acquired the qualifications in a particular profession, and replace this provision with a fixed income threshold above which benefits would be reduced or withdrawn.

Government incentives

26. The Ministry of the Economy, Labour and Entrepreneurship should extend existing incentive programmes to encourage the employment of people with disabilities to include part-time work, which is better suited to many people with intellectual disabilities.

Supported employment

27. The Ministry of the Economy, Labour and Entrepreneurship should establish a legal basis for supported employment, and dedicate appropriate resources towards developing supported employment services.
28. The Ministry of the Economy, Labour and Entrepreneurship should collaborate with existing models of good practice in the NGO sector to develop appropriate training for job coaches and support mechanisms to help people with intellectual disabilities find and retain jobs.

Monitoring

29. The Ministry of Science, Education and Sports should monitor the occupationally training and training for independent living programmes for people with moderate to severe intellectual disabilities, to ensure that participants gain skills that will enable them to live as independently as possible.

Public awareness

30. The Government should develop a public-awareness programme to reduce employers' negative stereotypes regarding people with intellectual disabilities and raise awareness of the employment potential of these people.

II. Country Overview and Background

1. LEGAL AND ADMINISTRATIVE FRAMEWORK

1.1 International obligations

Generally, Croatia is a party to the major human rights instruments with provisions relating to people with intellectual disabilities, but has yet to ratify the Revised European Social Charter. As a candidate for membership in the European Union (EU), Croatia will be obliged to bring its national laws into line with the EU's anti-discrimination acquis, but at present, there is no comprehensive anti-discrimination legislation. A Government policy addressing the situation of people with disabilities was adopted in 2002, and other policy reforms also include provisions relating to people with disabilities. Although many laws contain references to people with disabilities, poor supporting and implementing regulations affect the impact that legislation has for this group.

Croatia is a party to the major human rights conventions with provisions relating to people with intellectual disabilities. Under the Constitution, international agreements take precedence over domestic legislation.³

Upon becoming an independent State in 1991, Croatia ratified the International Covenant on Civil and Political Rights⁴ (CCPR) and the International Covenant on Economic, Social and Cultural Rights⁵ (CESCR); and the International Convention on the Rights of the Child⁶ (CRC). Croatia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms⁷ (ECHR) in 1992, and has ratified Protocol No. 12 to the ECHR.⁸ Croatia ratified the European Social Charter⁹ (ESC) in 2003, but has chosen not to bind itself to Article 15 on the rights of people with disabilities to receive vocational training. Croatia has ratified the Charter's

³ Constitution of the Republic of Croatia, Art. 140, available at http://www.usud.hr/htdocs/en/the_constitution.htm (hereafter, Constitution)

⁴ International Covenant on Civil and Political Rights (CCPR), 23 March 1976, 999 U.N.T.S. 171.

⁵ International Covenant on Economic, Social and Cultural Rights (CESCR), 3 January 1976, 993 U.N.T.S. 3.

⁶ International Convention on the Rights of the Child (CRC), 2 September 1990, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

⁷ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 3 September 1953, E.T.S. 005, available on the COE website at <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm> (accessed 22 June 2004).

⁸ Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, E.T.S. 177, 1 April 2005, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/177.htm> (accessed 22 June 2004).

⁹ European Social Charter (ESC), 18 October 1961, C.E.T.S. 163, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm> (accessed 22 June 2004).

Additional Protocol providing for a system of collective complaints, however.¹⁰ Croatia has yet to ratify the Revised European Social Charter (RESC).¹¹

Croatia has ratified all of the eight fundamental conventions of the International Labour Organization (ILO),¹² and has also ratified the ILO Convention Concerning Vocational Rehabilitation and Employment 1983 (No. 159). Croatia has not signed the ILO Convention Concerning Vocational Guidance and Vocational Training in the Development of Human Resources 1975 (No. 142).

In line with its intention to join the European Union (EU), Croatia signed a Stabilisation and Association Agreement in October 2001, which calls for all national legislation to be brought into line with European standards. The agreement specifies that the State must adjust the social security system by introducing and reforming educational activities, including the professional rehabilitation and inclusion of people with disabilities.¹³

1.2 Domestic legislation and policy

The Croatian Constitution guarantees that all are equal before the law and that citizens “enjoy all rights and freedoms regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status, or other characteristics”.¹⁴ Disability is not specifically included in this provision.

Croatia does not have comprehensive anti-discrimination legislation, although various laws incorporate anti-discrimination provisions. As part of the accession process, Croatia will be obliged to transpose the EU’s anti-discrimination *acquis*, including Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (the Employment

¹⁰ Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, C.E.T.S. 158, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/158.htm> (accessed 22 June 2004).

¹¹ Revised European Social Charter (RESC), 1 July 1999, C.E.T.S. 163, available at <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm> (accessed 22 June 2004).

¹² The International Labour Organisation (ILO) has identified eight fundamental ILO Conventions: Convention on the Abolition of Forced Labour, 1930 (No. 29); Convention on Freedom of Association and Protection of the Right to Organize, 1948 (No. 87); Convention on the Right to Organize and Collective Bargaining, 1949 (No. 98); Convention on Equal Remuneration, 1951; (No. 100) Convention on Abolition of Forced Labour, 1957 (No. 105); Convention on Equality Discrimination (Employment and Occupation) 1958 (No. 111); Convention on the Elimination of Child Labour and Minimum Age, 1973 (No. 138); Convention on Worst Forms of Child Labour, 1999 (No. 182).

¹³ Stabilisation and Association Agreement, signed October 2001, Chapter VIII, art. 91, para. 2. Available at <http://www.mvp.hr/pdf/SAACouncilProposal.pdf> (accessed 25 January 2004).

¹⁴ Constitution, art. 14.

Directive),¹⁵ and Council Directive 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.¹⁶

Social protection available to people with disabilities in Croatia includes the right to health and pension insurance, the right to employment and occupational rehabilitation, child allowances, and social welfare rights.¹⁷ The Labour Act,¹⁸ educational acts and regulations,¹⁹ the Act on Customs,²⁰ and the General Tax Law,²¹ among others, include various provisions related to the rights of people with disabilities. The conditions for implementation of these provisions is specified in a series of regulations and decisions according to the laws passed by Parliament, and declarations signed by the president of Croatia and adopted by individual ministries. According to parents, problems arise in implementation as the legislation itself uses quite broad provisions that must be complemented by these implementing regulations.²² Frequently, the responsible ministries do not issue these regulations within the time specified, or issue imprecise decisions which are subject to various interpretations themselves.

The Ministry of Health and Social Welfare (formerly the Ministry of Social Welfare) is responsible for the protection of children and adults under guardianship, and the coordination of monitoring international commitments on the protection of the interests and rights of children, protection of people with disabilities.²³

The Government established the Human Rights Commission in 2000, to monitor the efficiency of human rights protection and promotion within Croatia, and specifically to prepare a comprehensive national programme on human rights. In 2003, a working

¹⁵ European Union's Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. See Commission of the European Communities, *Opinion on Croatia's application for membership of the European Union*, Brussels, 20 April 2004, COM (2004) 257 final, available at http://www.europa.eu.int/comm/external_relations/see/sap/rep3/cr_croat/ (accessed 27 January 2005).

¹⁶ Council Directive 2000/43/EC (hereafter Race Equality Directive), implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

¹⁷ Government Response to the European Commission, Section III, Chapter 13 (Social Policy and Employment), pp. 159–162.

¹⁸ Labour Act, *Narodne novine* No. 137/04.

¹⁹ Act on Pre-school Education, *Narodne novine* No. 10/97; Act on Primary Education *Narodne novine* No. 69/03; Act on Secondary Education *Narodne novine* No. 59/01.

²⁰ Act on Customs, *Narodne novine* No. 92/01.

²¹ General Tax Law, *Narodne novine* No. 150/02.

²² Interview with a mother of a child with intellectual disabilities, member of PUŽ, Zagreb, May 2004.

²³ Act on the System of State Administration, *Narodne novine* No.75/93; and the Act on the Structure and Scope of Ministries and State Administration Organisations, *Narodne novine* No. 48/99.

group on the prevention of discrimination was established within the commission, including members from relevant ministries, academia, and civil society.²⁴ By the end of 2004, the document “National Strategy for Preventing All Forms of Discrimination” was finalised. Representatives of organisations of people with disabilities were given the opportunity to participate in the development of this document, although some representatives have reported they were not adequately informed.²⁵

Also, during 2004, the Government’s Office for Human Rights²⁶ organised roundtable meetings to address the rights of people with disabilities, among other human rights issues. The results of these discussions will be the “National Programme for the protection and promotion of human rights in the Republic of Croatia from 2005 to 2008”. The document has been elaborated after taking into consideration suggestions of the UNHCHR (United Nations High Commissions for Human Rights).

In October 2002, the Croatian Parliament adopted the “National Strategy of Unique Policy for the Disabled for the period from 2003 to 2006”,²⁷ (hereafter, the National Strategy), which was elaborated over two years. The National Strategy updates the earlier “National Programme for the Improvement of the Quality of Life for the Disabled” (1999), which called for reinforcing human rights and fundamental freedoms, social justice, dignity and the value of each person.²⁸ The National Strategy was developed by working groups established at the State Institute for the Protection of Family, Maternity and Youth,²⁹ and included representatives of the Parliament, the Governmental Commission for the Disabled³⁰ and persons with disabilities themselves.

²⁴ Government of the Republic of Croatia, *Information provided by the Government to the Questionnaire of the European Commission*, available at <http://www.vlada.hr/default.asp?ru=2>, (accessed 22 June 2005), Section I (Political Criteria), p. 206, (hereafter, Government Response to European Commission). “The first task of the group [was] the preparation of a National Action Plan for the Suppression of All Kinds of Discrimination pursuant to the Action Plan of the Durban Conference against Racism, Xenophobia and other forms of intolerance, and the organization of a workshop on the topic of discrimination in employment taking into account relevant European Union legislation.”

²⁵ Informal discussions with members of the NGOs PUŽ, Idem, the Association for Promoting Inclusion, and Association Oko, Zagreb, December 2004.

²⁶ The Office for Human Rights was established in 2001 as a governmental service for implementing a systematic approach to the protection, promotion and respect of human rights in Croatia.

²⁷ Resolution of the Government of the Republic of Croatia (class: 562-01/02-02/1, Reference: 5030104-03-1) on the National Strategy of Unique Policy for the Disabled, passed on 16 January 2003, (hereafter, the National Strategy).

²⁸ This Programme was superseded by the National Strategy on 16 January 2003.

²⁹ Due to changes in the Government at the end of 2003, the State Institute for the Protection of Family, Maternity and Youth was eliminated and its activities became the responsibility of the Ministry of Family, Veterans’ Affairs and intergenerational solidarity.

³⁰ The Governmental Commission for the Disabled is an advisory body established in October 2000 to provide the Government with suggestions, opinions and professional advice in the field of protection and rehabilitation of people with disabilities and their families, and to implement activities which will benefit this group.

It includes an assessment of the general situation of people with disabilities in Croatia in seven areas including education and employment, and sets out an action plan in these same fields.³¹ The National Strategy has not yet been adopted by Parliament, and was returned to the Government for further development and modification.

At the beginning of 2001, Croatia launched the “Strategy for the Development of the Republic of Croatia: Croatia in the 21st century”³² (hereafter, Development Strategy). In accordance with this strategy, changes were made to the social security system related to family policy, employment, social welfare, pension insurance, as well as healthcare and health insurance.³³ The office for the Strategy of Development of the Republic of Croatia was established as the administrative body responsible for coordinating the Development Strategy.³⁴ Reform of the social welfare system was initiated through discussion and consultation with international experts; the reform includes reorganisation of local centres for social work, in order to improve their capacity.³⁵ This process is ongoing; discussions were held in March 2004 with representatives of social work institutions, NGOs, and academics. Local centres for social work are one of the main bodies through which people with intellectual disabilities access the services and benefits available to them, and often are the first point at which families of people with intellectual disabilities come into contact with the State systems for support. As concerns have been raised about the degree to which the staff at centres for social work are trained and prepared to work with people with intellectual disabilities, improvement in this area should be one goal of the reform process.

³¹ The National Strategy covers the areas of family and civil society; health, sport and recreation; education; professional rehabilitation, employment and labour; pension insurance; social welfare; housing, mobility and accessibility.

³² “Strategy for the Development of the Republic of Croatia: Croatia in the 21st century”, *Narodne novine*, No. 97/03, (hereafter, Development Strategy).

³³ Government Response to European Commission, Section III, Chapter 13 (Social Policy and Employment), p. 163.

³⁴ The Office for the Strategy of Development of the Republic of Croatia is responsible for “ensuring the prerequisites for creating, and implementing the development of the Development Strategy”. Decree of the Office for the Strategy of Development of the Republic of Croatia, *Narodne novine*, No. 77/00.

³⁵ Interview with Žganec Nino, Ph.D., State Secretary for Social Care, published in *Stančić Ekspres*, (a journal published by a social welfare institution) August, 2003, available (in Croatian) at <http://www.centar-stancic.hr> (accessed 22 June 2005).

2. GENERAL SITUATION OF PEOPLE WITH DISABILITIES

Different terms and definitions are used in different sectors of law and policy in Croatia. These variations in terminology can lead to inconsistent application of the law, and even denial of certain benefits. A clear, precise and consistent definition of intellectual disability should be adopted in all law and policy across all relevant fields. The process of diagnosing disability is regulated by a Government Ordinance, which defines four levels of intellectual disability, in line with the ICD-10 classifications. For both adults and children, an Expert Body – an interdisciplinary team including a social worker, a medical professional and a psychiatrist –, establishes the type and level of disability, to determine eligibility for social benefits. There is a separate assessment procedure for educational purposes. Enrolment commissions at each pre-school and primary school conduct an evaluation of each child seeking to enrol. In Croatia, there are two forms of guardianship, partial and plenary. If people with intellectual disabilities are placed under guardianship, they are usually placed under plenary guardianship. In 2004, there were nearly 15,000 people under guardianship in Croatia. However, detailed statistical data on people under guardianship is lacking. Guardians are usually family members, but in some cases a social worker may be appointed as a guardian. Concerns have been raised regarding the extent to which the current system of monitoring guardianship arrangements is adequate to prevent abuse. Statistical data is limited, again due to inconsistent definitions of intellectual disability, and improving the collection and coordination of data should be a Government priority. There is still a high level of institutionalisation in Croatia; currently, NGO projects on deinstitutionalisation are focused on developing community alternatives to large residential facilities.

2.1 Definitions

There is no consistent definition of intellectual disability in Croatian law or policy; different terms are applied in the various fields of health, social welfare, and education. In some legislation, people with intellectual disabilities are included within broader terminology, such as “persons with physical or mental disorder” or “disabled persons”. The most specific definition of intellectual disability is set out in a joint Ministry of Labour and Social Welfare and Ministry of Health Ordinance,³⁶ which defines “mental retardation” under the heading of “mental disorder” (as distinct from “mental illness”) as,

a condition in which it is significantly difficult to achieve inclusion in social life, and is connected with interrupted or incomplete development of the intellectual functions which have been assessed according to medical, psychological, defectologists and social experts.³⁷

The Law on Professional Rehabilitation and Employment of Disabled Persons 2002 (hereafter, the Law on Professional Rehabilitation) includes people with intellectual disabilities under its definition that, “a disabled person is every person who has a

³⁶ Ministry of Labour and Social Welfare and Ministry of Health Ordinance on the Composition and Procedures of the Expert Bodies in the Process of Acquiring Social Care and Other Rights, *Narodne novine* No. 64/02, (hereafter, Ordinance on Expert Bodies).

³⁷ Ordinance on Expert Bodies, art. 35. This ordinance establishes eligibility for both social benefits and employment rights. The outdated and stigmatising term “defectologist” is gradually being replaced with the less pejorative term “special education expert”.

physical, sensory or mental disability (disorder) that causes a permanent or reduced possibility of personal fulfilment of everyday needs lasting at least 12 months”.³⁸

The social welfare system uses the term “physically or mentally disabled person”, the education system uses the term “children and youth with developmental difficulties”³⁹ while the social security system uses several different terms. The Law on Pension Insurance 2003 uses the terms “invalidity/disability”, “work invalid”, and also includes definitions of “physical disorder” and “general inability to work”.⁴⁰ The law distinguishes between the terms invalidity and physical disorder: invalidity consists of two components, permanently lowered ability to work or general inability to work, plus “loss, essential damage or essential incapacitation for work”. A physical disorder is defined as “loss, essential disorder or essential incapacitation of specific organ or part of the body, which significantly obstructs normal activity of the body and demands greater efforts in conducting daily needs, regardless of whether it causes disability or not”, meaning that it does not necessarily influence work capacity.⁴¹ The Law on Health Insurance uses terms such as “work invalids”, and “persons with developmental difficulties”.

In customs regulations there is a definition of persons with disabilities who may be excused from certain import taxes; however, nowhere in the tax regulation is there a definition of disability.⁴² Representatives of a parents’ organisation have noted that this lack of a general definition has limited access to at least one form of import tax concession to NGOs representing people with certain types of disabilities, while excluding others. While organisations of people with sensory or physical disabilities may import a car without paying import duties, organisations representing people with intellectual disabilities do not receive the same concession.⁴³ A clear definition of disability that encompasses all forms of physical, mental, and intellectual disability would prevent other such discriminatory applications of the legislation.

³⁸ Law on the Professional Rehabilitation and Employment of Disabled Persons, *Narodne novine* No. 143/02, art. 2 (hereafter, Law on Professional Rehabilitation).

³⁹ Ordinance on the Raising and Primary Education of Pupils with Developmental Difficulties, *Narodne novine* No. 23/1991 (hereafter, Ordinance on Pupils with Developmental Difficulties) includes a list of the types and levels of developmental difficulties: sight/vision problems, hearing impairments, speech-oral communication problems and specific learning difficulties, motor dysfunction (physical disability), mental retardation, behavioural problems caused by an organic disorder or progressive psycho-pathological condition, autism, co-existence of several types and levels of developmental difficulties.

⁴⁰ The Law on Pension Insurance, *Narodne novine* No. 117/03, art. 115(2).

⁴¹ Law on Pension Insurance, art. 34 and 56.

⁴² Statement of Vlado Puljiz, Gojko Zovko and Vesna Mihanović, in “Legal Position, Rehabilitation and Social Inclusion of Disabled Persons in the Republic of Croatia”, Zagreb, November 2003, presentations published by the state institute for the Protection of Families, Motherhood and Youth, p. 9.

⁴³ Comments submitted to EUMAP by parent members of the Down’s Syndrome Association on the present report in draft form, July 2004.

2.2 Diagnosis of disability

The procedure for diagnosing intellectual disability is set out in some detail in the Ordinance on the Composition and Procedures of the Expert Bodies in the Process of Acquiring Social Welfare and Other Rights (hereafter, Ordinance on Expert Bodies), which establishes eligibility for both social benefits and employment rights. The level of an individual's disability is determined through IQ testing, in accordance with the definitions set out in the World Health Organization's *International Classification of Diseases*, Tenth Revision (hereafter, ICD-10).⁴⁴ In accordance with the ICD-10, four levels of intellectual disability are recognised: *mild*, with an IQ of 50-69; *moderate*, with an IQ between 35 and 49; *severe*, with an IQ of 20-34; and *profound*, where the IQ is below 20.⁴⁵

For both adults and children, an Expert Body conducts an examination to determine eligibility for social benefits. The Expert Body is an interdisciplinary team, including social workers, medical professionals and psychologists. The decision issued by the Expert Body establishes the type and level of disability, and sets a date for the individual to be re-evaluated. The implications of the Expert Body's decision have a strong bearing on a child's future opportunities in all aspects of life.

Enrolment commissions at each pre-school and primary school conduct an assessment of each child seeking to enrol. The commissions determine whether a child is "capable" of enrolment in the current year, the following year, or at some later point. (See section 1.3.)

The Expert Body also determines capacity to work according to the following categories: capacity to be trained "for independent living and work"; total incapacity for independent living; or total incapacity for work.⁴⁶

2.3 Guardianship

Croatian legislation distinguishes between "active civil capacity" (referred to as "business capacity") and the capacity to be sued. Active civil capacity is the capacity to perform everyday acts with legal consequences. As with the general population, people with intellectual disabilities acquire full active civil capacity at 18 years old. Only the courts can find an individual to be lacking this capacity, and place him or her under guardianship.

Guardianship is defined under the Family Law as a form of protection for minors and adults "who, because of mental health problems or other reasons, are not capable of

⁴⁴ World Health Organization, *International Statistical Classification of Diseases and Related Health Problems*, Tenth Revision, Geneva, 1992, (hereafter, ICD-10).

⁴⁵ Ordinance on Expert Bodies, art. 35.

⁴⁶ Ordinance on Expert Bodies, art. 41.

caring for their personal needs, rights and interests or who threatens the rights or interests of others”⁴⁷. The legal role of the guardian is to protect the ward’s social and material interests; in practice, guardians are responsible for the everyday care of their wards. Guardians have the right to decide issues such as the provision of medical care, and protection of property and financial interests, but must inform the relevant centre for social welfare before taking action.

The local centres for social welfare initiate the procedure to determine active civil capacity for people over the age of 18 considered incapable of caring for their own interests. The courts are responsible for conducting proceedings to establish if an individual is lacking capacity, while the guardian is appointed by the local centre for social welfare. Before reaching its decision, the court examines expert opinions about the health condition of the person under consideration.⁴⁸ In most cases, the assessment of disability has already been made according to the Ordinance on Expert Bodies in the process of determining levels of social welfare and other benefits, and is a factor in the court’s decision. For an individual with intellectual disabilities, the evaluation of the individual’s active civil capacity is usually based on an assessment of his or her intellectual capacity.

In its final decision, the court states the scope of the individual’s active civil capacity,⁴⁹ which in turn determines the extent of the authority of the guardian. In the case that an individual’s active civil capacity is fully removed, this is equivalent to *plenary* guardianship, while for a partial removal, or partial active civil capacity, this is equivalent to *partial* guardianship.

Fully lost active civil capacity is usually determined in cases where the individual is assessed by the court as being unable to understand basic social relationships, and basic social and material values.⁵⁰ This assessment most frequently corresponds to a diagnosis of *moderate*, *severe* and *profound* intellectual disabilities, but also applies in some cases to people with *mild* intellectual disabilities, on the recommendation of the parents or centre for social welfare. Generally, families of people with intellectual disabilities seek a decision of full removal of active civil capacity where they fear their children would not be able to find employment and thus support themselves.

In the case where an individual’s active civil capacity is *partially* removed, the court establishes which actions wards are not able to make independently, for example managing property or finances, or making decisions about employment, marriage, and other personal matters if not otherwise defined by the law.⁵¹

⁴⁷ Family Law, *Narodne novine* No. 116/03, art. 159 (1).

⁴⁸ Family Law art 159 (2).

⁴⁹ Family Law art. 159 (3).

⁵⁰ Comments submitted to EUMAP by the Ministry of Health and Social Welfare on the present report in draft form, July 2004.

⁵¹ Family Law art. 159(3).

The centre for social welfare is responsible for appointing a guardian within 30 days of the court's decision on incapacity.⁵² Generally, the centre interviews the parents to assess their consent and ability to remain the guardians of their child, and can approve that their parental rights (as of a minor child) are extended pending the final guardianship decision by the court. The centre for social welfare has an obligation to place the person without partial or full business capacity under guardianship, even in cases in which the parents of the person do not wish to do so. The centres for social welfare are authorised to enforce the court decision, and the court may appoint a social worker as a guardian in some cases.

Under the law, it is possible to appeal against the appointment of a particular guardian: wards who are declared only partially incapable have the right to appeal against the centre for social welfare's decision appointing a particular guardian, and all other decisions regarding their rights and obligations.⁵³ This appeal suspends the decision. The law also grants wards, their spouse or other direct relatives, judicial bodies, state administrative bodies, local government bodies, or social, medical and educational institutions to file an administrative complaint against the centre for social welfare.⁵⁴

Where issues of "significant importance" such as property management, healthcare concerns, and personal affairs are at stake, guardians, both *partial* and *plenary*, must get the consent of the local centre for social welfare before taking any action, and also to try to explain those actions to their wards if possible. The centre for social welfare is also responsible for monitoring the living conditions of the ward and is obliged to visit the ward at least twice annually and report on the situation.⁵⁵ However, the staff levels in centres for social welfare are generally insufficient to ensure this reporting requirement is met regularly and comprehensively. The guardian is also obliged to make a report to the centre for social welfare on the issues of guardianship, the condition of the ward's property, and about all actions taken for the well being of the ward, which is usually carried out in cases where significant personal or financial issues are at stake. The centre for social welfare has the authority to suspend guardians who are found to have negative attitudes towards the wards' well being.⁵⁶ However, in one reported case, the guardian of an adult with intellectual disabilities, who had lived with her mother until her mother's death, forced the ward to sell the apartment where she had lived all her life, and move to an institution against her own wishes.⁵⁷

⁵² Family Law art. 162.

⁵³ Family Law art. 203.

⁵⁴ Family Law art. 204.

⁵⁵ Family Law, art 202.

⁵⁶ Comments submitted to EUMAP by the Zagreb centre for social welfare on the present report in draft form, July 2004.

⁵⁷ Association for Promoting Inclusion, Association for Self Advocacy, *Moja Životna Priča (My Life Story)*, booklet (in Croatian).

A close relative is generally appointed as the guardian of a person with intellectual disabilities, except where a conflict of interest is shown, or if the prospective guardian is found unfit to take on the responsibility. In some cases, a social worker or another unrelated person may be appointed as guardian. Some people in institutions do not have a legal guardian at all, as no court procedure was initiated; in some cases, the institutional staff is the guardian of residents in an institution, but more frequently social workers are appointed as guardians when a family member is not appointed. In one reported case, a child in an institution failed to receive necessary rehabilitation treatment because the social worker appointed as guardian was located in another town and did not confirm that the child had access to those services.⁵⁸ Some parents regard the process of appointing a guardian as insensitive, with social workers calling into question parents' wishes to continue caring for their children. NGOs have reported cases where social workers appointed as guardians do not adequately care for their wards, and make little effort to assess and respond to the wards' actual needs.

In current practice, a ward under *partial* guardianship must only obtain the guardian's agreement to sign an employment contract, if such a competence is covered by the court's decision on the areas covered by the guardianship. Wards under *plenary* guardianship cannot sign an employment contract themselves. The ward's guardian can sign a contract on his or her behalf, after consulting with the ward and securing the agreement of the local social welfare centre.⁵⁹

People with intellectual disabilities found incapable of looking after own needs and the needs of others – whose active civil capacity has been restricted or removed by a court – do still have a legal right to have their working capacity assessed in accordance with regular labour legislation.⁶⁰ A law adopted in 2002 provides for a procedure in which people under guardianship who have lost their business capacity can have their working capacity assessed separately,⁶¹ which would increase their chances of finding employment; however, this law is not applied, as no secondary regulations or financing specifying the methodology and resources for its implementation have been adopted.⁶² Implementation of this law would be a significant step forward in this respect. However, the very limited range of potential jobs for which training is available for people with intellectual disabilities constitutes the greatest obstacle to employment.

⁵⁸ Interview with a volunteer student health care visitor, Zagreb, October 2004.

⁵⁹ Comments submitted to EUMAP by the Zagreb Centre for social welfare on the present report in draft form, July 2004.

⁶⁰ Comments submitted to EUMAP by the Zagreb Centre for social welfare on the present report in draft form, July 2004.

⁶¹ Law on the Professional Rehabilitation and Employment of Disabled Persons, *Narodne novine* No. 143/02.

⁶² Interview with staff of the Association for the Promotion of Inclusion, Zagreb, 13 May 2004.

2.4 Statistical data

There are a number of sources of information regarding the number of people with intellectual disabilities in Croatia. Given the range of definitions used in different legislation and the lack of common terminology, statistics from different sources vary greatly. The lack of reliable statistical information is a serious obstacle to effective policy-making in this area; common terminology, and centralised data collection related to people with intellectual disabilities should be a priority for the Government.

The Government maintains a national registry of people with disabilities, based on the number of people receiving social support. At the end of 2002, 59,699 persons with physical and intellectual disabilities were registered as social welfare recipients,⁶³ of which 10,436 people (or 17.5 per cent) had intellectual disabilities under ICD-10 definitions – 3,454 children and 6,982 adults. This data also records the type of financial support and social welfare benefits received.⁶⁴

During the 2001 national population census, information was collected on respondents' disabilities, but not on their type of disability.⁶⁵ According to the census data 9.7 per cent of the population (or 429,421 people) reported having disabilities.

The various ministries also record the number of people with disabilities that are relevant to their respective fields. The Ministry of Science, Education and Sports (hereafter, the Ministry of Education) records the number of children diagnosed with disabilities who are registered in the school system. In 2000–2001, 11,354 children with “developmental difficulties” were registered in the school system, of whom 7,837 were integrated in the school system, in either mainstream or special schools.⁶⁶ A

⁶³ M. Znaor, Z. Janičar, and L. Kiš-Glavaš, “Socijalna prava osoba s invaliditetom u Hrvatskoj”, (“Social Rights of People with Disabilities in Croatia”), in *mirovinsko osiguranje* (pension insurance) No. 3/4, Croatian Institute for Pension Insurance, spring 2003, available (in Croatian) at <http://www.mirovinsko.hr/UserDocsImages/publikacije/revija/3/003-020.pdf> (accessed 31 January 2005), (hereafter, Znaor *et al.*, *Social Rights of People with Disabilities*).

⁶⁴ In 2002, 5,099 people with either physical or intellectual disabilities are resident in social welfare homes; 1,222 in foster families. Znaor *et al.*, *Social Rights of People with Disabilities*, p. 15.

⁶⁵ Central Bureau of Statistics (DZS), Information on the 2001 census, available (in Croatian) on the DZS website at http://www.dzs.hr/Hrv/Popis%202001/popis_2001.htm (accessed 18 June 2005). The census data is only disaggregated according to gender and age. Of the total number of respondents declaring themselves to have disabilities: 3,553 are 0-9 years old, and 26 per cent male; 7,467 are between the ages of 10 and 19 of which 60 per cent are male; 15,594 are between the ages of 20 and 29, of which a proportion of 76 per cent are male; 401,550 are over the age of 30, of which 27 per cent are male.

⁶⁶ Statement by G. Zovko, in “The Rights of Disabled Persons within System of Education”, in “Legal Position, Rehabilitation and Social Inclusion of Disabled Persons In the Republic of Croatia”, Zagreb, 14 November 2003, presentations published by the State Institute for the Protection of Families, Motherhood and Youth, p. 36 (hereafter, Zovko, *Statement*).

further 1,695 children with disabilities were enrolled in 102 pre-school groups and facilities.⁶⁷

The Ministry of Health and Social Welfare maintains records on 14,783 people under guardianship, 13,310 adults and 1,473 children, which is a large population given Croatia's size. However, this data does not specify whether the wards have fully or partially lost their active civil capacity.⁶⁸

According to the Zagreb centre for social welfare, there are 6,700 people with disabilities under the competence of the centre; 1,637 are people with intellectual disabilities, of whom 917 have lost their active civil capacity, most of them completely. In 215 cases the parents are guardians, however, approximately 300 people (30 per cent) have social workers appointed as their guardians.⁶⁹

2.5 Deinstitutionalisation

There are 18 State run social care homes for people with intellectual disabilities in Croatia.⁷⁰ Unofficial estimates suggest that approximately one-third of people with *severe* intellectual disabilities live in institutions, while the other two-thirds live with their family or in the community.⁷¹ The forms of treatment include half-day care, day care, temporary placement, and weekly accommodation, but two-thirds of people in care are permanently placed in institutions. Another estimate gives a figure of 2,642 people with intellectual disabilities within state run social care homes, 4,905 in special schools, and 800 in private homes.⁷²

While social care is intended to be provided within "the framework of social protection, rehabilitation and enabling for living",⁷³ a lack of community-based services has resulted in many children and adults with intellectual disabilities having no other option than to move away from their families and to be placed in an institution

⁶⁷ Zovko, *Statement*, p. 35.

⁶⁸ Comments submitted to EUMAP by the Ministry of Health and Social Welfare on the present report in draft form, July 2004.

⁶⁹ Comments submitted to EUMAP by the Zagreb centre for social welfare on the present report in draft form, July 2004.

⁷⁰ Ministry of Health and Social Welfare, (former Ministry of Labour and Social Welfare), *Annual Statistical Report on the State run homes within Social Care for Physically or mentally disabled children and adults in Republic of Croatia at the end of 2002* (in Croatian). Some statistical information is available at the ministry's website, <http://www.miz.hr> (accessed 7 February 2005).

⁷¹ Vesna Mihanović and Ivančica Mamek-Jagić, "Social Rights and Integration of Persons with Disabilities", Roundtable, Zagreb, 14 November, 2003, (hereafter, Roundtable on Social Rights and Integration).

⁷² Ljiljana Igrić, Ph.D., Presentation at Annual Conference of NAAD in Boston, March 2004, (hereafter, *NAAD Presentation*).

⁷³ Social Welfare Act, *Narodne novine*, 103/03 art. 3, 12.

in order to receive special education.⁷⁴ Some are placed in medical institutions such as psychiatric clinics, homes for elderly people, dormitories within the education system or they stay with their families, often without adequate support.⁷⁵ Most institutions are located in or near larger towns.

Several years ago, an NGO, the Association for Promoting of Inclusion (API),⁷⁶ initiated a deinstitutionalisation project for adults with intellectual disabilities, aiming to give people with disabilities the possibility to live in their local community, providing materialistic support and prerequisites for independent living or with the support of adequate services. This supported living programme started in November 1999 with the establishment of the Home for Independent Living, registered as a social welfare institution, promoting independent living for people with intellectual disabilities formerly confined to residential institutions. The Ministry of Health and Social Welfare signed a contract with the home in June 2000 covering the living costs of the clients. A team of professionals develops an individual programme with and for each client, and accordingly works on increasing the clients' skills for independent living. Some of the clients also take part in an occupational education programme, which includes work activities, a computer workshop, elements of the School of Living, occupational programmes, and creative workshops; at present, 22 clients of the Home for Independent Living are taking part in this day programme.⁷⁷

API has also collaborated on a programme to prevent institutionalisation in co-operation with the Croatian Federation of Associations for People with Mental Retardation the Bjelovar area. It offers support to adults who live on their own after the death of their parents. Other examples of deinstitutionalisation are carried out in the following areas: Slavonski Brod (West Slavonia), Kastar (Istria), Osijek (East Slavonia), Šibenik (Dalmatia), and the Split area (Dalmatia). The service users (adults with intellectual disabilities) have moved from institutions to living in the community.⁷⁸

⁷⁴ Interview with Borka Teodorović, Ph.D., Faculty of Education and Rehabilitation Sciences University of Zagreb; Association for Promoting of Inclusion, Zagreb, 22 March 2004.

⁷⁵ Interview with Ljerka Begić, Secretary of the Federation of Associations for Persons with Mental Retardation, Zagreb, 14 February 2004.

⁷⁶ The Association for Promoting Inclusion is a non-governmental, non-profit organisation established in Zagreb, in October 1997 with the professional and financial support of the Open Society Institute's Mental Health Initiative.

⁷⁷ See the API website at <http://www.geocities.com/inkluzia> (accessed 16 December 2004).

⁷⁸ Roundtable on Social Rights and Integration.

III. Access to Education

1. LEGAL FRAMEWORK

Children with disabilities have a Constitutional right to education. The broader term “children with developmental difficulties” is used in education legislation, and generally includes children with intellectual disabilities. Current legislation does not provide for comprehensive inclusive education of children with disabilities; only children with mild intellectual disabilities are expressly given the right to education in mainstream schools, while those with more serious intellectual disabilities may be placed in separate, special schools or institutions. Educational funding presents certain obstacles to effective support for children with disabilities: because the school’s budget must be approved at the national level, the process of adding staff as support for children with intellectual disabilities is difficult.

An enrolment committee at each school makes an initial assessment as to whether a child is eligible to enrol in school; those children believed to have disabilities of a longer-term duration which render them incapable of enrolling are placed under observation in the nearest school for up to three months. However, legislation does not appear to specify the criteria that determine whether a child is considered “capable” of entering a mainstream school. The final decision on the educational option for a child is issued by the county administrative body for education, based on the evaluation of the enrolment committee. Limited early intervention services are available, but these are far too few to meet demand, and waiting lists are years long. Moreover, parents have expressed concern that early intervention services available to families do not adequately support caring for children at home, rather than in an institution. Healthcare reforms have also resulted in cutbacks to the services available for young children with intellectual disabilities, such as speech therapy.

1.1 The right to education

The Constitution stipulates that, “physically and mentally disabled and socially neglected children shall have the right to special care, education and welfare.”⁷⁹

The legal framework for education of children and youth with special needs is established in the Act on Pre-school Education 1997, the Act on Primary Education 2003 and the Act on Secondary Education 2001, which all contain provisions addressing the educational needs of children with disabilities. In these three laws, the terminology “children with developmental difficulties” is used; as defined in the Ordinance on the Primary Education of Children with Developmental Difficulties 1991 this term includes children with sensory and motor disabilities, “listlessness”, autism, and all levels of intellectual disability.⁸⁰

The Act on Primary Education indicates that the education of children with developmental difficulties is carried out in primary school with the appropriate

⁷⁹ Constitution, art. 63.

⁸⁰ Ordinance on Pupils with Developmental Difficulties, attachment 1. Changes to this ordinance were under discussion in 2004; however, only a new Ordinance on enrolment of children is expected to enter into force in school year 2006–2007 according to Zrinjka Stančić, PhD.

application of individualised procedures and extended professional treatments and, when it is necessary, in special educational groups and class departments within school.⁸¹ The act also provides for children with more serious disabilities to receive an education in special institutions for raising and education, and can also be carried out in other institutions.⁸² Secondary legislation, the Ordinance on the Primary Education of Children with Developmental Difficulties, provides greater detail on the specific issues relating to children with disabilities.

1.2 Structure and administration of the school system

Pre-school education is available from the time a child is one year old and lasts until the age of six. Primary education is compulsory for children aged six to 15 and is free, under the law; secondary education is available to all, under equal circumstances and according to their abilities.⁸³ For children and young people with *mild* intellectual disabilities, with complex disabilities, or with *moderate* or *severe* intellectual disabilities, compulsory education can be extended up to the age of 21.⁸⁴

Both public and private schools are recognised. The Department of Education, under the Ministry of Science, Education and Sports oversees the administration of all public schools, both mainstream and special.

According to the Croatian Bureau of Statistics (CBS), in 2002–2003 there were 1,067 pre-schools, of which 920 were public, 93 private, and 54 founded by religious groups.⁸⁵

Primary schools (*osnovne škole* – also referred to as basic schools) are organised with a larger central school acting as the administrative hub for a given area, with smaller associated branch schools serving nearby villages. CBS data for 2001–2002 indicates that there were 828 central primary schools with 1,260 associated branch schools.⁸⁶

According to a senior advisor to the Ministry of Education, in the 2003–2004 school year a total of 15,895 children with special needs (some five percent of school-age children⁸⁷) were registered within the school system, as follows:

- 9,611 were included in mainstream education (from kindergartens to secondary schools);

⁸¹ Act on Primary Education, art. 58.

⁸² Act on Primary Education, art. 59.

⁸³ Constitution art. 65.

⁸⁴ Act on Primary Education art. 59.

⁸⁵ Government response to the European Commission, Chapter 18, p. 2.

⁸⁶ Information from the website of the Croatian Bureau of Statistics (CBS), available at <http://www.dzs.hr> (accessed 20 February 2005), (hereafter, CBS website data)

⁸⁷ According to the Statistical Year book, Zagreb, 2004, on March 31, 2001 there were 305,544 children between the ages of three and 19.

- 4,394 in special institutions (segregated education);
- 1,890 in special programmes within mainstream institutions.⁸⁸

In 2003, 650 mainstream secondary schools (*srednje škole*) and 49 mainstream student dormitories were registered.

Primary education is organised in two four-year stages: from the first to fourth grades, a single teacher instructs the students in all subjects, and from the fifth to eighth grades, separate teachers provide instruction in each subject. Several options are available for upper secondary education:

- Four-year general education (gymnasium);
- Four-year vocational education (technical and other vocational schools);
- Four-year art education;
- Three-year vocational schools and professional schools for crafts and trades;
- Occupational schools, which have lower educational prerequisites;
- Training.

Three-year vocational schools and occupational schools for lower educational prerequisites are mainly for people with disabilities. Until 2003, students enrolled in the three-year study of crafts and trades could carry out their practical work either in school workshops or in licensed outside workshops; this second option was not offered in 2003–2004, however, and students have thus lost an opportunity to spend some time in a real work environment.⁸⁹

For 2000–2001, there were 23 secondary schools of all types for students with developmental disabilities, with 1,550 pupils and 302 teachers; of these schools, 17 were specifically for students with intellectual disabilities, with a total enrolment of 1,099 students.⁹⁰ In these special secondary schools for students with intellectual disabilities, 188 teachers were employed, 130 of whom work full time; in addition there were 44 professional associates (psychologists, special educators, social workers, librarians), far too few to meet the needs of the student population. In the same year, there were 1,077 (35 per cent female) students with developmental disabilities integrated in mainstream secondary schools: 22 in *gymnasias*, 151 in technical and similar schools, and 904 in industrial and crafts schools.

⁸⁸ Statement of Edita Ružić, senior adviser in the Ministry of Science, Education and Sports, on the television programme “Res publica: Normalan život” (“Public affairs: normal life”), October 2004.

⁸⁹ Interview with an associate of Idem, 12 May 2004. Idem is an NGO which provides professional counselling and support in adjusted curricula development; counselling for the teachers and parents; and direct support to pupils.

⁹⁰ CBS website data

Primary and upper secondary education was financed entirely by the central Government until 2001, after which a decision to decentralise funding established two levels of financing. At the first level, the State funds staff salaries, transport and fees, the expert training of teachers and expert associates, additional expenses for teaching in a minority language, special teaching resources and equipment, the expenses of co-financing meals for students with special needs, and programmes for gifted students. At the second level, towns and municipalities provide the funds for material expenses, maintenance of school premises and equipment, teaching resources, transport of primary school pupils, and capital investment in the construction of school facilities.⁹¹

The goal of decentralisation was to increase the autonomy of schools and teachers, and to strengthen the schools' ties with the social environment, especially with parents.⁹² The Government establishes a minimum financial standard for primary and upper secondary education for each financial year, and where the county or town cannot provide funds to meet this minimum, equalisation funds are allocated at the State level.

Under the Budget Act 2003,⁹³ primary and secondary schools are considered to be budget beneficiaries and are obliged to apply the budget accounting system. Primary education is financed by the State and for pupils with special needs additional funds are also provided, which are to be used for purchasing teaching resources and equipment, and for co-financing the meals and transport of children with special needs. Schools establish their own action programme for implementing the curriculum, and draw up a financial plan for each calendar year. The school's financial plan must be approved by both the Ministry of Education and the local authorities. In the financial plan the school earmarks funds for the payment of salaries, which are then allocated from the State budget. Without consent from the Ministry of Education, the school cannot hire a new staff member or increase the number of working hours for current employees. This presents an obstacle to meeting the needs of children with intellectual disabilities, who may require additional support from specialists or teachers, but which cannot be hired without approval of the Ministry.

In one county, the financing system appears to have created an incentive for local authorities to move children from a mainstream environment to a special school. According to reports, children attending a mainstream pre-school with the support of a special education teacher were transferred to a special school to reduce local costs; while costs of educating the children in the mainstream school were borne by the municipality, the special school is funded by the State.⁹⁴

The Ministry of Education and Science monitors the operation of pre-schools, primary and secondary schools. Formal education inspections ensure "the implementation and

⁹¹ Act on Primary Education, art. 12.

⁹² Government Response to the European Commission, Chapter 18, p. 11.

⁹³ Budget Act, *Narodne novine* No. 96/03.

⁹⁴ Interview with Borka Teodorović, 13 May 2004.

application of school bylaws as other laws and individual rules relating to the rights and obligations of employees, the rights and responsibilities of students and parents, and the rights and responsibilities of the local community.”⁹⁵ The Institute for Educational Development Pedagogy, which used to be an agency of the Ministry of Education, but is now an independent institute, also conducts monitoring, assessing the quality of the teaching and educational processes, and the introduction of innovations. These two forms of monitoring are intended to ensure the implementation of national educational policy. The Ministry of Education regularly reports to the Government on the results of inspections, and the supervision of educational institutions.⁹⁶

Children with *severe* intellectual disabilities are entitled to education and “training for independent living and work”, a limited form of vocational education according to the Social Welfare Act.⁹⁷

1.3 Assessment of disability for educational purposes

At the time when a child enrolls for primary education,⁹⁸ each child is examined by the commission for primary school enrolment convened at each school, composed of a paediatrician, a psychologist – pedagogue, a special education teacher, and a mainstream teacher.⁹⁹ According to the Ordinance on the Enrolment of Children in Primary Schools 1991, the commission is established by the county administrative bodies for education and for health, and is part of the local health administration organisation.¹⁰⁰

The enrolment commissions should announce to parents the places and dates when initial assessments will take place, at the location nearest to where the child lives. One part of the assessment takes place in the health department for school medicine, which is locally competent for all health issues for a particular primary school. The other part of the interview and assessment takes place at the primary school where the child is seeking to be enrolled. If there were some existing relevant documents – for example, assessments relating to claims for entitlement to social welfare benefits, or reports from the child's kindergarten – these may be used in the assessment carried out by the enrolment committee, provided that they were carried out within the previous six months. If there is some doubt as to the child's abilities, then further assessments are carried out. The ordinance specifies the reasons for which a child's enrollment may be

⁹⁵ Government Response to the European Commission, Chapter 13, p. 17.

⁹⁶ Government Response to the European Commission, Chapter 13, p. 17.

⁹⁷ Social Welfare Act, *Narodne novine* No. 103/03, arts. 60-67.

⁹⁸ Any child who has reached the age of six before 1 April of the current year.

⁹⁹ Act on Primary Education, art. 42.

¹⁰⁰ Ordinance on the Enrolment of Children in Primary Schools, *Narodne novine* No. 13/91, art. 2, (Ordinance on Enrolment). A revised ordinance has been prepared, but will not be applied until the 2006–2007 school year.

delayed, but procedures seeking to delay a child's enrolment needs to be formally initiated by the enrolment commission, and approved by county office for education.

The ordinance requires the presence of a child's parent or guardian during the examination procedure;¹⁰¹ thereafter, the county health administration issues a certificate that a child is eligible for enrolment. If the commission finds that a child has disabilities that would prevent his or her enrolment, it issues a recommendation to the country administrative body for education on whether the child could enter the school in a year, or if the child's disabilities are such that the child would be ineligible to enter the school for a longer period.¹⁰² However, the ordinance does not set out the indicators that should be used in determining whether a child is capable of enrolment; while it does include the forms that should be used by the committee in making its assessment, these do not clearly indicate what are the criteria for eligibility. In cases where enrolment is delayed for a year, the administrative body issues a decision that the child should be re-examined the following year. Where a longer-term disability is found, the commission then initiates a proceeding to determine the appropriate form of education for the child.¹⁰³

Children believed to have disabilities that may be longer-term and for whom the appropriate form of school is unclear are placed under observation for up to three months in the closest school with appropriate facilities.¹⁰⁴ The commission compiles the results of the examination procedure, and formulates a recommendation to the administrative body for education, suggesting an appropriate form of education and school in which the child should continue to receive an education.¹⁰⁵ The commission may recommend that a child with intellectual disabilities is placed in a mainstream school with an individualised or adjusted curriculum, in a special programme within a mainstream school, or special programme within special institution. The commission must consult the child's parents or guardian, but it is not obliged to take the parents' views into account.

This decision is an official document, and parents or the school have the right to submit a complaint to a joint appellate committee under the Ministry of Health and the Ministry of Education, consisting of a doctor, a psychologist, a pedagogue, a special educator, a social worker, and a teacher. This second instance body issues an expert opinion, upon which the Ministry of Education bases its decision. The first instance body's decision does not enter into force until the second instance body issues its decision.

¹⁰¹ Ordinance on Enrolment, art. 3.

¹⁰² Ordinance on Enrolment, art. 9.

¹⁰³ Ordinance on Enrolment, arts. 10, 11, 14.

¹⁰⁴ Ordinance on Enrolment, art. 11.

¹⁰⁵ Ordinance on Enrolment, art. 15.

To address concerns that there is too little information available regarding the different educational options available for children with disabilities, the Zagreb-based NGO Idem has developed a guide for parents that outlines the legal options and describes both mainstreaming and special school programmes.¹⁰⁶ The guide was published under the auspices of the project “Weekend education programmes in the local community for the inclusion of children with special needs”, supported by the Ministry of Family, Veterans Affairs, and Intergenerational Solidarity.

1.4 Early intervention

An expert on intellectual disability has pointed out that although intellectual disability is not a health issue or a disease in Croatia it “is not completely regulated as a condition and not a disease.”¹⁰⁷ Advisors in the Ministry of Education also emphasise that,

the whole process of successful integration in the regular educational system largely depends on early identification of a special need, and providing suitable professional help from the very beginning. [...] The results achieved in education depend on the time when the children were included in pre-school education. The inclusion of these children in pre-school educational institutions is, therefore, of utmost importance.¹⁰⁸

In practice, children up to the age of three years old identified with *severe* disabilities have access to medical treatments such as stimulation of motor development,¹⁰⁹ physiotherapy, and rarely, speech therapy, which are available under health legislation.¹¹⁰

Mobile early intervention support is available, but only on a very small scale. There is a long waiting list for professional in-home visits, and families may wait up to two years to receive this form of intervention.¹¹¹ This delay is far too long, in a period of crucial development that can have a dramatic impact on a child’s chances for social inclusion.

¹⁰⁶ L. Igrić, *Moje dijete u školi (My child in school)*, Idem, Zagreb, 2004.

¹⁰⁷ D. Fodor-Polančec, introductory presentation at the 8th symposium of people with disabilities, 18-20 May 2003, Šibenik, published in “Our friend”, the journal of the Croatian Federation of Associations for Mentally Retarded Persons, No. 1/2, 2003, p. 41, (hereafter, Fodor-Polančec, *Our Friend*). The author is a doctor of medicine and the parent of a child with intellectual disabilities.

¹⁰⁸ E. Ružić, M. Ljubić, *Legislative Provisions on Education of School Children with Special Needs in the Republic of Croatia, Collected Papers: “Ten Years After”*, congress of Alps-Adria Working Community on the Social Care and Education of Persons with Special Needs, p. 83. The authors are advisors in the Ministry of Science and Education (formerly *Education and Sport*).

¹⁰⁹ Ordinance on the Composition, Competencies and Way of Work of the Medical Committee of the Croatian Institute for Health Insurance, *Narodne novine* No. 76/02.

¹¹⁰ “The Plan and Program of Measures of Health Protection from Basic Health Insurance”; the Plan was issued in official Gazette No. 30/02; and was developed in accordance with the Law on Health Insurance, *Narodne novine* No. 94/01; art.15. part 3.

¹¹¹ Comments submitted to EUMAP by members of a Down’s syndrome parents association on the present report in draft form, July 2004.

Parents have expressed concern that when children reach school age (six to seven years old), they are no longer eligible for services, although they may not yet have entered school and lose even this limited opportunity to make developmental progress. The Centre for Rehabilitation, an institute for social care under the Ministry of Health and Social Welfare, also offers mobile support within the city of Zagreb.

A lack of coordination and cooperation among all actors responsible for early intervention limits overall access to these services. Civil organisations, parents' associations, and other advocacy groups should be considered partners, to help ensure a more balanced approach to early intervention services across the country.¹¹² There is also an urgent need for more systematic and consistent education of healthcare workers to recognise and address the needs of people with intellectual disabilities.¹¹³

Many parents of children with intellectual disabilities have expressed concern about professionals' lack of empathy and knowledge in providing emotional support, especially in the early stages of parenthood. Parents report that the information about the institutions where they could place their child does not take into account the parents' wishes to remain involved in their children's lives. Although financial support for home care in the family is significantly lower than the costs of keeping a child in an institution, the administrative obstacles to providing adequate home care for children with more severe intellectual disabilities place a heavy burden on families.¹¹⁴ Specialists reportedly do not inform families of children with disabilities about their rights and options;¹¹⁵ doctors and other specialists tend to focus on a child's disabilities,¹¹⁶ or while assessing potential, neglect the emotional needs of parents and their role as caregivers.¹¹⁷

While families often seek an assessment of their child to obtain financial and other benefits, they rarely connect a diagnosis of intellectual disability with the provision of

¹¹² Fodor-Polančec, *Our Friend*, p. 44.

¹¹³ "During the study of medicine, the item of mental retardation is introduced in only few hours of lectures, and there is no obligation set for permanent or additional education in the field". Fodor-Polančec, *Our Friend*, p. 42.

¹¹⁴ The parents of a child with severe intellectual disabilities report that they must submit receipts for basic care needs every three months, despite a diagnosis of permanent disability. After the child reached the age of seven, the mother was no longer eligible for extended leave to care for her, and would have only been offered support to work half-time although the child needs 24-hour care that is otherwise unavailable. Telephone interview with a parent, Zagreb, April 2004.

¹¹⁵ Parents note that realisation of that relatively new right to physical therapy at home for children with intellectual disabilities depends on a paediatrician's order, and parents do not know they can request it. Where there is a medical indication for the child to be treated in thermal springs, from the parents' perspective it is also unacceptable that the medical fund does not also cover the costs of the parent's stay with the child.

¹¹⁶ Statement of mothers of children with intellectual disabilities in the parents' association PUZ, Zagreb, 13 April 2004.

¹¹⁷ Fodor-Polančec, *Our Friend*, p. 43.

early educational services¹¹⁸ or support services for which their child is entitled because they were not given adequate guidance. According to parents, many social workers fail to alert parents to the various benefits that may be available to them, either due to a lack of information or even in order to reduce the number of claims for financial support.¹¹⁹ Better communication between the medical establishment and civil society, including parents' organisations, could ensure better-balanced access to early intervention services across the country as families become more aware of their rights and opportunities.¹²⁰

The early intervention system, and the pre-school and primary school system have also been negatively influenced by the reform of the healthcare system and resulting cutbacks; speech rehabilitation therapy was eliminated from primary health clinics and children's hospitals.¹²¹ Parents of children with Down's Syndrome have reported that even in the capital city, Zagreb, very few children have access to speech therapy within the system of primary health protection or preschool education.¹²² Until a child is three years old or even older, speech therapy is not available due to a shortage of professionals. These children very often are not able to enrol in early pre-school education, and only through parents' intensive efforts, sometimes with support from professionals working in early intervention, can these children enrol in mainstream kindergartens. There is also a lack of paediatricians specialising in intellectual disabilities, and the number of paediatric clinics screening children at risk is decreasing as a consequence of the healthcare reform. Experts have noted that multidisciplinary teamwork must be improved in the provision of early intervention services.¹²³

An example of good practice is the Faculty of Special Education and Rehabilitation in Zagreb, which established a research clinic, the early communication unit, in 1995 to work with families of children with developmental disabilities, particularly speech and language problems. In 1997 the programme was expanded to include a counselling unit and rehabilitation departments for early psycho-motor stimulation, speech

¹¹⁸ A parent of a six year-old child assessed with *moderate* intellectual disabilities reports that her child was offered rehabilitation treatment in a social welfare institution, without any possibility of socialising with non-disabled peers. A member of the Expert Body indicated to the parent that it is uncertain whether any form of education will be defined for the child. Interview with a parent, Zagreb, January 2004.

¹¹⁹ Interviews with parents of children with intellectual disabilities, Zagreb, 13 May 2004.

¹²⁰ Fodor-Polančec, *Our Friend*, p. 42.

¹²¹ In one region (Koprivnica-Križevci county) there is one speech therapist in the system of health care, appointed eight hours a week for all pre-school and low grade pupils, regardless of their disability; data published in the article by Fodor-Polančec, *Our Friend*, p. 43.

¹²² OSI roundtable, July 2004.

¹²³ Jadranka Hranilović, "Remarks to standard Rule 2 – experiences from Medjmurje County", in "Our Friend", Issue 1/2, 2003, p. 46. The author is a doctor of medicine and the parent of an adult with intellectual disabilities.

pathology treatments, counselling parents of children with severe intellectual disabilities and other activities.

Professors and assistants from each department in the Faculty work once a week in this rehabilitation clinic (in addition to their regular work in the University) where they assess children, recommend forms of rehabilitation, and draw up reports on children's capabilities. Parents often submit these reports to the assessment committees that determine eligibility for social benefits or for educational placement.

The Faculty has extensive cooperation with schools, kindergartens, advocacy associations, and the clinic has also established cooperation with a psychiatrist, neurologist, and family therapist to enhance the quality of its services. The Ministry of Health and Social Welfare supports the programme, which is open to families and individuals from all over Croatia; to date, some 2,000 families have received services through the clinic. Experts from the clinic generally recommend education within mainstream facilities, and parents report that kindergartens are increasingly more sensitive to the needs of children with intellectual disabilities as more children with developmental disabilities are enrolled through the clinic's recommendations.¹²⁴

While the Faculty's early intervention programme could provide a model for the Government to adapt and use throughout the country, the successful practices adopted by the programme have not been incorporated into Government policy. The centre worked for seven years in just six rooms of a Zagreb kindergarten.¹²⁵

2. GOVERNMENT EDUCATIONAL POLICY

As part of the process of application for EU candidacy, Croatia has developed a number of reforms targeting the education system and specifically the education of people with disabilities. While the "National Strategy of Unique Policy for the Disabled for the period from 2003 to 2006" does cover education, it does not call for comprehensive inclusion, and implementation of the measures it does set out has been limited.

2.1 The EU and Government educational policy

In October 2001, Croatia concluded a Stabilisation and Association agreement with the EU, and in February 2003 formally applied for membership. The European Commission has reaffirmed the importance of the 1993 "Copenhagen Criteria" as the standard for applicant countries, including "stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of

¹²⁴ Interview with parents – users of the services of Faculty's Centre and employees, 10 May 2004.

¹²⁵ The Faculty itself has only recently relocated to new premises with additional space for consultation and work.

minorities.”¹²⁶ In April 2004, the Commission recommended opening accession negotiations with Croatia.¹²⁷

The Commission has issued two annual reports on Croatia under the Stabilisation and Association process. Only very general comments regarding education are included in the 2003 report, observing that the reform process is lagging behind reforms in other areas; education for people with intellectual disabilities, or indeed any issue related to people with disabilities, is not addressed at all.¹²⁸

In its country strategy paper 2002–2006, the European Commission identifies a number of weaknesses in Croatia’s education system, noting in particular that, “[e]ducation reform needs to be tackled urgently, given the identified links between individuals’ lack of education and the proportionate chance of unemployment”.¹²⁹ The importance of providing access to education for people with disabilities is also noted in the strategy paper.¹³⁰

EU funding, channelled through the CARDS programme, has been made available to support vocational education and training generally, including equalising access, increasing flexibility, and improving life-long learning opportunities (see section III.4.1). Although this programme does not explicitly target people with intellectual disabilities, the reform of vocational education could be an important opportunity to increase their access to such training.¹³¹

2.2 Development of education policy

Since 1990, there have been several attempts to reform the education system. Most recently, the Ministry of Education prepared a document entitled, “The project for the Croatian Educational System for the 21st Century”, which was discussed and adopted

¹²⁶ European Commission, *The Stabilisation and Association Process in South-East Europe, Second Annual Report on Croatia*, March 2003, p. 5, available on the European Commission website at http://europa.eu.int/comm/external_relations/see/sap/rep2/com03_139_en.pdf (accessed 22 June 2005), (hereafter, European Commission, *2003 SAP Report*).

¹²⁷ European Commission news item, *Croatia: Commission recommends opening of accession negotiations*, Brussels, 20 April 2004, available at http://europa.eu.int/comm/external_relations/see/news/2004/ip04_507.htm. (accessed 22 June 2005).

¹²⁸ European Commission, *2003 SAP Report*.

¹²⁹ European Commission, *Country Strategy Paper for Croatia 2002–2006*, Brussels, 2002, p. 14, available on the European Commission website at http://europa.eu.int/comm/external_relations/see/croatia/csp/02_06.pdf (accessed 22 June 2005) (hereafter, European Commission, *Country Strategy Paper*).

¹³⁰ European Commission, *Country Strategy Paper*, p. 26.

¹³¹ Government Response to the European Commission, Chapter 18, p. 37.

by Government in October 2002. Following discussion in Parliament, a new text was developed in mid-2003, "Education goals in the Republic of Croatia".¹³²

The reforms are aimed at achieving three main goals: improving the quality and efficiency of the education system; ensuring access and progress in the education system to all; making the education system more open by establishing different forms of partnership at the local, national and international levels.¹³³ According to the Government's responses to a questionnaire prepared by the European Commission, the reform draws upon international documents concerning education and educational standards.¹³⁴ Nonetheless, the Salamanca Declaration on inclusive education¹³⁵ is not mentioned as one of the international references, and improving access to education for children with intellectual disabilities is not included as a specific goal of the reform.

The Ministry of Education, the Ministry of Science and Technology, and civil society groups are implementing projects dealing with curriculum development methodology, the external evaluation of knowledge, training for teachers at all educational levels and types of school, and proposals for improving the structure of primary and secondary education.¹³⁶

The "National Strategy of Unique Policy for the Disabled for the period from 2003 to 2006" (hereafter, the National Strategy), sets out an assessment of the current situation, an action programme, and final guidelines for implementation. The action programme includes a section on education, with 12 measures assigned to various bodies, with deadlines for completion. These measures are quite broad, and include developing educational standards that are more inclusive of children with disabilities, modernising curricula, and establishing comprehensive monitoring of children with disabilities in the educational system.¹³⁷ However, there is no explicit mention of inclusive education; indeed, the assessment section of the Strategy recognises only the right to education under equal conditions.¹³⁸ To date, only a few specific tasks have been carried out under this programme in the education sphere. These include the

¹³² Government Response to the European Commission, Chapter 18, p. 8.

¹³³ Government Response to the European Commission, Chapter 18, p. 8.

¹³⁴ Government Response to the European Commission, Chapter 18, p. 8.

¹³⁵ UNESCO, The Salamanca Statement and Framework for Action on Special Needs Education adopted by the World Conference on Special Needs Education : Access and Quality, Salamanca, Spain, 10 June 1994, available on the UNESCO web site at <http://unesdoc.unesco.org/images/0011/001107/110753eo.pdf> (accessed 22 June 2005).

¹³⁶ For the purpose of amending or drafting new curricula, the Ministry of Education has formed expert commissions that will conduct evaluations and pass measures for the improvement of the proposed changes of new curricula. Government Response to the European Commission, Chapter 18, p. 42.

¹³⁷ National Strategy, section 2.3.

¹³⁸ National Strategy, section 2.3.

preparation of a report on the situation in education and amendments to some legislation.¹³⁹

3. EDUCATION IN PRACTICE

The Ministry of Education has developed curricula for children with intellectual disabilities based on the individual child's level of disability, the type of school the child attends (mainstream or special, and the level of inclusion in a mainstream class (partial or full integration). While teachers are encouraged to adapt classroom lessons to meet the individual needs of pupils, including those with intellectual disabilities, training and support for this process are minimal. The Faculty of Special Education in Zagreb trains and prepares teachers for working with children with intellectual disabilities, and has developed a number of model curricula and other teaching aids that could greatly improve the quality of teaching for children with intellectual disabilities, if the Ministry supported their dissemination and use.

In practice, the inclusion of children with intellectual disabilities in mainstream schools is very limited. Only children with mild intellectual disabilities are referred to mainstream classes, but even for this limited number of children, the level of support in most schools is inadequate. Almost all children with moderate to severe intellectual disabilities are placed in special schools, and even some children with mild intellectual disabilities are referred to these segregated facilities. According to some parents, the quality of education in many special schools is poor, and children fail to acquire even the most basic life skills. Children who remain at home due to their disabilities are entitled to home schooling, but generally children with intellectual disabilities who are cared for at home do not receive any formal education. Children in institutions may likewise lack access to education, as not all residential institutions provide educational programmes. Those that do are not subject to regular inspections that would help to ensure the quality of education provided.

3.1 Resources and support

3.3.1 Curricula and support

According to the Ministry of Education,

The curriculum defines the programme aim and objectives, the subject contents, the duration and the basic forms of delivery, the annual and weekly number of hours of teaching in each particular subject, as well as the methodical, didactical and other conditions for the execution of these teaching hours.¹⁴⁰

¹³⁹ Amendments have been made to: the Law on Social Welfare; the Ordinance on Expert Bodies; and the Ordinance on the Rights of Parents of a Child with More Serious Developmental Difficulties to Leave or Work Half-time to Care for the Child, *Narodne novine* 92/03 (hereafter, Ordinance on Parents); There has also been some discussion on the changes necessary to the Ordinance on Enrolment.

¹⁴⁰ Government Response to the European Commission, Chapter 18, p. 29.

There are three main curricular elements:

- The framework curriculum, which is adopted with the approval of the Minister of Education, and which contains a core compulsory section and an optional section;
- The implemented curriculum, which is adopted by the school, and which elaborates the content of compulsory subjects, taking into account local context and the level of knowledge and choice of optional subjects according to the students' interests and school's resources;
- The optional curriculum, which is produced individually by a teacher, or group of teachers of individual subjects, and is based on the school's implemented curriculum. The teachers elaborate the contents and adapt them to the conditions of the school, capacities of the students, and the local characteristics, choosing methodologies, textbooks, and other resources.¹⁴¹

The Ministry of Education also adopts the curriculum for remedial classes, and for supplementary classes for gifted children. Private schools are free to develop their own school-based optional part of the curriculum.

In vocational education and training, vocational schools, enterprises and vocational associations propose the curricula for each individual vocational field or occupation. The curricula for occupations in crafts such as shoemaking and carpentry are under the competence of both the Ministry of Education and the Ministry of Small and Medium Sized Enterprises, which is responsible for developing the practical aspects of the curriculum.¹⁴²

The curricula for children with developmental disabilities are developed according to conditions prescribed by the Ministry of Education.¹⁴³ Four types of curricula are distinguished:

- The curriculum for fully integrated pupils – generally, children with learning disabilities and children with *mild* intellectual disabilities (IQ 50-69) – specifying the procedures and approaches that should provide full integration of the student in a mainstream class, including an individualised approach and adapting curricula with the help of professional associate.
- The curriculum for partly integrated pupils with *mild* intellectual disabilities who work in a special resource room for part of the school day, where they follow the curricula for pupils with *mild* intellectual disabilities led by a special

¹⁴¹ Government Response to the European Commission, Chapter 18, p. 29.

¹⁴² Government Response to the European Commission, Chapter 18, p. 29.

¹⁴³ Act on Primary Education, Art 24 *Narodne novine* No. 7/96; Ordinance on Primary Education of pupils with developmental difficulties *Narodne novine* No. 23/1991.

teacher, and spend the rest of the day in an integrated class with a mainstream teacher.

- Curricula for pupils with *mild* intellectual disabilities with complex disabilities;
- Curricula for the education of students with *moderate* and *severe* intellectual disabilities until the age of 21.¹⁴⁴

The curricula for full and partial integration are used in mainstream schools, while those for children with complex disabilities are implemented in special schools. The curricula for children with *moderate* to *severe* intellectual disabilities are also used in social welfare institutions as well as special schools. These curricula are designed to complement the mainstream coursework, and call for the development of a plan of specific modification for students with developmental disabilities, including support from a special teacher or extended professional treatment or rehabilitation programmes.¹⁴⁵ For students with more severe disabilities, the emphasis in the curriculum is on life skills, such as communication, creativity, and occupational therapy.¹⁴⁶

Although discrete examples of effective support indicate that it is possible to implement a wide range of approaches for the inclusion of students with *mild* disabilities, overall it appears that the system does not support inclusion. Practical difficulties in adapting curricula create an incentive to direct children to special schools even where they might succeed in mainstream school with adequate support. Parents agree that the individual personality of the teachers, their attitudes, their background and commitment to work can make the difference between a successful educational experience for a child with intellectual disabilities, and a constant struggle to ensure a minimum standard for the child's welfare.¹⁴⁷ For many years, the general view of curricula has been that they are too general, and structured around an "average" student who does not exist.¹⁴⁸ While the importance of an individualised approach is to some extent recognised in the regulations on curricula, a critical aspect of developing more inclusive education, teachers must be given the skills and support to implement these provisions.

Education professionals report that teachers formally make their written preparations in accordance with new curricular approaches, but in practice continue to use old plans and programmes. According to some experts, such problems are due to inadequate

¹⁴⁴ Act on Primary Education, art. 24.

¹⁴⁵ The Curriculum and Programmes for Education of Pupils with Developmental Difficulties in Primary and Secondary school, Herald of the Ministry of Education and Sports No. 4/96, art. 12 (hereafter, Curriculum and Programmes for Education of Pupils with Developmental Difficulties).

¹⁴⁶ Curriculum and Programmes for Education of Pupils with Developmental Difficulties.

¹⁴⁷ Interviews with parents, Zagreb, 13 May 2004.

¹⁴⁸ Interview with parents of children with intellectual disabilities; "Šesto čulo" ("Sixth Sense") radio broadcast, 9 December 2003.

supervision by the school inspectors, who do not apply the new standards, while others see inflexibility and autocratic tendencies among school directors as the main obstacle to implementation of new practices.¹⁴⁹

An expert in integrated education and adapted curricula reports that in primary schools, on average there is one specialist for 831 students, one psychologist per 3,091 students; and a total of 195 special educators, or one for every 2,214 students. According to this expert, at least an additional 101 pedagogues, 129 psychologists and 128 special educators are needed for the successful integration of pupils with special needs in mainstream schools.¹⁵⁰

3.1.2 Teacher training

Mainstream teachers of lower primary grades (first to fourth) are educated at the Teachers Academy of Zagreb University, while teachers for specialised subjects in the fifth through eighth grades are educated in their respective faculties. Apart from general courses on child development, only very limited, general information on pupils with special needs is included in their training. There are no professors specialising in the education of children with intellectual disabilities in the Teachers Academy, and reportedly some professors at the Academy present a rather negative view of mainstreaming and inclusive education.¹⁵¹

Specialists for education and rehabilitation of children, youth and adults with special needs are educated at the Faculty of Education and Rehabilitation Sciences¹⁵² where they may receive a degree in the field of intellectual disability through courses of the Department for Rehabilitation. The department works directly with civil society organisations in the field, giving students an opportunity to learn about alternative care models in addition to their coursework.

The continuing education of teaching staff is currently undergoing a comprehensive reform aimed at the improvement and standardisation of the overall education system, and making it compatible with the European system.¹⁵³ The Government has called

¹⁴⁹ Interviews with: a professional associate, Zagreb, February, 2004; teacher, Karlovac, January 2004.

¹⁵⁰ Presentation by Zrinjka Stančić, at the conference “Development of the potential of children and youth with specific learning disabilities, international conference in Kranjska Gora, Slovenia, 2002 (hereafter, Kranjska Gora conference).

¹⁵¹ Discussions at the meeting of the members of Department for Rehabilitation (formerly Mental Retardation), University of Zagreb, February 2004.

¹⁵² The web site of the Faculty of Special Education and Rehabilitation is <http://www.erf.hr> (accessed 5 July 2005).

¹⁵³ Government Response to the European Commission, Chapter 18, p. 28.

for teacher training to be modernised and standards improved,¹⁵⁴ and the Ministries of Education and of Science and Technology have already jointly initiated the project “Development of the Lifelong Teacher Education Model.”

The programme “Croatia in the 21st Century” emphasises the importance of integrating children with intellectual disabilities into mainstream schools. The programme notes that life-long education of teachers and staff, coordinating the work of the various experts and specialists within the school, and creating individualised work programmes for each student are essential to successful integration.¹⁵⁵

Teachers have expressed concern that while they are expected to develop and implement individualised teaching plans adapted to students’ needs, they are not given training or support to assist this process.¹⁵⁶ Specialised in-service training, including practical help in elaborating individualised plans, should be a key element in reform of teacher preparation. The Faculty of Special Education, in Zagreb, could be a valuable resource in developing model curricula and lesson plans; however, there has been little effort to connect practising teachers with the Faculty or other existing resources.

The Institute for Education organises seminars and continuing education courses for teachers, and has also compiled a volume of commentary from experts in the field on adaptive education and working with children with special needs in mainstream schools. An NGO, IDEM, has developed a programme to promote integration and acceptance among teachers. The Ministry of Education should consider granting formal recognition to the training and certification offered by the NGO, which would encourage more teachers to participate in the course and gain insight into working with children with disabilities.

3.2 Inclusive education

3.2.1 Pre-school

According to the Pre-school Education Act 1997, children with developmental disabilities should be placed in mainstream kindergartens, following the school commission’s assessment of disability.¹⁵⁷ At this level, there are three options for the education of children with intellectual disabilities: within a mainstream kindergarten, according to the mainstream programme/curriculum; within a mainstream kindergarten, using a special educational and developmental programme, literally an

¹⁵⁴ The Office for Strategy of the Development of the Republic of Croatia, Education and Training, *White paper on Croatian Education*, pp. 28–29; available (in Croatian) on the website of the programme “Croatia in the 21. Century, <http://www.hrvatska21.hr> (accessed 14 August 2005), (hereafter, Strategy Office, *White Paper*).

¹⁵⁵ Strategy Office, *White Paper*, p. 29.

¹⁵⁶ Interview with school staff, Zagreb, 14 May 2004.

¹⁵⁷ Act on Pre-school Education, art.17.

“adjusted programme”; or in a special school or institution, using an adapted programme or special curriculum.

Under some circumstances, pre-school education can also be organised as a programme within a primary school, as a playroom in a library, or within a health, social, or cultural institution or association.¹⁵⁸ In pre-school classes where a child with disabilities is enrolled, the class size is reduced; children with intellectual disabilities usually attend kindergarten for only half a day.

Usually children with *mild* (and on rare occasions, those with *moderate*) disabilities are enrolled in a mainstream educational provision for an observation period, where the classroom educator works with them following the adjusted programme and additional support is provided by speech therapists or special teachers. Children with disabilities are given priority for enrolment in kindergarten under the Pre-school Education Act; however, in recent years the city of Zagreb has not posted this information in enrolment centres, so where more students apply than can be accommodated in local kindergartens, those with disabilities may be turned away until the next year.¹⁵⁹ By law, kindergartens may refuse access to children with disabilities if the school lacks the staff or facilities to meet the child’s needs.¹⁶⁰

Special pre-school programmes for children with developmental difficulties are financed in part by the municipality or town, and partly from the State budget through the Ministry of Education. Special classes within mainstream kindergartens for children and in social or educational institutions are co-financed.

Although the Pre-school Education Act stipulates that children with developmental difficulties are entitled to enrol in mainstream kindergartens,¹⁶¹ in fact families are frequently unable to realise this right. The appropriate professional support is often unavailable, and the kindergarten staff may claim to lack the necessary knowledge, or material conditions to accept a child with intellectual disabilities.¹⁶² There are no sanctions specified under the law for the refusal to accept a child in a kindergarten programme because pre-school education is not obligatory. Parents of children with intellectual disabilities have expressed frustration that kindergartens usually do not provide them with a written explanation of the reasons why their child has not been enrolled and this further discourages them from filing a complaint.¹⁶³ While the local

¹⁵⁸ Ordinance on Special Conditions and Criteria of Realisation of Pre-school Programmes, *Narodne novine* No. 37/97.

¹⁵⁹ Telephone interview with a deputy in the Zagreb City Office for Upbringing and Education, April 2004.

¹⁶⁰ Act on Pre-school Education, art. 20.

¹⁶¹ Act on Pre-school Education, art. 20.

¹⁶² Interview with parents of children with disabilities who were unable to find a pre-school placement for two years, Zagreb, December 2003.

¹⁶³ Radio interview with parents, mothers from the Association of Parents of Children with Special Needs, Croatian Radio, December 2003.

authorities should provide transportation of pre-school children, this has not been made available in all areas.¹⁶⁴

3.2.2 Mainstreaming

According to the Ministry of Education, almost 70 per cent of children with intellectual disabilities are integrated in mainstream schools.¹⁶⁵ However, this figure is misleading, as all forms of education provided by the Ministry are classified as “mainstream”, including special schools; only education provided in social institutions operated by the Ministry of Social Welfare are viewed as outside the mainstream. In practice, only children with *mild* intellectual disabilities are clearly entitled under the law to enrol in true mainstream schools with non-disabled children for all or part of the school day.¹⁶⁶ Unofficially, experts estimate that some 64 per cent of children with all kinds of developmental disabilities listed in the Ordinance on Primary Education of Children with Disabilities are integrated in mainstream schools, of which about 17 per cent are children with *mild* intellectual disabilities.¹⁶⁷

Children with *mild* intellectual disabilities should be integrated into mainstream classes;¹⁶⁸ the number of students with special needs can not be more than three per class, and the total number of pupils in the class is also regulated according to the number of children with intellectual disabilities.¹⁶⁹ Children with *mild* intellectual disabilities enrolled in mainstream classes may follow the standard curriculum with an individualised approach or an adapted curriculum designed for each subject. They may also be enrolled in partially integrated programmes, spending part of the time with the mainstream class and part of the time in a group of children with intellectual disabilities taught by special education experts according to individually adapted programmes.

Unfortunately, in practice there is insufficient support for children with intellectual disabilities in mainstream classes. As only two schools currently offer integrated education

¹⁶⁴ In Zagreb, however, the Committee for People with Disabilities in the city office for health, labour and social welfare is in the process of organising transportation of pupils with developmental difficulties included in mainstream educational institutions. Written comments received from the representative/head of the Committee for Disabled Persons, June, 2004.

¹⁶⁵ Central Bureau of Statistics (CBS), *Statistička izvješća, (Statistical Report)*, CBS, Zagreb, 2002, p. 9 (hereafter, CBS, *Statistical Report*).

¹⁶⁶ Ordinance on the Raising and Primary Education of Pupils with Developmental Difficulties] (Part II, art. 12) prescribes that pupils with more severe developmental difficulties can be educated in special schools, but also in other agencies, such as health or social welfare institutions.

¹⁶⁷ Comparison of statistics available from the National Registry of people with disabilities; see also, M. Znaor *et al.*, *Social Rights of People with Disabilities*.

¹⁶⁸ Ordinance on Pupils with Developmental Difficulties, art. 4.

¹⁶⁹ If there is one student with special needs, the class can have a maximum of 28 students; if there are two, then 26, and if there are three children with special needs, the class is limited to 24 students. Ordinance on Class Size, *Narodne novine* No. 74/99, art. 6.

with appropriate support in Zagreb, many other children with *mild* intellectual disabilities are almost certainly enrolled in other mainstream schools where there are no specific services or support for them.¹⁷⁰ Parents are not informed which schools have the capacity to enrol pupils with disabilities in terms of educational standards, which contravenes a number of legal provisions adopted more than ten years ago.¹⁷¹

Regarding adapted curricula, many mainstream teachers claim not to be qualified, and indeed there is not sufficient training provided within the system of teacher training. Support is provided through the NGO sector but is only available to a limited number of schools and teachers given the civil sector's limited financial and human resources.¹⁷² Schools that do provide additional support for mainstreaming report that it is a constant challenge to meet the needs of students with limited staff and classroom space, and that the school inspection process often does not assist in finding solutions, but only intervenes when very serious problems arise.¹⁷³

Secondary education of pupils with developmental disabilities is available in mainstream schools according to an adapted curriculum in mainstream or special classes (departments), or in special education and “upbringing” institutions.¹⁷⁴ Secondary education for all students lasts between one and four years, and is not obligatory. Upon completion of gymnasium, technical, or art school, students acquire a middle education qualification, and students who complete industrial and crafts schools acquire middle or lower vocational qualifications, depending on the duration and educational profile of their programme. Those with lower qualifications generally are only competitive for assistant-level jobs, rather than full professional positions such as chef or carpenter.

3.2.3 Special schools

Generally, children with *moderate* to *severe* intellectual disabilities are placed in special pre-schools. At the pre-school level, special education teachers teach small groups of children with disabilities; regulations specify that classes should be up to five pupils, but in practice they are often larger, as large as eight to ten pupils.

Primary and secondary education for children with *moderate*, *profound* and *severe* intellectual disabilities is available in special schools and institutions until the age of 21. Even some students with *mild* and *associated* intellectual disabilities are placed in special schools. Adequate support for mainstreaming at the primary and secondary

¹⁷⁰ Interview with school staff, Zagreb, 14 May 2004.

¹⁷¹ See the website of the project “Task force Legislation and Finance – Matra – Izazov”, available at <http://www.izazov.hr> (accessed 14 August 2005).

¹⁷² Presentation by Zrinjka Stancic, Kranjska Gora conference.

¹⁷³ Interview with school staff, Zagreb, 14 May 2004.

¹⁷⁴ CBS, *Statistical Report*, p. 9. “Upbringing/raising” is the literal translation of a Croatian term used in the official phrase “raising and education”.

levels remains highly dependent upon finding teachers willing and able to work with a child with intellectual disabilities, and in many cases the Expert Body advises many parents to send their children to special schools where support is more likely to be available.¹⁷⁵

While some students with milder intellectual disabilities may be able to cope in the first four grades of primary school, where a single teacher covers all subjects, mainstreaming becomes more difficult with the introduction of subject-specific classes each with its own teacher, and a higher rate of students transfer to special schools at this point.¹⁷⁶ The lack of adequate preparation of teachers may contribute to this problem, as well as a perception that children will not be able to cope with a more complex schedule. Parents have expressed concern that children who have achieved a certain level of skills either at home or in mainstream schools may regress when placed in a special school, as staff expectations for students is quite low. According to some parents, staff in the special schools appear more concerned with reducing their own workload, and do not teach the students such basic skills as toilet training or how to put on their own shoes; as a result, even older children are in diapers and go outside in their slippers.¹⁷⁷

The quality of education in special schools varies just as in education generally; as expressed by parents, it depends on the dedication of individual teachers, on the school directors and their management capabilities to provide schools with additional resources, because funding also varies.

Many parents are grateful that their child can attend any form of education, as the lack of community-based services, and poor information on the opportunities and treatment for their children limits the extent to which parents are aware of the alternatives open to them. However, there are more and more parents demanding the inclusion of their children in mainstream conditions, possibly due to the experiences of other parents whose children have attended special schools, who report that the skills their children obtained in special schools were lacking in some socialization and academic areas.¹⁷⁸

¹⁷⁵ Interview with parents of children with intellectual disabilities, Zagreb, 13 May 2004.

¹⁷⁶ Interview with school staff, Zagreb, 14 May 2004.

¹⁷⁷ Interview with parents of children with intellectual disabilities, Zagreb, 14 May 2004.

¹⁷⁸ Informal discussions with members of NGOs Puž and Idem; telephone interviews with residents of rural areas, January to April, 2004.

3.3 Education outside the school system

3.3.1 Home schooling

There are only a few examples of home schooling, organised for pupils who, due to chronic disease, long-term hospitalisation, or multiple disability cannot attend school.¹⁷⁹ Although no current official figures on home schooling are available, reportedly fewer than ten children with intellectual disabilities are currently provided with home schooling.¹⁸⁰

The majority of children with intellectual disabilities who are cared for at home do not receive any formal education.

The 2004 Statistical Yearbook¹⁸¹ reports that according to the Ministry of Health and Social welfare, there were 333 children as of 31 March 2001 who the expert body assessed as capable only of “training for independent living” and incapable of independent work, and who therefore do not receive any formal education that would lead to a qualification of any type. While mainstreaming should remain the priority for educational policy, the Ministry of Education should take steps to ensure that, where appropriate, home schooling is available for such children with disabilities who otherwise are denied an education altogether.

3.3.2 Education of children in institutions

Institutions for children and youth with physical and mental disabilities are administered under the social welfare system, offering education, rehabilitation, work-therapy and day programmes. Children are referred to an institution appropriate for their age, type and level of disability, following their assessment. These institutions provide housing, food, and healthcare; residents may stay in an institution on a permanent, weekly, or temporary basis, or attend full or half-day services. The majority of people assigned to a residential institution will remain there for life; only where a family member or NGO acts as an advocate for a resident, are they able to move out of care into the family or community.

In nine institutions of the 18 facilities for people with intellectual disabilities,¹⁸² education is provided for students with intellectual disabilities according to a special curriculum elaborated by the Ministry of Education. In some institutions, especially private ones or those with occupational activities, no educational or occupational

¹⁷⁹ Act on Primary Education, art. 61.

¹⁸⁰ Anonymous interpretation of an article in the newspaper *Jutarnji list*, January 2005, mentioning 24 children in home schooling, but not specifying how many of these are children with intellectual disabilities. Official figures on home schooling have not been made available.

¹⁸¹ Central Bureau of Statistics, Statistical Yearbook, Zagreb, 2004

¹⁸² Data from 2002; annual statistical report of the Ministry of Health and Social Welfare, see the Government Response to the European Commission, Chapter 18.

services are available at all. Where it is offered, training is provided to help students care for themselves, develop communication and socialisation skills, enhance their creativity, work discipline, physical culture, and other skills. The curriculum includes a timetable for individual subjects and also extracurricular activities for each school year, a form of occupational training that does not lead to professional qualification.

Training “for independent living” provided in institutions is not subject to the same regime of inspections that take place in schools; in fact, there is no quality control process over the instruction that takes place in institutions. Particularly as many children in institutions do not have regular contact with their parents or guardians who might otherwise call attention to any shortcomings in the residents’ care, the lack of official oversight could allow serious problems with the available educational services to arise.¹⁸³

4. TRANSITION FROM EDUCATION TO EMPLOYMENT

Very limited support for the transition from education to employment is available to people with intellectual disabilities in Croatia. Several forms of vocational education are open to people with intellectual disabilities, some offering a diploma and others only a certificate, which is of very limited use on the employment market. People with intellectual disabilities are entitled to register at their local employment office upon completing their education, but studies suggest few actually do so, and therefore only a small number of people with intellectual disabilities take advantage of the services these employment offices provide. More intensive efforts on the part of the Ministry of the Economy, Labour and Entrepreneurship to promote these services among people with intellectual disabilities could result in better access to the employment market.

4.1 Vocational training

Vocational training is available in several different forms to people with intellectual disabilities. Although not clearly limited in the applicable regulations, “professional” education, which prepares people for a specific trade, appears to be available only to people with *mild* intellectual disabilities, while only “training for independent living,” which provides occupational activities, may be offered to people with *moderate* to *severe* intellectual disabilities.¹⁸⁴

Vocational training is governed by the Social Welfare Act for those people with disabilities who have been assessed by the Expert Body as eligible for social welfare benefits. The Social Welfare Act provides for people with disabilities to have the

¹⁸³ Interview with parents of children with intellectual disabilities, Zagreb, 14 May 2004.

¹⁸⁴ Based on IQ measures, the secondary education regulations specify the criteria on a student’s involvement in certain forms of inclusion: full, partial, under a special programme, in a special school, social welfare institution with or without an education programme under the competence of Ministry of Education.

opportunity for training (“enabling”) for independent living and work¹⁸⁵ under conditions, and in the manner prescribed by, an ordinance promulgated by the Ministry of Labour and Social Welfare.¹⁸⁶ Supplementary legislation distinguishes the “right for enabling for independent work” from “right for enabling for independent living”. People who graduate from “enabling for independent living” programmes receive only a certificate, not a diploma, and this certificate does not specify which types of employment the holder has been trained for. An expert has suggested that including such a specification would increase the chances that people with intellectual disabilities will find appropriate work upon completing this form of education.¹⁸⁷

Children in school diagnosed with “developmental difficulties” are referred to the local branch of the Croatian Employment Institute for counselling on vocational orientation when they finish primary school. The institute issues an opinion on the appropriate school or vocational path. Children with *mild* intellectual disabilities can enrol directly in the school the institute recommends, generally mainstream or special schools with an appropriate programme, although schools do not in practice always respect the Employment Institute’s recommendation. However, for children with more severe intellectual disabilities, who are eligible for social welfare benefits¹⁸⁸ and who are usually referred to special vocational programmes or another form of special education, the local centre for social welfare must formally approve the decision on the child’s placement in vocational or other secondary education. Children with *moderate* to *severe* intellectual disabilities who are referred to social welfare institutions rather than a facility within the educational system, follow an educational programme that does not include any formal secondary qualification. Institutions can issue their own certificate indicating the holder has received some form of occupational training and has developed certain skills.

People assessed by the Expert Body as ineligible for vocational education within the mainstream secondary school system qualify for rights under the social welfare system and can earn a qualification under special conditions under the Ordinance on the Conditions and Procedures for Realisation of the Right to Enable Independent Living and Work. These include special vocational rehabilitation programmes for pupils with *mild* intellectual disabilities or associated disabilities, and the vocational qualifications are lower, such as for an assistant cook or assistant carpenter. Initial and continuing vocational training is regulated by the Act on Secondary Education and the Ordinance

¹⁸⁵ Social Welfare Act, *Narodne novine* No. 103/03, art. 60.

¹⁸⁶ Ministry of Labour and Social Welfare, Ordinance on the Conditions and Procedures for Realisation of the Right to Enable Independent Living and Work in 1999, *Narodne novine* No. 62/98 and No. 148/99. This ordinance applies to people with disabilities that occurred before the age of 45 years old (40 for women), if they can be trained for a full-time job.

¹⁸⁷ Interview with Dr. Lelija Kiš-Glavaš, Professor of Special Education and Rehabilitation, Zagreb, 13 May 2004.

¹⁸⁸ Such as the right for free transportation to an appropriate facility in another area, or for placement in a social welfare institution. This provision is not applicable to students with *mild* intellectual disabilities who attend mainstream secondary schools, however.

on Secondary Education.¹⁸⁹ The act and ordinance authorise secondary schools and open universities to engage in formal vocational training. In addition, the Law on Professional Rehabilitation provides that,

people with disabilities have the right to professional training and rehabilitation under general provisions, and if it is necessary because of the type and level of disability or for the sake of effective rehabilitation process, this could also be organised within special schools and institutions for professional rehabilitation under adjusted or special programmes.¹⁹⁰

A significant element of EU funding has been channelled towards the reform of vocational education through the CARDS programme (see section III.3.4). Projects implemented under this programme have aimed to build capacity both of schools and local governments to meet market demands, and to establish model centres in adult education. However, experts have noted that there are serious shortcomings in social and employment services for people with intellectual disabilities.¹⁹¹

In all regional offices of the Croatian Institute for Employment, departments for professional orientation have been established, which are responsible for informing and counselling students on choosing the appropriate vocational training as well as for other unemployed persons and users of the Institute's services. Current regulations¹⁹² provide only for group information sessions and very short individual counselling meetings for job seekers, which often are not appropriate for people with intellectual disabilities. In recognition of this shortcoming, the Institute for Employment has taken steps towards a more individualised approach in offering its services to people with disabilities.

Generally, it has been noted that there is poor coordination between vocational training and market needs; people with intellectual disabilities often are given training in fields that are already saturated, and have little hope of finding employment on the open market. A particular problem arises when students complete their education. Upon finishing school, people with intellectual disabilities should register with the local employment office of the Croatian Institute for Employment (under the Ministry of the Economy, Labour and Entrepreneurship), as this is standard procedure for all graduates. However, research in one secondary vocational school offering training to people with mild intellectual disabilities through a special programme has revealed that only some 20 per cent of people with disabilities who have finished school actually registered as unemployed.¹⁹³ In theory, even people who hold only a certificate of training for

¹⁸⁹ Law on Secondary Education, *Narodne novine*, No. 69/03; Ordinance on Secondary Education of Adults, *Narodne novine*, No. 112/00.

¹⁹⁰ Law on Professional Rehabilitation, art. 6.

¹⁹¹ Government Response to the European Commission, Chapter 18.

¹⁹² Law on Mediation in Employment and Rights During Unemployment, *Narodne novine*, 114/03; Ordinance on Active Participation in Job Seeking, *Narodne novine*, No. 96/02.

¹⁹³ Interview with Dr. Lelija Kiš Glavaš, 13 May 2004.

independent living are eligible to register with the employment office, but in practice, they may not be aware that they can register, and never do so in any case.¹⁹⁴

The Centre for Education and Training in Zagreb is a special vocational-secondary education institution that provides secondary education and training in several occupations, such as catering, printing, the auto industry, bookbinding, and carpentry. The school enrolls students with *mild* intellectual disabilities and multiple disabilities, as well as students who were not able to complete secondary school even with added support or an adapted curriculum.

Between 1990 and 2000, 428 students from the Centre who have attended on-the-job training at a sheltered workshop, “URIHO”, completed training for various positions, such as tailors’ assistants, bookbinders’ assistants, retail assistants, shoemakers’ assistants or assistant locksmiths. These students comprise 76 per cent of the 563 students who completed the training in 2000, but only three were employed in URIHO by the end of 2002; the others for the most part were unemployed. Over the past twenty years, 908 pupils from the Zagreb area have successfully completed their training for independent work at the Centre, but as of January 2001, 523 (57 per cent) were registered as unemployed.¹⁹⁵

4.2 Adult or life-long education

Adult education is not well developed in Croatia. According to a 2001 analysis by the European Commission, “policy development, including crucially the concept of life-long learning, is not yet taking place.”¹⁹⁶ The Government adopted an Employment Incentive Program in early 2002, which is implemented primarily through the Croatian Institute for Employment. The programme includes educational activities such as introduction to work, vocational training, supplementary training and in-service training courses. When employees are introduced to work, part of their salary is subsidised while they attend vocational training, retraining or supplementary and in-service training. Data available from July 2004 shows that through the programme, “There are chances for us too” (see section IV.2.2), 77 people with intellectual disabilities were employed, almost 41 per cent of all people with disabilities employed by this measure.¹⁹⁷

¹⁹⁴ OSI roundtable, Zagreb, July 2004.

¹⁹⁵ Comments submitted to EUMAP by Snježana Marinović, social worker; and Ana Mihanović, special education teacher, on the present report in draft form, July 2004.

¹⁹⁶ European Commission, *CARDS Country Strategy Paper for Croatia 2002–2006*, Brussels, 2001, p. 13, available at http://europa.eu.int/comm/external_relations/see/croatia/csp/02_06.pdf (accessed 28 January 2005), (hereafter, *CARDS Country Strategy Paper*).

¹⁹⁷ Comments submitted to EUMAP by Kristijana Sokač, Department for Professional Rehabilitation of the Croatian Institute for Employment, on the present report in draft form, 2 July 2004.

In addition to standard vocational training, vocational schools may adopt adult education programmes on their own initiative. The Croatian Institute for Employment, through its local offices (under the administration of the Ministry of the Economy, Labour and Entrepreneurship) covers training costs for occupations where workers are in demand; otherwise, costs are borne by businesses or by students themselves.¹⁹⁸

4.3 Employment Services

The services available through the local employment offices are often not accessed by people with intellectual disabilities: as many people with intellectual disabilities never register with the office in the first place, they lose an opportunity to receive any support. The Ministry of the Economy, Labour and Entrepreneurship should develop a programme to encourage people with disabilities to register with the employment office as a first step. The counselling and information services available at these offices are often offered in group sessions, where people with intellectual disabilities may not be able to follow or get the attention they need. The Croatian Institute for Employment is reportedly developing a more individualised approach to working with people with disabilities to help address this problem.¹⁹⁹ In the main office of the Institute, a Department for professional rehabilitation and employment of persons with disabilities has been established to create new strategies for working with this population. Training has been prepared for employees of the local offices of the Institute for Employment to prepare them for work with people with disabilities, specifically to help them compete for jobs on the open labour market.²⁰⁰

¹⁹⁸ The Croatian Institute for Employment is established according to the Law on Mediation in Employment and Employment Rights, *Narodne novine* No. 114/03 as a public institution owned by the Republic of Croatia with the main task of solving the problems connected with employment and unemployment in the widest sense of those terms. Comments submitted to EUMAP by Kristijana Sokač, on the present report in draft form, 2 July 2004.

¹⁹⁹ Comments submitted to EUMAP by Kristijana Sokač, on the present report in draft form, 2 July 2004.

²⁰⁰ Comments submitted to EUMAP by Kristijana Sokač on the present report in draft form, 2 July 2004.

IV. Access to Employment

1. LEGAL AND ADMINISTRATIVE FRAMEWORK

Croatia's Constitution guarantees the right to work, and provides for special protection at work for people with disabilities. Legislation also provides for the right to professional rehabilitation and training for employment, for people with disabilities. Croatia does not yet comply with the requirements of the EU's Employment Directive (2000/78/EC), which will be a condition of entry to the EU. However, the Labour Act does explicitly prohibit discrimination in hiring and employment on the basis of physical or mental disability. The Law on the Professional Rehabilitation and Employment of People with Disabilities governs the employment of people with disabilities. It also articulates the right to professional rehabilitation of "people with reduced working capacity", but due to the lack of a clear definition it is not clear to whom this applies.

Eligibility for social benefits is assessed by an expert body at the local centre for social welfare. Concerns have been raised that these assessments vary greatly in quality and focus on incapacity, rather than taking into account an individual's potential. The Service for Professional Orientation conducts assessments to determine eligibility for vocational training programmes; this process has come under criticism as it places an undue emphasis on IQ, rather than on specific capacity to perform a given job. People under plenary guardianship often do not receive a separate assessment of their capacity to work, as the full loss of active civil capacity (referred to as "business capacity") is presumed to preclude any employment. Several different forms of social benefit are available to people with intellectual disabilities, but the administration of these benefits is problematic; in certain cases, parents have sought to have their children declared unqualified for work so the child retains eligibility for one type of benefit.

1.1 National legislation

Croatia's Constitution provides that "everyone has the right to work and the freedom to work," and that individuals are free to choose their vocation.²⁰¹ Every workplace must be accessible under equal conditions to everyone. People with disabilities are entitled to "special care of the State in the interests of their protection and inclusion in social life" and "special protection at work".²⁰²

As an applicant for candidacy to the European Union, Croatia will be obliged to transpose the EU's anti-discrimination directives into national law as part of the accession process. Existing legislation meets some of the requirements of the EU's Council Directive 2000/78/EC of 27 November 2000 establishing a general

²⁰¹ Constitution, art. 54.

²⁰² Constitution, art. 57.

framework for equal treatment in employment and occupation (hereafter, the Employment Directive).²⁰³

The Labour Act 2004 already includes a broad anti-discrimination provision, which expressly prohibits discrimination on the basis of “physical or mental difficulties”.²⁰⁴ This provision covers both the pre-employment (hiring) phase and the employment relationship, and prohibits both direct and indirect discrimination.

The Labour Act also requires employers to offer employees assessed as lacking the capacity for work and those where the immediate danger for disability exists, a position suitable to their abilities, and to adjust the job to the employee’s capabilities by reducing working hours or through other measures.²⁰⁵ Employers can only dismiss an employee with disabilities upon proof that the employer has done everything possible to offer the employee other suitable jobs or that the employee has refused a working schedule that matches his or her capabilities.²⁰⁶

A key concept found in a number of laws is “professional rehabilitation”. The Law on Employment Mediation and Rights in Employment 2002 provides that people with disabilities have the right to professional rehabilitation, to gain the “knowledge and skills necessary for employment”.²⁰⁷ Those eligible for professional rehabilitation are also entitled to compensation through social insurance. Periods of professional rehabilitation do not count against the employee when determining unemployment benefits.²⁰⁸

The Law on the Professional Rehabilitation and Employment of People with Disabilities, (hereafter, Law on Professional Rehabilitation), which was last amended in March 2005,²⁰⁹ promotes the right to professional rehabilitation of people with reduced working capacity, dividing this group into several sub-groups that include “students with developmental difficulties and students with more serious developmental difficulties”.²¹⁰ However, because the law itself does not establish a clear definition of what constitutes “reduced working capacity”, but instead refers to other

²⁰³ European Union Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (hereafter, the Employment Directive).

²⁰⁴ Labour Act, *Narodne novine* 137/04, art. 2.

²⁰⁵ Labour Act, art. 84.

²⁰⁶ Labour Act, art. 85.

²⁰⁷ Law on Mediation in Employment and Rights During Unemployment, *Narodne novine* No. 114/03; Ordinance on Active Participation in Job Seeking, *Narodne novine* No. 96/02

²⁰⁸ Law on Recruitment Mediation, Section 46.

²⁰⁹ Law on the Professional Rehabilitation and Employment of People with Disabilities, *Narodne novine* No.32/05 (hereafter, Law on Professional Rehabilitation).

²¹⁰ Law on the Professional Rehabilitation, art. 3(5).

more specific legislation in various fields for detailed provisions, it is not clear to whom the law applies.²¹¹

The Law on Professional Rehabilitation also governs the employment of people with intellectual disabilities as well as other groups of people with disabilities.²¹² Secondary legislation – a regulation from the Ministry of Health and Social Welfare addressing the right to training for independent living and work, adopted in 1998 – entitles people with disabilities of working age to acquire training for appropriate employment.²¹³

1.2 Capacity assessment for employment and benefits purposes

The assessment procedures for both social welfare benefits and work capacity are regulated through a number of inter-related provisions in various laws.²¹⁴ Several different bodies also participate in procedures to determine eligibility for various benefits and employment training options. The complexity of this system can lead to confusion, particularly as there is no uniform standard for assessing working capacity in primary legislation. The relevant ministries should review how the legislative framework and assessment procedures can be streamlined and made more consistent to ensure that people with disabilities have the greatest possible opportunities to find suitable employment.

1.2.1 Assessment for social welfare benefits

The Social Welfare Act provides the general framework for the right to benefits. The right to “training for independent living and work” is applied to people with disabilities.²¹⁵ Eligibility for this right is further elaborated in the Ordinance on Expert Bodies, the Ordinance on the Conditions and Means for Enforcement of the Right to Training for Independent Living and Work 1999 (hereafter, the Ordinance on Training for Independent Living). Eligibility for rights during unemployment is regulated by the Law on Mediation in Employment and Rights During Unemployment, and the

²¹¹ Comments submitted by Z. Žunić, on the present report in draft form, July 2004. These comments refer to a provision in the previous version of the law, which was amended in 2005 and now specifies to whom the legislation applies.

²¹² Law on Professional Rehabilitation, *Narodne novine* 23/05. Articles 7 and 18 now provide for part time employment without a formal employment contract even for people without work capacity; institutions for social welfare may act as employment mediators in this process.

²¹³ Ordinance on the Conditions and Means for Enforcement of the Right to Training for Independent Living and Work, *Narodne novine* No. 62/98, amended 148/99, art. 3, based on article 60 from the Social Welfare Act, and assessment of the Expert Body (hereafter, Ordinance on Training for Independent Living).

²¹⁴ Social Welfare Act and secondary legislation, Health Insurance Act; Law on Pension Insurance.

²¹⁵ Social Welfare Act, art. 60.

Ordinance on Active Participation in Job Seeking, and the Law on Professional Rehabilitation addresses the employment of people with disabilities.

In cases where a child is identified as possibly having disabilities in early childhood, the family's general practitioner should submit a report to the local centre for social welfare, which acts as the main coordination point for social benefits. The centre can then issue a recommendation that the individual should be assessed for benefits purposes.

First, the relevant specialists, such as a neurologist, psychiatrist, or orthopaedist examine the individual; the Ministry of Health and Social Welfare has approved a list of the various medical specialities that may be required to conduct examinations for benefits purposes. Where an intellectual disability is suspected, a special education expert and a rehabilitation specialist also examine the person in question. Each of the professionals who examines the person fills out a form specified in the Ordinance on Expert Bodies, which is forwarded to the centre for social welfare. When the individual assessments are complete, the centre sets a date for the person to appear before the Expert Body, which will make the decision on the type and level of disability. Since 1999, when the Ordinance on Training for Independent Living was amended, the centre for social welfare makes the final decision on a person's eligibility for training, based on the evaluation of the Expert Body.²¹⁶

The Expert Body in defining eligibility for social welfare benefits is comprised of three members: for young children, a specialist in paediatrics, who serves as the president; a social worker; and a psychologist who specialises in assessing pre-school children. For school-age children, the body is comprised of a specialist of "school medicine" who serves as the president, a social worker, and a psychologist. For adults, the team has only two members, a specialist in "employment medicine" and a social worker. While the individuals under assessment and their parents or guardians are present at this meeting, the Expert Body generally bases its determination on the documents submitted by the specialists, and does not perform an extensive examination of its own.

The evaluation issued by the Expert Body establishes the type and level of disability, and sets a date for the individual to be re-evaluated, usually every two to three years up to the age of 16. Parents report that the whole procedure is extremely time-consuming and burdensome, as each specialist must be visited in turn to examine the child.²¹⁷

Moreover, the decisions of the Expert Body appear quite arbitrary, with results varying greatly. Some parents noted that the Expert Bodies may be inclined to find a child has a more severe disability in order to maximise the benefits available to the family, even though such a diagnosis can greatly reduce the child's education and employment opportunities.²¹⁸ In other cases, particularly for conditions such as Down's Syndrome,

²¹⁶ Ordinance on Training for Independent Living, art. 2-3.

²¹⁷ Interviews with parents of children with intellectual disabilities, Zagreb, 13 May 2004.

²¹⁸ Interviews with parents of children with intellectual disabilities, Zagreb, 13 May 2004.

the Expert Bodies often do not find a “permanent change in health”, which can lead to termination of personal disability allowances.²¹⁹ Experts and parents have indicated that the assessment of the Expert Body is focused towards defining incapability for employment on the open labour market, and for living independently. Such an approach is inappropriate, as it compares people with disabilities against those without disabilities, rather than identifying the specific individual's capabilities.²²⁰

Parents of children with *severe* and *profound* intellectual disabilities have reported problems in the assessment procedure: parents perceived that little effort was made to determine a child's real potential, particularly for children who are non-verbal or who have complex disabilities and may not react due to their physical disabilities.²²¹ Parents have also reported examples of reports and diagnoses from the Expert Bodies in which information was incorrect due to obvious typographical errors.²²²

A second-degree administrative body is responsible for appeals. According to a staff member of the Ministry of Labour and Social Welfare (now the Ministry of Health and Social Welfare), recent appeals have generally referred to eligibility for financial support, and not to how the assessment was conducted.²²³

1.2.2 Assessment for work capacity

The Expert Body also assesses the capacity to work under the Law on Professional Rehabilitation, which regulates the rights of people with disabilities in regard to professional rehabilitation, employment and work. The law sets out six categories of people who qualify as people with disabilities, but refers to legislation in specific sectors for more detailed provisions regulating what is “lowered working ability” and which may therefore vary depending on which category the person falls into.²²⁴ No specific procedures for capacity assessment are provided in the Law on Professional Rehabilitation itself. Eligibility for vocational training and other forms of vocational “rehabilitation” depend upon the category of disability; people who have received an assessment from the Expert Body that concludes they cannot be vocationally educated within the mainstream secondary school system are entitled to social welfare benefits. Such people are eligible only for work qualification – a form of lower secondary

²¹⁹ Comments submitted to EUMAP by the parent members of the Down's Syndrome Association, on the present report in draft form, July 2004.

²²⁰ Comments submitted to EUMAP by the Centre for Social Welfare Zagreb on the present report in draft form, 12 July 2004.

²²¹ Informal discussion with three parents' associations: Puž, Oko and Down's Syndrome Association, Zagreb, January, 2004.

²²² OSI roundtable, Zagreb, July 2004.

²²³ Ivanka Špalj, MD, senior advisor in the Ministry of Labour and Social Care (present Ministry of Health and Social Welfare), member of the second degree Expert Body.

²²⁴ Law on Professional Rehabilitation, art. 4.

qualification under special conditions, which include special professional rehabilitation programmes.

The assessment includes pre-professional advice, questions regarding the person's motives and interests in employment, and if necessary, an additional "work diagnostic" may be carried out to assess the individual's likely adjustment to working conditions. Only people who are assessed as capable of full-time employment are eligible for training for "independent living and work" as the Ordinance on Independent Living does not foresee part-time work, supported or adjusted employment that would enhance opportunities for people with intellectual disabilities.²²⁵

The Service for Professional Orientation at the Croatian Institute of Employment conducts assessments for specific vocational programmes. The assessment team includes a physician and a psychologist, and primarily reviews medical documentation, the previous diagnosis of the Expert Body, academic achievement, and psychological test results.²²⁶ The local centre for social welfare issues a certificate based on this assessment,²²⁷ certifying that the person is qualified for independent work; this is not applicable to any particular vocation but only states eligibility.

In general, people with intellectual disabilities have already been assessed and given a classification by the Expert Body before seeing the Service for Professional Orientation. People assessed with a *moderate* or greater level of intellectual disability are considered unable to work independently on the basis of their level of disability, although this classification is primarily based on IQ and may have little bearing on the person's ability to perform a specific job. An improved regulatory framework for assessment should be developed, establishing clear guidelines for the assessment to evaluate capacity and specify the appropriate working conditions for employment.

The Service for Professional Orientation, according to the Law on Mediation in Employment and Rights during Unemployment, provides professional orientation to unemployed people between the ages of 15 to 65 years in choosing or changing vocational careers. These services include providing information, counselling and professional career follow up.²²⁸ The service can also refer unemployed people to educational programmes.²²⁹

²²⁵ Ordinance on the Conditions and Means for Realising the Right to Training for Independent Living and Work, *Narodne novine* No. 148/99.

²²⁶ Comments submitted to EUMAP by the Centre for Social Welfare Zagreb on the present report in draft form, 12 July 2004.

²²⁷ Assessment of Expertise body and in accordance to Social welfare Act; art. 60 and 147; and Ordinance on the Conditions and Means for Realising the Right to Training for Independent Living and Work

²²⁸ Law on Mediation in Employment and Rights during Unemployment, art. 16.

²²⁹ Law on Mediation in Employment and Rights during Unemployment, art. 15.

However, generally people assessed as ineligible for vocational training and who are also not considered eligible to work independently (under the Social Welfare Act and ordinances as well as under education legislation and ordinances) are placed in social welfare institutions that “enable for independent living.” This amounts to learning self-care skills, and they may have little access to occupational activities in these institutions. Such activities generally do not prepare participants for employment on the open market in any case, and are segregated, non-inclusive programmes. There is no legal barrier to their employment, however; if their guardian signs a contract with the approval of the centre for social welfare, they may be employed.²³⁰

In practice, because no separate assessment of work capacity is made for people considered to have fully lost their active civil capacity, who are generally under *plenary* guardianship (see section II.2.3), there are in any case very few opportunities for employment.

Reassessment for work capacity is unusual in Croatian practice, although the possibility is provided for, if a party expresses a “legal interest”. The parties to the reassessment include the person with intellectual disabilities, the parents or guardian, the local branch of the institute for employment, the local centre for social work, or the pension insurance fund.

1.3 The role of the social welfare system

The Law on Social Welfare 1997 establishes the criteria for determining an individual’s eligibility for social welfare benefits and services. People with disabilities are eligible for a number of different benefits, which can be divided into social support, such as financial allowances and services, and social welfare. Benefits include financial assistance for home-based care and assistance, a personal disability allowance, and transportation expenses. People diagnosed with a permanent change in health status are eligible for a HRK 1,000 (Croatian Kuna, approximately €133²³¹) disability allowance, equal to 250 per cent of the minimum income (HRK 400, approximately €53). Since 2002, parents have been eligible to continue receiving the child allowance after their dependent child is over 21.

A person with intellectual disabilities who completes secondary vocational school and receives a qualification in a particular profession loses the right to claim one type of benefit, the family pension, in spite of the very limited chances of actually finding employment. The family pension, a descendant’s right to continue receiving a deceased parent’s benefits, is not a major source of income, but is significant to parents wishing to ensure at least some benefit is available to their child after their own death. Several cases have been reported where a person with intellectual disabilities sought a re-

²³⁰ Comments submitted to EUMAP by the Centre for Social Care Zagreb on the present report in draft form, 12 July 2004.

²³¹ The exchange is calculated at HRK 7.5 = €1.

assessment from the expert body to be declared unqualified for work after receiving a certificate, in order to continue receiving a family pension. For the same reason, students may leave school just prior to graduation in order not to risk the loss of the family pension. By modifying this punitive regulation and replacing it with a fixed income threshold above which the family pension would be reduced or withdrawn, the Government could remove a serious barrier to employment for people with disabilities.

Areas of overlap between ministries have not been fully resolved after the reorganisation of the Government structure in early 2004: whereas before all issues were subsumed under the former Ministry of Labour and Social Welfare, now the social welfare portfolio is handled by the new Ministry of Health and Social Welfare, while employment is under the administration of the new Ministry of the Economy, Labour and Entrepreneurship.

2. GOVERNMENT EMPLOYMENT POLICY

The EU has placed little emphasis on employment for people with disabilities in its reports on Croatia; however, some EU funds are directed towards vocational training for vulnerable groups such as people with disabilities. Croatia has adopted several employment incentive programmes, with specific provisions relating to people with disabilities. These measures have had some success in finding jobs for people with disabilities, and people with intellectual disabilities have found work through these programmes, although there are no initiatives targeting the population with intellectual disabilities. The long-term success of these efforts remains unclear, as there are indications that retention of employees hired under these measures is poor beyond the period of State salary co-financing. While there are no quotas in the private sector, quota requirements are in place for governmental bodies, and a penalty is applied to workplaces that do not meet hiring quotas for people with disabilities. These penalties are too low to be an effective means of enforcement, however.

2.1 The EU and Government employment policy

While the high unemployment rate in Croatia has been mentioned as a source of concern in EU reports, the employment of people with disabilities has not been addressed in any detail.²³² In a CARDS funding strategy paper, the importance of assuring access to employment and educational opportunities for vulnerable groups including people with disabilities is mentioned,²³³ and a number of vocational projects

²³² See, for example: European Commission, *2003 SAP Report*.

²³³ European Commission, *Country Strategy Paper*.

are receiving funding from the EU. Experts from EU countries have supported Croatia's general social welfare reform initiative.²³⁴

A particularly significant project under CARDS 2002 funding is targeted towards developing local partnerships through the county employment centres. Staff from the centres will be trained to work in teams, including lawyers, psychologists, and counsellors, to establish better communication with local centres for social work, schools, and employers.²³⁵ This project could be an important first step in better coordination among the various bodies involved in employment and support of people with intellectual disabilities, and could serve to enhance both the quality of services and access to them.

2.2 Development of Government employment policies

Croatia's "National Strategy for a Unique Policy for the Disabled for the period from 2003 to 2006", (hereafter, the National Strategy), contains a measure calling for progressive implementation of the Law on Professional Rehabilitation, which prioritises employment on the open labour market, in line with EU, Council of Europe, UN, WHO and ILO standards.²³⁶ Under the Strategy, professional rehabilitation and employment on the open market should be in accordance with individual's capabilities, possibilities and needs. The Strategy also commits the Ministries of Trade and Labour to promote entrepreneurship among people with disabilities.²³⁷

At the beginning of 2002, the Government adopted an "Employment Incentive Programme", which is implemented primarily through the employment bureau. A number of educational activities are included in the programme, such as introduction to work courses, vocational training, supplementary training and in-service training. One package of measures, called "There are Chances for Us Too", directly targets people with disabilities, and covers training and salary costs to

²³⁴ Interview with Dr N. Žganec, article in *Stančić Ekspres* No. 8, 2003, available at <http://www.centar-stancic.hr>. (accessed 22 June 2004). Dr Žganec was at the time of the interview Deputy Minister of Labour and Social Welfare. *Stančić Ekspres* is the magazine of the Centar Stančić, an institution within the social care system, for people with intellectual disabilities.

²³⁵ Interview with Kristijana Sokač, 13 May 2004. In April 2003 the CARDS 2001 project started, and the result should have been a "Green Book concept for VET development" establishing specific goals for better cooperation among social partners in the development of VET. Government Response to the European Commission, Chapter 18, p. 36.

²³⁶ National Strategy, Section 3.4.2.

²³⁷ National Strategy, Section 3.4.3; Adinda Dulčić, "National Strategy of Unique Policy for the Disabled from the Year 2003 to the year 2006"; International Conference on Professional Rehabilitation and Employment of Disabled Persons, Zagreb, 17-18 November, 2003.

employers who hire people with disabilities.²³⁸ One programme under this package relates specifically to people whose disabilities appeared before age 15. The programme covers 80 per cent of training and material costs of this training, as well as a proportion of the salary equal to the minimum income for up to 12 months of training. Employers receive an additional €1,000 if the person with disabilities is employed for an additional 12 months,²³⁹ and a single payment of up to up to €2,000 is available for adjustments to the workplace. Employers who accept payment for such adjustments are obliged to retain the employee for an additional 24 months.

A second programme under “There are Chances for Us Too” is open to both people with disabilities as well as other unemployed people. Under this programme, the employer receives 60 per cent co-financing for the costs of training and 20 per cent of material costs of that training, as well as partial salary subsidisation for up to 12 months. Again, a €1,000 incentive is available for continued employment of the trainee.²⁴⁰

Between March 2002 and April 2004, 185 people with disabilities were hired through these measures, 77 of whom were people with intellectual disabilities. Although the level of relative employment within this package of measures remains low, it highlights the need to change “the emphasis from training to employment” as most of the potential employees in the target group already had a certain level of vocational qualification and some work experience. Employers have reportedly expressed concern that the level of support for adapting the workplace is too low, but experts suggest that such concerns mask a general reluctance to hire people with disabilities.²⁴¹ Several other measures under the incentive programme may also benefit people with disabilities, such as those for people with little or no work experience, but no statistics on the number of people with intellectual disabilities participating have been collected.

The administration of these support measures is somewhat complex, and requires substantial engagement of the employer. A counsellor at the local employment centres, under the Employment Bureau, checks that the potential employers are eligible to participate in the incentive programme. Participants must meet physical and psychological requirements. The workplace must then be inspected by the Department for Professional Orientation, and then the terms of the arrangement are negotiated. Problems reportedly arise because of the costs of training, and especially with regard to the provision of a mentor for the new employee; employers are unwilling to assign a

²³⁸ Government Response to the European Commission, Chapter 13, p. 158. An unofficial translation of the section “There are chances for us too” is available on the website of the Izazov project at <http://www.izazov.hr/englishlibrary.htm> (accessed 8 July 2005).

²³⁹ Government Response to the European Commission, Chapter 13, p. 158; comments submitted to EUMAP by Kristijana Sokač on the present report in draft form.

²⁴⁰ Government Response to the European Commission, Chapter 13, p. 158; comments submitted to EUMAP by Kristijana Sokač on the present report in draft form.

²⁴¹ Interview with Kristijana Sokač, 3 May 2004.

current worker to act as a mentor, and the employees themselves see the role as a burden.²⁴² The incentive programme covers 80 per cent of the disabled employee's salary, but to avoid taxation, employers pay minimum wages officially, and then use the subsidy to make up the balance of the employee's real salary. Employers are therefore motivated to maintain this training system, as it works to their financial advantage.

After this limited co-financing period ends, however, many people with disabilities do not remain in the workplace. The problem of finding appropriate mentors and job assistants remains an obstacle, as employers are reluctant to give another employee additional responsibilities. Moreover, a very serious barrier for people with intellectual disabilities taking part in this programme is that the measures apply only to full-time positions. As full-time work is not appropriate for many people with intellectual disabilities, their opportunities to benefit from these measures are greatly limited.

Shortly after the adoption of the National Strategy, the Zagreb city Office for Health, Labour and Social Welfare drafted Zagreb's "Consolidated Policy for People with Disabilities 2003–2006", which the City Assembly adopted on 26 February 2003.²⁴³ While the National Strategy does not mandate the development of such local policies, city or municipal-level programmes could be an important addition to the State-level measures.

2.3 Government requirements and incentives for employment

There is no quota system in place for private firms.²⁴⁴ As of December 2004, all governmental bodies (including central and local/regional units), public services, and funds, are obliged to employ at least two per cent of workers with disabilities. This quota is set to increase by one per cent every fourth year, so by the end of 2020 the proportion of employees with disabilities in these bodies should be six per cent.²⁴⁵ For positions that come under the Ministry of Social Welfare, priority will be given to people with 100 per cent incapacity to work.

In all other Government entities, the quota for employing people with disabilities in 2004 was one per every 49 employees; this includes courts, public services, legal bodies owned by local or regional government. The quota system appears to have had some impact; in the Zagreb government assembly there are 51 people with disabilities

²⁴² Interview with experts of NGO's providing programmes of care for people with intellectual disabilities and other education experts.

²⁴³ Adopted at the 36th meeting of the City Assembly 2003, *Službeni glasnik Grada Zagreba* No. 5/03, text available at <http://www.zagreb.hr/slglasnik.nsf> (accessed 15 September 2005). The Strategy is binding on all city offices, institutions and enterprises owned by the city of Zagreb.

²⁴⁴ Government Response to the European Commission, Chapter 13, p. 227.

²⁴⁵ Law on Professional Rehabilitation, Part III, art. 10.

employed. There are 43 people with disabilities employed in the city government, although no one with intellectual disabilities.²⁴⁶

Under the 2002 “Employment Incentive Programme”, when a programme beneficiary is introduced to work, part of the employee's salary is subsidised during vocational training, retraining or supplementary and in-service training. In addition, employers are entitled to financial support for employing people with disabilities and financing or co-financing from the Fund for Professional Rehabilitation and employment of people with disabilities is available for hiring and the continued employment of people with disabilities.²⁴⁷

Those governmental bodies that do not meet the quota requirement for hiring people with disabilities must contribute to a fund for the occupational rehabilitation and employment of people with disabilities. Contributions must be made at the rate of 0.2 per cent of the monthly sum of gross salaries by the governmental bodies. These penalties are too low to create a real incentive for employers to hire people with disabilities. Moreover, as the Law on Professional Rehabilitation was recently amended, and supporting regulations have yet to be finalised, there remains considerable confusion in this area.

Employers are also entitled to financial support for adapting the workplace and working conditions, credit under more favourable conditions intended for the purchase of machinery, equipment, tools or accessories necessary for the employment of a person with a disability as well as compensation for reduced productivity or for co-financing part of the salary for a personal assistant to a person with a disability. The employer is entitled to these benefits regardless of whether the person with a disability has previously registered as unemployed.

3. EMPLOYMENT IN PRACTICE

Very few people with intellectual disabilities have any form of employment. Exact figures on the number of people with intellectual disabilities who are unemployed are unreliable, as many people do not register as unemployed. Supported employment is available only on an extremely limited basis in Croatia. One NGO, with international support, has developed a supported employment programme, and other organisations may follow, but there is no Government support for such initiatives. Around 400 people with disabilities work in sheltered workplaces, which are segregated and do not enhance inclusion. Although some of these workshops are intended to give participants the skills and training

²⁴⁶ Zvonimir Šostar and Marinka Bakula Anđelić, presentation at International Conference on Professional Rehabilitation and Employment of People with Disabilities, Zagreb, 17-18 November, 2003, p. 102.

²⁴⁷ Decree of Founding of the Fund for Professional Rehabilitation and Employment of Persons with Disabilities, *Narodne novine* No. 116/03.

necessary to make the transition to work on the open market, few people are able to actually make the transition from sheltered employment to any other form of work.

3.1 Statistical information

The unemployment rate in Croatia was 14.4 per cent in 2003, according to a labour force survey carried out under ILO methodology.²⁴⁸ The highest level of unemployment is found among 15-24 year-olds; 34.4 per cent of all unemployed people are classified as long term unemployed, having been searching for a job for over a year.²⁴⁹ At the end of 2003, there were 318,684 unemployed persons in Croatia.

People with disabilities without employment make up 2.4 per cent of the total number of people registered as unemployed or 7,640 people.²⁵⁰ Of these, 1,852 are people with intellectual disabilities, almost evenly divided between men and women (917 women, 935 men). In city of Zagreb, 339 people with intellectual disabilities are registered as unemployed; while in Zagreb county (excluding the city of Zagreb) 137 people with intellectual disabilities are registered as unemployed.²⁵¹ However, research suggests that only a very low proportion of people with intellectual disabilities are registered as unemployed.²⁵²

Statistical data indicate that the low level of education of all people with disabilities contributes to high unemployment, but people with intellectual disabilities have especially low qualifications for work. Only 1.95 per cent of people with disabilities are qualified workers according to education and social welfare regulations,²⁵³ meaning they have obtained a “professional qualification.” Almost half of the population of people with disabilities between the ages of 20 and 49 are “semi-qualified” or below, having completed only primary school or holding a certificate qualifying them to perform simple tasks. Almost half the population of people with disabilities, 41.8 per cent, have no work experience at all, while 70 per cent of those registered at the Employment Bureau have been in the file for longer than two years, and 20 per cent remain unemployed for more than eight years.²⁵⁴

²⁴⁸ Government Response to the European Commission, Chapter 13, p. 118.

²⁴⁹ Government Response to the European Commission, Chapter 13, p. 118.

²⁵⁰ Interview with Kristijana Sokač, 3 May 2004.

²⁵¹ Statistics from the Croatian employment bureau. People with intellectual disabilities registered with the bureau are those who have obtained at least some form of vocational qualification.

²⁵² Interview with Lelia Kiš-Glavaš, Zagreb, 13 May 2004.

²⁵³ Ordinance on Independent Living.

²⁵⁴ Kristijana Sokač, presentation at the International Conference on Professional Rehabilitation and Employment of People with Disabilities, Zagreb, 17-18 November, 2003, p. 37.

3.2 Supported employment on the open market

A limited form of support in employment is available through special programmes for acquiring occupational skills in special secondary schools and centres, where small enterprises offer practical work experience. This is an extension of vocational training. The special teacher is required to follow students in their work together with a work instructor for a limited period, up to three years after the student has graduated, offering continuous support and guidance.²⁵⁵ In practice, however, only one such centre appears to be complying with this provision.²⁵⁶ In current legislation, there is no reference to supported employment specifically, although the recently adopted Law on Professional Rehabilitation includes a provision for “job assistants”²⁵⁷ that could be a starting point for broader supported employment measures. Civil society projects have also started to develop programmes that could serve as models for more comprehensive Government policy in this field.

One programme focused on employment of people with intellectual disabilities has been created through the co-operation of Dutch professionals with Croatian organisations, and with financial support from the Dutch Ministry of Foreign Affairs. The project started in 2002 and ended in March 2005. Within the framework of this project, a Croatian NGO, the Association for Promoting Inclusion (API), has continued to provide a supported employment programme. This programme offers training for job-coaches, who already work as professionals in the social welfare system, including in institutions for people with intellectual disabilities. The API also provides services to help people with intellectual disabilities find work on the open market. The project has introduced the concept of supported employment to other organisations, such as special school and social welfare institutions.

Another aspect of the project promotes the idea of social enterprises through the establishment of four to five small enterprises operated by people with disabilities. These small enterprises are intended to serve as models. A website has been created to inform and communicate with the relevant ministries and funds and with other NGOs in the field of special needs,²⁵⁸ while other promotional activities have also been organised, including presentations and media events.

There is no legislation that prohibits NGOs from providing employment or vocational day services. However, there are not many examples of good practices in this area to date. The Centre for Rehabilitation Zagreb, a large residential institution with multiple locations in the capital city, under the supervision of API has managed to find employment on the open market for nine adults under *plenary* guardianship. A tripartite contractual arrangement has been reached, with the institution co-signing the

²⁵⁵ Ordinance on Secondary Education for pupils with disabilities, *Narodne novine*, No. 86/92, art. 14.

²⁵⁶ Center for education and upbringing in Zagorska street, Zagreb, OSI roundtable, July 2004.

²⁵⁷ Law on Professional Rehabilitation, art.29 (2).

²⁵⁸ The website is available at <http://www.izazov.hr> (accessed 31 January 2005).

agreement to guarantee the individual's participation. Some parents of adults who work on the open market have noted that there can be intolerance in the workplace, where people with intellectual disabilities are assigned physically demanding jobs, criticised, and even ridiculed.²⁵⁹

3.3 The sheltered workplace

Sheltered workplaces have traditionally been established to provide people with disabilities with the possibility to work and earn money; in Croatia, the Law on Professional Rehabilitation defines a sheltered workshop as an institution or firm in which at least 51 per cent of the employees are people with disabilities.²⁶⁰

After 1993, in Croatia, many financial subsidy measures were cut as part of overall cost-cutting measures, including those supporting sheltered workshops for the employment of people with disabilities. The 39 sheltered workshops which employed 3,500 people with all types of disabilities were drastically decreased, and at present there are just four sheltered workshops employing 400 people with disabilities.²⁶¹ Only people with *mild* to *moderate* intellectual disabilities are able to work in these sheltered workplaces as the work is not considered suitable for people with more severe disabilities; workers are under standard contracts, as all employees retain their business capacity. Workers receive remuneration for their work, and are covered under standard employment law, with the right to organise.

The largest sheltered workshop today is the Institution for the Rehabilitation of Handicapped Persons through Professional Rehabilitation and Employment (URIHO), which is registered as State owned/public enterprise in Zagreb. The owners of URIHO are the City of Zagreb (88 per cent) and the Croatian Federation of Deaf and Hearing-Impaired Persons (12 per cent). In the workshop, there are 530 workers of which 300 are people with disabilities, including 86 people with intellectual disabilities.²⁶² The main activities are the professional rehabilitation and continuing employment of people with disabilities. Students carrying out practical education, part of the special education programme for several occupational profiles, also work at the enterprise. However, these programmes do not appear to give students greater chances of success in finding employment, even within sheltered workshops.

²⁵⁹ Interview with a mother of a young man with intellectual disabilities, Zagreb, December 2003.

²⁶⁰ Law on Professional Rehabilitation, art. 19.

²⁶¹ Peter Šribar, Ministry of Labour and Social Welfare, "Act on Vocational Rehabilitation and Employment of Persons with Disability", presentation at International Conference on Professional Rehabilitation and Employment of People with Disabilities, Zagreb, 17-18 November 2003.

²⁶² Interview with Višnja Majsec Sobota, Head of the Department of Professional Rehabilitation at URIHO, and Žarka Pintač, social worker, March 2004.

V. Conclusions

The past decade has brought many changes to Croatia; as accession negotiations with the European Union begin, further steps to bring law and policy into compliance with European standards will entail continuous reform. People with intellectual disabilities must be included in this process, as their specific situation and needs have been giving too little attention in governmental policy to date. While Croatia has taken important steps towards improving policy for people with disabilities in general, implementation has not been effective, particularly with regards to people with intellectual disabilities. Croatia should capitalise upon the opportunities provided by the accession process, including political and financial support from the EU, to move forward with concrete, far-reaching programmes to improve access to education and employment for people with intellectual disabilities.

The legal framework establishing the rights of people with intellectual disabilities is based on separate provisions of many laws and regulations. In many of these acts, intellectual disability is defined according to different standards, and using different terminology. The lack of a uniform definition used throughout legislation and policy has given rise to contradictions in terminology, and hampers the effective coordination of disability policy across sectors and fields of work. Moreover, the varied definitions and lack of centralised data collection give rise to widely divergent statistics on the number of people with intellectual disabilities, their living situation, and access to services. The adoption of clear and consistent terminology could also help to streamline a complex system of procedures and benefits that apply to people with intellectual disabilities.

A network of local offices, including centres for social work, employment offices and local administration units, offer services directly to people with intellectual disabilities and their families. However, gaining access to these services is often a time-consuming and haphazard process; staff responsible for providing information may not explain the range of options available, or give adequate support to individuals realising their rights to social services and benefits. Early intervention services are available, yet where parents are unaware of, or unable, to access these services, children with intellectual disabilities are denied care that could greatly enhance their chances of integration later in life. Better training of the staff in these offices, sensitive to the specific needs of people with intellectual disabilities and their families, would improve access to a wide range of services. In addition, partnerships with NGOs dedicated to supporting people with intellectual disabilities would also help to enhance the efficacy of State-provided services to this community through awareness-raising and improved outreach.

The procedure for assessing the level of intellectual disability is one example of an overly complex and burdensome administrative process. Numerous supporting documents gathered from various specialists must be submitted as part of the procedure, yet the actual determination is made by an expert body following a brief examination, with results varying greatly from commission to commission. The

decision of the body is generally the basis not only for social benefits, but also eligibility for employment.

Although Croatia did not take part in the Salamanca conference on inclusive education, inclusion is addressed in educational policy. Under the law, however, mainstreaming is specified only for children with *mild* intellectual disabilities, while education for those with more severe disabilities is provided in separate segregated schools. A range of options is provided for, including varying levels of inclusion in mainstream classes and using mainstream and adapted curricula. However, parents report that the school assessment procedure appears more oriented towards putting a child on the “path of least resistance”, rather than taking into account the full scope of advantages and challenges presented by each education option.

In practice, the majority of teachers in mainstream schools are not given the training and support to successfully adapt curricula to the needs of individual children; nor has the Ministry of Education taken steps to disseminate existing resources, such as model curricula elaborated at the Faculty of Special Education, to practising teachers. There are too few schools where mainstreaming is implemented with a wide range of specialised support; in many cases, children with intellectual disabilities in mainstream schools go without any real support at all. Consequently, only children with *mild* intellectual disabilities are recommended for mainstreaming, while those with *moderate* to *severe* disabilities, as well as those with any associated disability, are directed to special schools.

Special schools offer certain advantages to children with intellectual disabilities: they are staffed with teachers and specialists who have received training in special education, class sizes are smaller, and curricula are adapted. According to parents, however, the activities in special schools are more occupational than educational, and children do not learn even basic skills. The situation of people in social institutions is even more difficult, as some institutions provide no educational activities at all. Where there are educational programmes offered, there is no official oversight or monitoring to ensure minimal quality. There is an alarming lack of information on the number of children who may have no access to education at all.

Improving vocational training has been a focus of EU funding, and several different courses of vocational education are open to people with intellectual disabilities. Research indicates that few such people completing vocational training go on to secure employment, however. There is poor coordination between the education system and local employment offices: the training available does not reflect the needs of the market, leading to overproduction of goods or services. People with *moderate* to *severe* intellectual disabilities are only eligible for “training for independent living”, which does not lead to a professional qualification, and which does not prepare graduates for a specific field of work.

Croatia will be required to transpose the EU’s Employment Directive as part of the accession process; current anti-discrimination legislation provides protection for people

with disabilities, but does not specifically require employers to make “reasonable accommodation” for people with disabilities. The Government has elaborated measures to improve the level of employment among people with disabilities, which include subsidies for training and for modifying the workplace to increase accessibility. Initial reports on the implementation of these initiatives suggest employers remain reluctant to hire people with disabilities due to concerns about increased costs and lower efficiency. A broad public awareness campaign, undertaken in cooperation with NGOs active in the field, would help to overcome misperceptions about employing people with disabilities in general, and specifically people with intellectual disabilities.

People with intellectual disabilities are entitled to professional orientation services offered through local employment centres. However, relatively few people with intellectual disabilities actually register as unemployed when they complete their education, and do not take advantage of such services. Staff at local employment centres are generally not trained to work with people with intellectual disabilities, who themselves are often not aware that services such as additional counselling are available. An EU-financed scheme to train employment centre staff as mediators to work with people with disabilities could go far towards resolving this problem, but it is crucial that the training addresses the specific needs of people with intellectual disabilities.

While a quota system for the employment of people with disabilities exists in the public sector, at present no quotas are imposed on private businesses. Instead, measures subsidising the employment of people with disabilities, including training, are offered as part of a larger employment stimulus programme. Only limited statistics are available to indicate how many people with intellectual disabilities have found employment under these measures, but as the subsidies are available only for full-time positions, they are not suitable for many people with intellectual disabilities.

There is no provision that specifically establishes supported employment in Croatian law; vocational schools are expected to provide several years of follow-up support to their graduates, but this is rarely enforced. Civil society initiatives to train job coaches and help people with intellectual disabilities to establish their own social enterprises could serve as models in the development of Government employment policy. The number of sheltered workshops in Croatia has declined since 1993, due to Government cutbacks, but a number of people with intellectual disabilities are still employed in the largest of these workshops. People with *moderate* to *severe* intellectual disabilities are only eligible for “training for independent living”. They may receive training for performing simple work in a residential institution or special school, which does not prepare graduates for a specific field of work or result in vocational certification. The legal environment creates a disincentive for the employment of people with intellectual disabilities, as there are no regulations creating an opportunity for part-time work that would also secure their benefits. They may eventually obtain a type of Certificate of finished training, although the regulation of these certificates is poor –some people who complete this form of training do not even receive a certificate that they have done so. Such people have little hope of finding work, and almost

always remain dependent upon social welfare rather than actively participating in the community.

Croatia has set an ambitious course by drafting a variety of programmes to address the situation of people with disabilities, but must go further to meet the specialised needs of people with intellectual disabilities. While extensive support is available to people with intellectual disabilities and their families, access to these services is often hampered by excessively bureaucratic procedures, a lack of information, and poorly trained or insensitive staff in service centres. In both education and employment, an individual's success or failure depends too much upon the commitment and persistence of individuals, among families, teachers, or employers. Systemic measures to ensure that each person's needs are met are inadequate and without a dedicated advocate, people with intellectual disabilities have poor chances of receiving an education that will prepare them for an independent life, including a job on the open market. People with *moderate to severe* intellectual disabilities are particularly at risk due to inconsistencies between social welfare issues, educational, vocational and labour market regulations.

While much remains to be done to improve access to education and employment for people with intellectual disabilities in Croatia, there are models of good practice in both the State and NGO sectors. Building on these experiences, many of the obstacles can be overcome, and real, lasting improvements can be made.

ANNEX 1. Legislation cited in the report

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Law on Professional Rehabilitation and Employment of Disabled Persons, *Narodne novine*
No. 143/02

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Throughout Europe, people with intellectual disabilities face overwhelming stigma and prejudice and encounter significant barriers to realising their fundamental rights. EUMAP, the EU Monitoring and Advocacy Program of the Open Society Institute, in cooperation with the Open Society Mental Health Initiative, has monitored this situation in 14 countries throughout Europe, both EU members and candidate countries: *Bulgaria; Croatia; the Czech Republic; Estonia; Greece; Hungary; Latvia; Lithuania; the Netherlands; Poland; Romania; Slovakia; Slovenia and the UK*. Carried out by local experts and civil society groups, the monitoring focuses on the extent to which people with intellectual disabilities have access to education and employment. This series of reports presents the findings of the monitoring and also makes recommendations for improving the social inclusion of people with intellectual disabilities. The reports are also available at www.eumap.org.

Diljem Europe osobe s intelektualnim teškoćama izrazito su stigmatizirane, suočavaju se s predrasudama te nailaze na ogromne prepreke u ostvarivanju svojih temeljnih prava.

EUMAP (EU Program Monitoringa i zastupanja Instituta Otvoreno društvo), u suradnji s MHI (Inicijativom za Mentalno zdravlje istog instituta), pratio je položaj ovih osoba u 14 zemalja Europe, kako članicama EU tako i zemljama kandidatkinjama: *u Bugarskoj; Hrvatskoj; Češkoj; Estoniji; Grčkoj; Mađarskoj; Latviji; Litvi; Nizozemskoj; Poljskoj; Rumunjskoj; Slovačkoj; Sloveniji i Ujedinjenom Kraljevstvu*. Monitoring kojeg su provodili lokalni stručnjaci i organizacije civilnog društva usredotočen je na stvaran doseg pristupa ove skupine osoba obrazovanju i zapošljavanju. U ovoj seriji izvješća predstavljeni su nalazi monitoringa, ali su dane i preporuke za unapređivanje socijalne inkluzije osoba s intelektualnim teškoćama.

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