

*PART III Content for the EU dimension in Education for  
Democratic Citizenship*



## Introduction: Criteria for determining content for the EU dimension

### *148 Effects of a combined reading of EDC standards and EU law*

The central question for Part three is: what are the effects of a combined reading of EDC standards and EU law, as to the substance, for citizenship education of EU citizens? What are the implications for the content of EU learning at school? Provisions on EU citizenship, democracy, and education will be interpreted by taking account of EDC standards.

An additional question is to be kept in mind, in preparation for Part four on legal competence to provide for quality education. When setting norms for national education curricula, Member States must respect the minimum standards included in the international right to education. EDC standards, as analysed in Part one, are the development of compulsory educational aims laid down in international agreements, binding for all Member States. The International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child list the aims to which education 'shall be directed'. The aims include the preparation of the child for responsible life and effective participation in a free society, respect for human rights and fundamental freedoms, and promoting understanding, tolerance and friendship among all nations.<sup>1014</sup> The corollary of the international right to education and to quality education, is the obligation for States to provide for available, accessible, acceptable and adaptable education (the 4 A scheme, explained in Part four).<sup>1015</sup> What are the consequences of EU membership? To what extent does acceptable and adaptable education in EU Member States need an EU dimension? What is the impact of EU citizenship on the compulsory educational aims, the hallmark of quality education? Quality education is 'adapted to the requirements of modern, complex societies' and ensures that pupils' 'full potential

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<sup>1014</sup> Arts 13 ICESCR and 29 CRC. Core to all education is the full development of the human personality and the sense of its dignity. See n 81-82.

<sup>1015</sup> See Part four text to nn 2149- 2150.

as citizens' is developed'.<sup>1016</sup> Part three will provide elements for the analysis in Part four of the EU's competence to support quality education.

How should learning content for 'EU citizenship education' be defined? The adjectives used by scholars in their reflections on EU citizenship paint a discouraging picture: thin, pale, uncertain, fragile, frail, Cinderella, pseudo, small c, unstable, muddy, debated, immature, contentious, loose, ...<sup>1017</sup> These adjectives do not seem to support the need for genuine EU citizenship education; rather, they suggest that a thin, pale, uncertain, ... version of citizenship education will do. However, the full picture should be drawn, using EDC standards as a prism through which to look at EU law as a whole. What happens—as to the substance—when EDC standards meet EU law?

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1016 CoE Recommendation CM/Rec(2012)13 of the Committee of Ministers to member States on ensuring quality education (12 December 2012), appendix paras 2 and 23. Definition of quality education in para 6.

1017 See i.a. S O'Leary, 'The relationship between Community citizenship and the protection of fundamental rights in Community law' (1995) 32 CMLRev 519 (p 537: 'As it stands, citizenship could be regarded as a cosmetic exercise'); W Maas, 'Unrespected, unequal, hollow? Contingent Citizenship and Reversible Rights in the European Union' (2008-2009) 15 Columbia Journal of European Law 265 (the rights derived from EU citizenship are pale compared to national citizenship; author sketches three challenges: EU citizenship rights can be disrespected, contested, and fragile in their enforcement, 'rights remain reversible, and citizenship remains contingent'); D Kochenov, 'Ius tractum of many faces: European citizenship and the difficult relationship between status and rights' (2009) 15 Columbia Journal of European Law 169 (p 234 'reform of European citizenship is needed to make sure that is it "not merely a hollow or symbolic concept"'); N Nic Shuibhne, 'The Resilience of EU Market Citizenship' (2010) 47 CMLRev 1597 (small c, pseudo); J Shaw, 'Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism' in P Craig and G de Búrca (eds), *The evolution of EU law* (Oxford University Press 2011) (text to fnn 41, 128, 152: a rather thin transnational concept); citizenship of the Union has—for most people—a Cinderella status (p 605); citizenship still has an uncertain 'constitutional' role in the EuropeanUnion); D Kochenov and R Plender, 'EU Citizenship: From an Incipient Form to an Incipient Substance? The Discovery of the Treaty Text' (2012) 37 ELRev 369 (quasi, thin, incipient); D Kochenov, 'The Right to Have What Rights? EU Citizenship in Need of Clarification' (2013) 19 ELJ 502; Craig and de Búrca, *EU Law: Text, Cases, and Materials*, 890 (reference to criticism of thinness); K Lenaerts, 'EU citizenship and the European Court of Justice's "stone-by-stone" approach' (2015) 1 International Comparative Jurisprudence 1.

#### 149 Search for balanced 'EU citizenship education'

In general, 'citizenship education' is meant to educate individuals to be informed, responsible and active citizens. Since the 1992 Maastricht Treaty introduced EU citizenship into the Treaties, it seems natural to extend the expression 'citizenship education' by adding the word 'EU', and to consider 'EU citizenship education' to be the education of individuals as informed, responsible and active EU citizens, thus taking citizenship of the Union and the rights attached to this status since the Maastricht Treaty as the substance. However, this approach is unsatisfactory seen from two sides. It is both reductive, seen from the EU perspective, and excessive, seen from the Member State perspective. This approach does not go far enough, inasmuch as the EU citizen is more than 'citizenship of the Union' and the rights usually attached to that status imply (Articles 20–24 TFEU).<sup>1018</sup> At the same time, this approach goes too far, inasmuch as it may suggest that EU citizenship is a new citizenship to be forged by EU citizenship education in order to replace national citizenship. The aim of EU citizenship education should not be to create new citizens faithful to an EU super state in a huge social engineering exercise, neglecting national allegiances. Using the term 'citizenship education' in relation to the EU may create just such a false impression. For some, 'EU citizenship education' awakens high expectations of cultivating a sense of EU identity and feelings of belonging. For others, it leads to suspicion and fear that it will only further undermine national sovereignty and the nation state.<sup>1019</sup> Citizenship education is traditionally associated with states (a statal concept) and as such cannot be transposed to the EU. It needs a translation adequate (acceptable and adaptable) for the EU.<sup>1020</sup>

EU citizenship education needs to find a balanced position. On the one hand, the sphere of the Member States must be safeguarded, national iden-

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1018 See i. a. § 240.

1019 About fear of centralised 'superstate', see i.a. European Parliament Committee on Constitutional Affairs, Report on the Treaty of Lisbon (29 January 2008), Explanatory Statement to European Parliament resolution of 20 February 2008 on the Treaty of Lisbon, 1.4.

1020 See in general, N Walker, 'Postnational constitutionalism and the problem of translation' in JHH Weiler and M Wind (eds), *European Constitutionalism Beyond the State* (Cambridge University Press 2003); N Walker, 'European Constitutionalism in the State Constitutional Tradition' (2006) 59 Current Legal Problems 51, 51, on the question of 'translatability' of constitutionalism from the state tradition to the EU. See also GW Anderson, 'Beyond "Constitutionalism Beyond the State"' (2012) 39 Journal of Law and Society 359.

ties and the division of competences between the EU and the Member States must be respected (Articles 4 and 5 TEU). Ambitions with regard to EU citizenship and the realities of the nation state must be reconciled.<sup>1021</sup> The Convention on the Rights of the Child includes among compulsory educational aims ‘development of respect for the own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate’ (Article 29(1)(c)). On the other hand, Member States must respect EU law. As ‘Masters of the Treaty’, they have chosen to transfer competences to the EU in the Treaties and the EU exercises public power together with them. This inevitably has consequences for citizenship education. It requires learning about the EU.

‘EU citizenship education’ should therefore not be under-stated, nor over-stated (nor over-claimed, modelled on the State). It must find a path along the edge of both abysses, a nuanced approach. The constitutions of the Member States and the EU Treaties and CFR offer trustworthy and objective guidance, a basis for developing a balanced form of ‘EU citizenship education’.

### 150 *Statist thinking*

Are EDC standards applicable to the EU as a polity?<sup>1022</sup> Is postnational citizenship education possible? The classification of the EU within traditional concepts of political theory lead to contrasting views on EU citizenship

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1021 P Kirchhof, ‘The European Union of States’ in A von Bogdandy and J Bast (eds), *Principles of European Constitutional Law*, vol 8 (2nd edn, Hart Beck Nomos 2010) 738; E Spaventa, ‘Article 45: Freedom of Movement and of Residence’ in S Peers and others (eds), *The EU Charter of Fundamental Rights: a Commentary* (Hart 2014) 1169.

1022 Cf Shaw, ‘The many pasts and futures of citizenship in the European Union’, 563: ‘One insight to emerge from a discussion of citizenship as a background to the specific Union context has been that many of the concepts of nationality, national identity and nation which underlie the more “statist” approaches to the notion of citizenship are plastic in character’. See on the influence of globalisation on citizenship education in the nation state: Keating, ‘Educating Europe’s citizens: moving from national to post-national models of educating for European citizenship’; Philippou, Keating and Hinderliter Ortloff, ‘Citizenship education curricula: comparing the multiple meanings of supranational citizenship in Europe and beyond’; KJ Kennedy, ‘Global Trends in Civic and Citizenship Education: What are the Lessons for Nation States?’ (2012) 2 Education Sciences 121, 125 (‘If the idea of citizenship is changing, it follows that ideas about civic and citizenship education should also be changing. Yet such changes are by no means simple. Civic and citizenship education

education. If qualified as an international (intergovernmental) organisation, the EU does not need ‘citizenship’ education.<sup>1023</sup> Qualified as an emerging federal State, it does. Pure statal thinking causes much discomfort. In the context of statal thinking oriented towards the nation state, citizenship education aims at confirming the national identity and will perceive every form of EU citizenship education as a threat. In the context of statal thinking oriented towards the EU, EU citizenship education aims at creating the EU super state, nation-building for the United States of Europe. Neither forms of pure statal thinking can be reconciled with the Treaties: Member States have transferred competences to the EU level, on the one hand, but, on the other hand, the EU has no ‘Kompetenz-Kompetenz’ and must respect the national identity of the Member States.<sup>1024</sup> Binary thinking must be left behind. Balanced EDC does not glorify the nation state, nor does it serve as a federalising device enlarging the sphere of influence of the EU, ‘humiliating the state’.<sup>1025</sup>

It is worth noting that the concept of EDC in the Charter on EDC/HRE is not defined by reference to a state. EDC is about empowering learners ‘to exercise and defend their democratic rights and responsibilities *in society*, to value diversity and to play an active part *in democratic life*, with a view to the promotion and protection of democracy and the rule of law’ (para 2). EDC ‘focuses primarily on democratic rights and responsibilities and active participation, in relation to the civic, political, social, economic, legal and cultural *spheres of society*’.<sup>1026</sup> Instruments at UN level and scholars confirm that the perspective starts from the individual in society, not the State. Weiler writes: ‘Democracy is not about States. Democracy is about the exercise of public power—and the Union exercises a huge amount of public power’.<sup>1027</sup>

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has been embedded in traditional theoretical frameworks that assume it is linked to the needs of individual nations.’).

1023 Text to n 74.

1024 Text to n 1029.

1025 Cp G Davies, ‘The humiliation of the state as a constitutional tactic’ in F Amtenbrink and PAJ van den Berg (eds), *The Constitutional Integrity of the European Union* (Asser Press 2010); K Lenaerts and JA Gutiérrez-Fons, ‘Epilogue on EU Citizenship: Hopes and Fears’ in D Kochenov (ed), *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press 2017).

1026 In the same sense, UN instruments, see i.a. n 979 and accompanying text. See also n 307, and text to n 2208 ff.

1027 JHH Weiler, ‘United in Fear: The Loss of Heimat and the Crises of Europe’ in L Papadopoulou, I Pernice and JHH Weiler (eds), *Legitimacy issues of the Euro-*

### 151 The adaptation perspective: adding an EU dimension to national EDC

The issue of ‘EU citizenship education’ can be approached in four meta-theoretical ways (by analogy to Walker’s four meta-theoretical perspectives on the relationship between State, constitution, and EU).<sup>1028</sup> From the *mis-categorisation* perspective, ‘EU citizenship education’ is impossible: citizenship education is part of the State tradition and does not apply to the EU, because the EU is not a State and not intended to become one.<sup>1029</sup> From the *continuity* perspective, ‘EU citizenship education’ is a prolongation of national citizenship education, because the EU can be considered a form of federal State, or, at least, has sufficient state-like features.<sup>1030</sup> Both the misclassification and the continuity perspective remain ‘under the shadow of the state’.<sup>1031</sup> The *nominalist* perspective perceives the issue as a matter of ‘only semantics’.<sup>1032</sup> Here ‘EU citizenship education’ is freestand-

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pean Union in the face of crisis: Dimitris Tsatsos in memoriam (Nomos 2017) 366. Further text to nn 2208 ff.

1028 Walker, ‘European Constitutionalism in the State Constitutional Tradition’. The question of ‘EU citizenship education’ and the label ‘constitution’ for EU primary law have this point in common: the discomfort caused by the state paradigm.

1029 Art 4(2) TEU; EU Accession to the ECHR *Opinion 2/13* ECLI:EU:C:2014:2454, i.a. paras 156 and 193. See also analysis in Kirchhof, ‘The European Union of States’, 754 (‘the EU lacks the essential characteristics of a modern state’); C Calliess, ‘EU-Vertrag (Lissabon) Art 1’ in C Calliess and M Ruffert (eds), *EUV/AEUV: das Verfassungsrecht der Europäischen Union mit Europäischer Grundrechtecharta: Kommentar* (5th edn, Beck 2016), Rn 27 ff, Rechtsnatur der EU.

1030 GF Mancini, ‘Europe: The Case for Statehood’ (1998) 4 ELJ 29; GF Mancini, ‘The making of a constitution for Europe’ (1989) 26 CMLRev 595. On federalism and the EU: K Lenaerts, ‘Constitutionalism and the Many Faces of Federalism’ (1990) 38 The American Journal of Comparative Law 205; C Schönberger, ‘European Citizenship as Federal Citizenship: Some Citizenship Lessons of Comparative Federalism’ (2007) 19 European Review of Public Law 63; K Lenaerts, ‘EU Federalism in 3-D’ in E Cloots, G De Baere and S Sottiaux (eds), *Federalism in the European Union* (Hart 2012); Calliess, ‘EU-Vertrag (Lissabon) Art 1’, Rn 27 ff; D Kochenov (ed) *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press 2017); D Kochenov, ‘On Tiles and Pillars: EU Citizenship as a Federal Denominator’ in D Kochenov (ed), *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press 2017), i.a. p 17 fn 74.

1031 Walker, ‘European Constitutionalism in the State Constitutional Tradition’, 54.

1032 Ibid, 53 (‘constitutionalism can mean whatever we want it to mean within the very broad framework of whatever may be considered desirable by way of the regulation of political authority’).

ing, independent of the state tradition, and based on its own definition according to what is desirable, *sui generis*.<sup>1033</sup> If the EU is a *sui generis* supranational organisation, *sui generis* citizenship education may be appropriate. I will not defend such a position, as Member States' traditions are deeply rooted and are the basis for the current way of framing citizenship education. Statal thinking is in our genes and it forms the starting point. The preamble of many constitutions of Member States bear witness to the past suffering of the nation and affirm the sovereignty and independence of the State.<sup>1034</sup> Respect for Member States' histories, opinions and feelings of belonging, and for constitutional structures, however, does not exclude the incorporation of an EU *dimension* in national citizenship education. From the *adaptation* perspective, state citizenship education remains the key contemporary frame, but is flexible and open, acceptable and adaptable to the EU and EU citizenship through the addition of an EU dimension. It is 'taking the state tradition seriously without being paralysed by its legacy'.<sup>1035</sup>

Acknowledging the many debates on the nature of EU citizenship and the EU (and on their contours for the future),<sup>1036</sup> it is from the adaptation perspective that the following analysis will explore how to add an EU dimension to EDC which respects EU law and national constitutions. This

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1033 For arguments against the *sui generis* qualification, see R Schütze, 'On "federal" Ground: The European Union as an (Inter)national Phenomenon' (2009) 46 CMLRev 1069, 1091–2.

1034 See i.a. preamble to the constitution of the Czech Republic, Croatia, Ireland, Italy, Lithuania, Poland, Slovenia. National identities are to a certain extent constructed, i.a. by recalling (or selectively remembering) common historic experiences. See E Hobsbawm and T Ranger (eds), *The Invention of Tradition* (first published 1983, Cambridge University Press 1992); Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*.

1035 Walker, 'European Constitutionalism in the State Constitutional Tradition', 55 (see p 56 ff).

1036 For further reflections on the nature and possible qualifications of the EU, see nn 1030, 1702 and text. Further i.a. K Lenaerts, 'Interlocking Legal Orders in the European Union and Comparative Law' (2003) 52 International and Comparative Law Quarterly 873; Schermers and Blokker, *International Institutional Law: Unity within Diversity*; C Timmermans, 'How to Define the European Union?' in F Goudappel and E Hirsch Ballin (eds), *Democracy and Rule of Law in the European Union: Essays in Honour of Jaap W de Zwaan* (Springer 2014); Klabbers, 'Straddling the Fence: The EU and International Law'; N Walker, 'The Philosophy of European Union Law' in D Chalmers and A Arnulf (eds), *The Oxford Handbook of European Union Law* (Oxford Handbooks Online 2015); Rosas and Armati, *EU Constitutional Law: An Introduction* 7 (an elephant that cannot be defined).

will adjust traditional citizenship education to the EU supranational system, a multilevel system of governance. The German Constitutional Court, for instance, has emphasised that the EU is not a State and that it should not be compared to one for its democratic legitimisation. Participation of Germany in the EU does not mean that a federal State is coming into being, but is about ‘an *extension* of the constitutional federal model by a supranational cooperative *dimension*’.<sup>1037</sup> Applying this reasoning to EDC, the national EDC model needs *extending* by a supranational *dimension*. At present, citizens experience the EU predominantly through the lens of their own Member State.<sup>1038</sup> Education has to connect to this (statal) reality. In an adaptation perspective, I will explore how to extend existing national EDC with a view to including an EU dimension consistent with EU law.

### 152 EDC in mainstream education

How can relevant content for an EU dimension of EDC adapted to *mainstream education* be defined? Inside and outside school, there may be valuable EU learning projects, often provided ad hoc, or by enthusiastic teachers doing more than is required by the curriculum.<sup>1039</sup> While they deserve due credit for this, the concern is that this EU learning only ever reaches small numbers of young EU citizens. EDC standards aim to educate *all* learners for democracy, not a group of voluntary learners, not a select group. Article 10(3) TEU provides that *every citizen* shall have the right to participate in the democratic life of the Union. The Charter on EDC/HRE states that member states should be guided by the ‘aim of providing *every person* within their territory with the opportunity of education for democratic citizenship and human rights education’.<sup>1040</sup> In view of this aim, this analysis will explore what is relevant content for an EU dimension of EDC in mainstream education in schools. ‘Mainstream education’ refers to the

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1037 *BVerfG*, 2 *BvE* 2/08 (*Lissabon*) 30 June 2009, Absatz-Nr (1-421), para 277 (‘Nicht nur aus der Sicht des Grundgesetzes handelt es sich bei der Beteiligung Deutschlands an der Europäischen Union indes nicht um die Übertragung eines Bundesstaatsmodells auf die europäische Ebene, sondern um die Erweiterung des verfassungsrechtlichen Föderalmodells um eine überstaatlich kooperative Dimension’).

1038 See C Schönberger, ‘Foreword. European citizenship as federal citizenship: studying EU citizenship through the federal lens’ in D Kochenov (ed), *EU Citizenship and Federalism: The Role of Rights* (Cambridge University Press 2017) xxviii.

1039 See n 39. Also first caveat, text to n 570 ff.

1040 Charter on EDC/HRE, para 5 (a). See also § 241 .

compulsory levels of ‘formal education’, defined as ‘the structured education and training system that runs from pre-primary and primary through secondary school and onto university’.<sup>1041</sup> Formal education is normally provided by general or vocational educational institutions. Schools are institutions providing formal education at primary and secondary level.<sup>1042</sup> Formal learning is the foundation for lifelong learning and is important in qualitative and quantitative terms. Delors observes that it is very tempting to focus on the educational potential of the modern media, yet he warns that people will not be able to make good use of potential resources outside schools unless they have received a sound basic education, fostering intellectual curiosity:

nothing can replace the formal education system, where each individual is introduced to the many forms of knowledge. There is no substitute for the teacher—pupil relationship, which is underpinned by authority and developed through dialogue. This has been argued time and time again by the great classical thinkers who have studied the question of education.<sup>1043</sup>

Moreover, at present, learning through and from the media has been undermined because of fake news or disinformation. More than half of the respondents in a 2018 European Barometer tend not to trust media.<sup>1044</sup> The quantitative importance of formal learning is illustrated by the huge

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1041 Charter on EDC/HRE, para 2 (leading to certification), also para 6. See further definitions in Art 2 Erasmus+ Regulation 1288/2013. See also para 5(c): all means of education have to play a part, also non-formal and informal. Overview in figure in Annex 5 to this study.

1042 Text to n 4.

1043 Delors, ‘Education: The Necessary Utopia’, 19. Additionally important: Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the recognition of the value of non-formal and informal learning within the European youth field [2006] OJ C168/1. In several contexts, I will argue that information and awareness-raising do not suffice, education is needed (see i.a. text to n 1587).

1044 Standard Eurobarometer 89, Public Opinion in the European Union (June 2018): on average 56% of respondents in the EU tend not to trust the media (e.g. FI 23%, DK 36%, LU 42%, DE 47%, HU 60%, FR 66%, EL 77%), while 40% tend to do so. See also Flash Eurobarometer 464, Fake News and Disinformation Online (March 2018): traditional sources are more trusted, such as radio (70%), television (66%) and printed media (63%); online sources are trusted less, such as online newspapers and magazines (47%), video hosting websites and podcasts (27%) and online social networks and messaging apps (26%).

number of hours which pupils spend in classrooms. On average, 15 years of life are spent in schools. Instruction in classroom settings absorbs a large proportion of public investment, which is crucial to effective schooling.<sup>1045</sup> Given its aim of not only preparing young people for employability, but also for life as responsible citizens in a democratic society, formal learning should reach as many young EU citizens as possible in a systematic way. To that effect, I propose that EU learning should be included in compulsory levels of mainstream education, in general curricula in primary and secondary schools, adapted for different levels of difficulty. The last years of secondary education are a particularly valuable time for exercising critical thinking with regard to the EU. Accordingly, higher education programmes for future teachers, multipliers of EU knowledge, need to be adapted (an EU dimension in the training of trainers).<sup>1046</sup>

A 2017 Eurobarometer reports:

A large majority (89%) agree national governments should strengthen school education about rights and responsibilities as EU citizens. More than eight in ten also agree that learning about European matters, such as the functioning of the EU and its institutions, EU history or European culture, should be part of compulsory school education (83%).<sup>1047</sup>

In principle, mainstream education includes all curricula, not only specialised curricula with a special focus on the EU, such as economics, and not only curricula targeted at the more gifted pupils before they attend university. It also includes vocational training curricula. Given an observed 'middle-class bias' (higher representation of members of the middle class

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1045 See overview in Commission/EACEA/Eurydice, *Compulsory Education in Europe 2019/20—Facts and Figures*, 6. Profiles in OECD, *Education at a Glance 2017: OECD Indicators* (OECD 2017), 61. ISCED levels in Commission/EACEA/Eurydice, *Citizenship Education in Europe* (2012), 106 (ISCED 2: Lower secondary education; ISCED 3: Upper secondary education).

1046 See on teacher training, Charter on EDC/HRE, paras 7 and 9; CoE, *Learning to live together: Council of Europe Report on the state of citizenship and human rights education in Europe*, i.a. 53, 61, 69–70, 87 (EDC/HRE provision in teacher training is considered as insufficient).

1047 Flash Eurobarometer 455, European Youth (January 2018); interviewed respondents were aged 15–30 (survey conducted by TNS political & social at the request of the European Commission, DG Directorate-General for Education, Youth, Sport and Culture). See also Flash Eurobarometer 319b, Youth on the Move: Education and training, mobility, employment and entrepreneurship (May 2011), 9.

in participation forums),<sup>1048</sup> the EU dimension should be inserted into technical and professional education programmes. Future doctors and future electricians, future white- and blue-collar workers are all future EU citizens whom the EU seeks to put at the centre of its project and who must be empowered to participate in the democracy aspired to. They all deserve an EU dimension in the various forms and levels of education they receive.<sup>1049</sup> Therefore, by analogy with the mainstreaming of gender equality in education,<sup>1050</sup> it is submitted that an EU dimension too should be mainstreamed in education, in application of EDC standards.

### 153 *Four criteria for determining relevant content for the EU dimension of EDC*

Possible content for the EU dimension in mainstream education will be explored. The EU is active in many policy fields influencing citizens' lives. Manuals to introduce students in higher education to the EU and textbooks on EU law cover hundreds (thousands) of pages. What should be selected for pupils in schools? Obviously, not all pupils need to know about the right to deduct value added tax and the conditions for doing so pursuant to Directive 2006/112, nor about the obligation to respect milk quotas in the common agricultural policy. Schools can emphasise different aspects of the EU dimension of EDC in general or vocational training, depending on curriculum specialisations.<sup>1051</sup> The purpose of this Part is to explore those aspects of EU law which may have particular relevance for an

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1048 Opinion of the European Economic and Social Committee on 'The transition towards a more sustainable European future— a strategy for 2050' [2018] OJ C81/44, paras 3.4.6 and 5.2.4.

1049 Facts in *Education at a Glance 2017: OECD Indicators*. See also Special Eurobarometer 471, Fairness, inequality and inter-generational mobility (December 2017): 41% of the respondents had completed secondary education, 16% had completed primary education. Working respondents are manual workers (41%), white collar workers (23%), managers (21%), 15% self-employed.

1050 CoE Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education (10 October 2007), para 37; Explanatory memorandum to the Charter on EDC/HRE, para 6. See also recital 5 in Decision 1093/2012/EU of the European Parliament and of the Council of 21 November 2012 on the European Year of Citizens (2013) [2012] OJ L325/1; and Struthers, 'Human Rights: A Topic Too Controversial for Mainstream Education?'.

1051 Certain EU policies have more relevance depending on specific curricula (e.g. chemistry, finance, commerce, economy, culture, agriculture, joinery, electricity, or technology and environment). Examples in section on EU rights (i.a. text to n 2061).

EU dimension of EDC in mainstream education on the basis of four criteria. The criteria (i-iv) are based on a combined reading of EU primary law and EDC standards as explained in Part one. All four criteria (i-iv) are applied to the concept of EDC as defined in Chapter One, including its three empowerment aims (c-1 to c-3). This confirms the importance of having identified a commonly accepted concept of citizenship education in Part one and having analysed its effects in the EU legal order in Part two.<sup>1052</sup>

### *154 (i) Additional content*

In national EDC, pupils (supposedly) learn about the concepts of democracy, citizenship rights, values such as equality, justice, etc., based on Member State law and structures.<sup>1053</sup> They exercise skills, such as critical thinking, and develop attitudes based on respect and tolerance. They are introduced to human rights, which are universal. What does the EU level of governance have to add to this? A combined reading of EU primary law defining EU citizenship (Articles 9 TEU and 20 TFEU) and the Charter on EDC/HRE (paragraph 2) leads to the first criterion for the EU dimension: does it provide *additional* content for national EDC?

The 1992 Maastricht Treaty established the legal concept of ‘citizenship of the Union’. The 1997 Amsterdam Treaty added that Union citizenship ‘shall complement and not replace national citizenship’. The 2009 Lisbon Treaty replaced the word ‘complement’ by ‘additional’, reinforcing the idea that, in principle, EU citizenship does not detract from national citizenship rights, but adds further rights.<sup>1054</sup> Reiterating article 9 TEU, Article 20(1) TFEU states that:

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1052 § 129.

1053 Council Recommendation of 22 May 2018 on key competences for lifelong learning, Annex: A European Reference Framework, 6: Citizenship competence ('knowledge of basic concepts'). See concepts mentioned in Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning, Annex, Civic competences.

1054 Cp ex Art 8 of Treaty on European Union, signed at Maastricht on 7 February 1992 [1992] OJ C191/1; ex Art 17 of the Treaty on European Union; and Art 20(1) TFEU. See Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on 13 December 2007 [2007] OJ C306, Art 2(34) amending Art 17 of the Treaty establishing the European Community. Already in 1992, Closa wrote: ‘The distinctive element of the concept of citizenship of the Union is the enjoyment of rights and the subjection to the obligations granted by the Treaty (Article 8.2). This determines the first characteristic of citizenship: additionality’: C Closa,

Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be *additional* to and not replace national citizenship.<sup>1055</sup>

The relationship between national citizenship and EU citizenship is not ‘either/or’ but ‘both/and’.<sup>1056</sup> EU citizenship is not self-standing; nor is EU citizenship education. The legal status of EU citizenship is derived from national citizenship inasmuch as Member States define who are their nationals and these nationals automatically become EU citizens by virtue of the definition in the Treaties. This legal automatism is (unfortunately) not an educational automatism: education as an EU citizen does not automatically follow from education as a national citizen. Extra efforts are needed to transform national citizens, additionally, into empowered EU citizens.

Because EU citizenship is additional to national citizenship, ‘EU citizenship education’ can be defined as national citizenship education with an additional EU dimension; in other words, as national EDC which incorporates an EU dimension. The expression ‘the EU dimension of EDC’ is to be preferred to ‘EU citizenship education’, as the latter may raise suspicions of an intention to replace national citizenship with EU citizenship, and national identities with an EU identity, which would be in breach of the Treaties.

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‘The concept of citizenship in the Treaty on European Union’ (1992) 29 CML-Rev 1137, 1160. See also Shaw, ‘Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism’, text to fn 109 ff.

1055 My emphasis. Cp ‘La citoyenneté de l’Union s’ajoute à la citoyenneté nationale et ne la remplace pas’; ‘Die Unionsbürgerschaft tritt zur nationalen Staatsbürgerschaft hinzu, ersetzt diese aber nicht’; ‘Het burgerschap van de Unie komt naast het nationale burgerschap doch komt niet in de plaats daarvan’. See also Art 9 TEU.

1056 EDH Olsen, ‘European Citizenship: Mixing Nation State and Federal Features with a Cosmopolitan Twist’ (2013) 14 Perspectives on European Politics and Society 1, 4. See also European Parliament Resolution of 26 September 2006 on initiatives to complement school curricula providing appropriate support measures to include the European dimension [2006] OJ C306E/100, para 13 (‘Stresses that the European dimension complements national content, but neither replaces nor supplants it’); M van den Brink, ‘The Court and the Legislators: who should define the scope of free movement in the EU?’ in F De Witte, R Bauböck and J Shaw (eds), *Freedom of movement under attack: Is it worth defending as the core of EU citizenship?* (EUI Working Papers RSCAS 2016/69, 2016), 25 (‘EU citizenship is not about the centralisation of rights and about replacing the democratically legitimised substance of national laws by uniform European ones’).

Part three aims to analyse the additional EU dimension of EDC *based on EU law*. EDC aims to empower citizens ‘to exercise and defend their democratic rights and responsibilities in society’ (c-1), ‘to value diversity’ (c-2), and ‘to play an active part in democratic life’ (c-3), with a view to the promotion and protection of democracy and the rule of law.<sup>1057</sup> To achieve this empowerment, EDC equips learners with ‘knowledge, skills and understanding’ and develops ‘their attitudes and behaviour’ (b). In the context of Council of Europe standard- setting, the components of EDC standards have been chosen to be multi-purpose, flexible, and dynamic, in order ‘to allow member states to adapt them to suit their own needs and the distinct cultural contours of their own societies’.<sup>1058</sup> They can thus be adapted to suit the needs of EU Member States. The intention in adopting an EDC common denominator was to allow for diversity of approach.

In order to apply EDC standards to democracy beyond the State, and without going into theoretical reflections on democracy and postnational citizenship, I will—pragmatically—formulate content for the components of the EDC concept of the Charter on EDC/HRE on the basis of EU law, in interaction with national law.<sup>1059</sup> This empirical approach, based on legal realities, ensures a stable (safe) start for EDC. It cannot be contested

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1057 Definition of EDC in Charter on EDC/HRE, para 2. Components numbered in § 27.

1058 See i.a. Thorbjørn Jagland, CoE Secretary General, Preface in Competences for democratic culture: Living together as equals in culturally diverse democratic societies (CoE 2016), 8, also 31.

1059 Literature on democracy and the EU is immense. See, i.a., E Stein, ‘International integration and democracy: no love at first sight’ (2001) 95 *American Journal of International Law* 489; Verhoeven, *The European Union in Search of a Democratic and Constitutional Theory*; W Durner, ‘*Streitbare Demokratie*’ (2003) 128 *Archiv des öffentlichen Rechts* 340; A Peters, ‘European democracy after the 2003 Convention’ (2004) 41 *CMLRev* 37; D Halberstam, ‘The bride of Messina: constitutionalism and democracy in Europe’ (2005) 30 *ELRev* 775; JP McCormick, ‘Habermas, Supranational Democracy and the European Constitution’ (2006) 2 *European Constitutional Law Review* 398; G de Búrca, ‘Developing Democracy beyond the State’ (2007-2008) 46 *Columbia Journal of Transnational Law* 221; Habermas, *Zur Verfassung Europas. Ein Essay*; F de Witte, ‘Union Citizenship and Constrained Democracy’ in M De Visser and AP van der Mei (eds), *The Treaty on European Union 1993-2013: Reflections from Maastricht* (Intersentia 2013); J Habermas, ‘Democracy, Solidarity and the European Crisis’ (KU Leuven, 26 April 2013); Lenaerts, ‘The principle of democracy in the case law of the European Court of Justice’; Nicolaïdis, ‘European Democracy and Its Crisis’; S Rummens and S Sottiaux, ‘Democratic Legitimacy in the Bund or ‘Federation of States’: the Cases of Belgium and the EU’ (2014) 20 *ELJ* 568; L Van Middelaar and P Van Parijs (eds), *After*

that national EDC needs to be consistent with EU law.<sup>1060</sup> EU law contributes to the content of the EU dimension of EDC since it inevitably impacts on the components of the EDC concept. Starting from the EDC concept as defined in the Charter on EDC/HRE, my purpose is to explore the effects of EU law on the component parts of EDC. To what extent does EU law, in interaction with Member State law, produce *additional* democratic rights and responsibilities for EU citizens in society (c-1), *additional* elements to value diversity (c-2) and *additional* elements enabling them to play an active part in democratic life (c-3)? To empower EU citizens, which *additional* knowledge, skills, attitudes and behaviour (b) are needed, adapting national EDC? As for HRE, what is the additional EU dimension needed (interconnected with EDC) in order to contribute to the building and defence of a universal culture of human rights in European society?

155 (ii) *Significant content, i.e. relating to foundational values, objectives and principles laid down in EU primary law*

Some of the *additional* content for EDC components, satisfying criterion (i), may be of marginal significance for the average pupil, e.g. rights or obligations relating to fisheries. Therefore, a second criterion for main-

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*the Storm: How to Save Democracy in Europe* (Lannoo 2015); J Hoeksma, *From Common Market to Common Democracy: A Theory of Democratic Integration* (Wolf Legal Publishers 2016). See further mentioned scholars on constitutionalism and on citizenship. Also EF Isin and BS Turner, *Handbook of Citizenship Studies* (Sage 2002); D Kostakopoulou, 'Ideas, Norms and European Citizenship: Explaining Institutional Change' (2005) 68 *The Modern Law Review* 233; S Besson and A Utzinger, 'Introduction: Future Challenges of European Citizenship - Facing a Wide-Open Pandora's Box' (2007) 13 *ELJ* 573; D Kostakopoulou, 'European Union Citizenship: Writing the Future' (2007) 13 *ELJ* 623; M Aziz, 'Implementation as the Test Case of European Citizenship' (2009) 15 *Columbia Journal of European Law* 281; G Davies, 'The entirely conventional supremacy of Union citizenship and rights' in J Shaw (ed), *Has the European Court of Justice Challenged the Member State Sovereignty in Nationality Law?* (EUI Robert Schuman Centre for Advanced Studies Paper 62, 2011); A Iliopoulou-Penot, 'The Transnational Character of Union Citizenship' in M Dougan, NN Shuibhne and E Spaventa (eds), *Empowerment and Disempowerment of the European Citizen* (Hart 2012); EF Isin, 'Citizens without Nations' 30 *Environment and Planning D: Society and Space* 450; A Iliopoulou-Penot, 'Citoyenneté de l'Union, mobilité et intégration dans l'espace européen' (2014) 134 *Revue de l'OFCE* 29; D Kostakopoulou, 'Scala Civium: Citizenship Templates Post-Brexit and the European Union's Duty to Protect EU Citizens' (2018) 56 *JCMS* 1.

1060 On the solidity of EU primary law as a basis for EDC, see text to nn 1141-1086, and following section.

stream education is proposed: is the additional content *significant* in the sense of relating to foundational values, objectives and principles laid down in EU primary law? This second criterion guarantees, moreover, that EDC is connected to the specific characteristics of the EU. It responds to the need to guard the constitutional red line.<sup>1061</sup> As is clear from Part two, applying the EDC standards of the Council of Europe in the EU legal order must at all times respect the specific characteristics of the EU. EU primary law and its foundational values, objectives and principles will constitute an essential pillar in the learning method proposed in Chapter five. The second criterion is also in line with EU secondary law on civic and citizenship competences, by reference to the foundational values, objectives or principles.<sup>1062</sup>

### *156 (iii) Inviting critical thinking*

A third criterion for examining the relevance of content for the EU dimension of EDC in mainstream education is: does it invite critical thinking? In order to empower the learner, EDC needs to do more than merely convey additional and significant knowledge.<sup>1063</sup> EDC standards aim to educate learners for active and responsible citizenship. The purpose is not to imbue pupils with common EU orthodoxies without reflection, but to encourage

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1061 See §§ 142 – 144.

1062 See, i.a., Council Recommendation of 22 May 2018 on key competences for lifelong learning, para 2.7, Annex: A European Reference Framework, 6: Citizenship competence. Before: Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning. Within the description of civic competences, an EU dimension is present: reference to the CFR and application of the concepts mentioned by institutions at EU level; moreover, '[k]nowledge of European integration and of the EU's structures, main objectives and values is also essential, as well as an awareness of diversity and cultural identities in Europe.' See further Regulation 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020 [2013] OJ L354/62, Art 4(2)(a) (aim at better exercise of the rights of citizens and pursue this objective by 'enhancing awareness and knowledge of Union law and policies as well as of the rights, values and principles underpinning the Union'); Erasmus+ Regulation 288/2013, Art 4f (the promotion of European values in accordance with Art 2 TEU); Council Regulation (EU) No 390/2014 of 14 April 2014 establishing the 'Europe for Citizens' programme for the period 2014-2020 [2014] OJ L115/3, Art 2.

1063 Charter on EDC/HRE, para 5(g), explanatory memorandum para 35 ('In both [EDR and HRE] there is an emphasis on the outcome of such education being not simply knowledge but empowerment, leading to appropriate action').

them to think critically, which is an essential part of competences in a democratic culture. The importance of critical thinking is clear from Parts one and two and has been continuously stressed by all actors.<sup>1064</sup> In line with the controversy principle in citizenship education,<sup>1065</sup> uncertainties

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1064 Critical thinking is part of EDC standards in the CoE and in the EU context. While not mentioned as such in the Charter on EDC/HRE, it is an essential in the Competences for democratic culture: Living together as equals in culturally diverse democratic societies (CoE 2016), p 10–11 (3 bodies of knowledge and critical understanding), p 13 ('Analytical and critical thinking skills are the skills required to analyse, evaluate and make judgments about materials of any kind (e.g. texts, arguments, interpretations, issues, events, experiences, etc.) in a systematic and logical manner; see also p 44–46); also CoE Reference Framework of Competences for Democratic Culture, Vol 1: Context, concepts and model (2018), Glossary: critical understanding involves active reflection on and critical evaluation of that which is being understood and interpreted (as opposed to automatic, habitual and unreflective interpretation); ibid, p 15: aims of education: 'The corresponding pedagogy is not only instrumental but also educational. It reflects a long education tradition, based on humanistic ideas and reflected in the concept of *Bildung*: the lifelong process enabling people to make independent choices for their own lives, to recognise others as equals and to interact with them in meaningful ways'. See CoE Reference Framework of Competences for Democratic Culture, Vol 2: Descriptors of competences for democratic culture (2018), i.a. key descriptors i.a. 120, 122, 124, 125, 127, 131, 134, also descriptors 2047- 2049. See earlier CoE Recommendation CM/Rec(2008)12 of the Committee of Ministers to member states on the dimension of religious and non-religious convictions within intercultural education (10 December 2008), appendix para 5. In the EU: Council Recommendation of 22 May 2018 on key competences for lifelong learning [2018] OJ C189/1, recitals 7 and 17, Annex 'Key competences' and 'Citizenship competence' ('This involves critical thinking and integrated problem solving skills, as well as skills to develop arguments and constructive participation in community activities, as well as in decision-making at all levels, from local and national to the European and international level'); see also critical thinking as skill in literacy, digital, and entrepreneurship competence. Before: Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (critical thinking present throughout the Reference Framework). See also Commission/EACEA/Eurydice, Citizenship Education in Europe (2012), 8. See in general the need for critical thinking in the caveats raised by scholars with regard to EDC or citizenship education, i.a. in text to n 581, with significant academic work. For Germany, see the controversy principle of the Beutelsbacher consensus. Further, the increased attention to critical thinking to prevent radicalisation in Part two (§§ 127 128 ), including the Paris declaration; and Council Conclusions of 30 May 2016 on developing media literacy and critical thinking through education and training [2016] OJ C212/5. See also n 1221.

1065 Text to nn 587 and 1243.

and the controversial aspects of the EU and EU citizenship must be acknowledged in the classroom. Because of its importance, the criterion of critical thinking is given special attention in the section on case teaching (second pillar of the learning method proposed in Chapter five).

*157 (iv) Affecting the large majority of EU citizens, including 'static' citizens*

Finally, some of the additional (i) and significant (ii) content of the EU dimension of EDC may seem irrelevant to mainstream education because it relates to limited categories of citizens or to very specific situations. This leads to a fourth criterion (leaving what is probably the most problematic question to the end): does the EU dimension content 'affect' the large majority of citizens, who are mainly 'static'? Static citizens are citizens who live at home in the Member State of which they are a national and are EU citizens as a consequence of that State being an EU Member State (Article 9 TEU).<sup>1066</sup> The word 'affect' is used here in a broad sense, not necessarily requiring a legal relationship of rights and duties, but in a social sense: is the content of the EU dimension relevant to more than a small fraction of the population? Should all pupils be given the opportunity of learning about it, in keeping with EDC standards? The EU is sometimes perceived as a market, of importance only for economic actors, or as a norm-setter for crossborder situations, important only for mobile citizens. The Commission defines 'mobile citizens' as EU citizens residing in another EU Member State.<sup>1067</sup> Making this definition somewhat more specific, I propose to adopt the following working definition (commonly used for statistics): the mobile citizen is the citizen who lives for at least one year in another Member State.<sup>1068</sup> Less than 4 per cent of EU citizens are mobile,

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1066 Cp Special Eurobarometer 346, *New Europeans* (April 2011), 5.

1067 Commission, Press release 'European Commission upholds free movement of people' (2014); the Commission relates that 'at the end of 2012, 14.1 million citizens were living in a Member State other than their own for one year or more'. The OECD Economic Survey of the EU 2012 reports that 0.29% of the EU citizens are mobile (annual cross-border mobility rate in the EU compared to the USA and Australia).

1068 J Salamońska and E Recchi, *Europe between mobility and sedentarism: Patterns of cross-border practices and their consequences for European identification* (EUI Working Paper RSCAS 2016/50, 2016), 2; Eurostat Glossary; see also Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers [2007] OJ L199/23, Art 2(1)(b). Working definition reconsidered in text to nn 1457 ff.

more than 96 per cent are static.<sup>1069</sup> To what extent is an EU dimension of EDC relevant for the static citizen? In 2011, Shaw reflected: 'Whether and how additionality might play out as Union citizenship gradually becomes more significant within rather than solely across the boundaries of the Member States is as yet unclear'.<sup>1070</sup> I will explore the relevance of EU law for those who stay within the boundaries of their Member State and examine what it adds to the components of EDC.

### *158 Simplicity is not a criterion*

To determine relevant content for the EU dimension of EDC in mainstream education, all four criteria should preferably be satisfied. Ideally, seen from the perspective of the learner, the additional content of the EU dimension should also be easy to understand. However, simplicity has not been chosen as a criterion for EDC content. Living together as 27 Member States in one space is not simple. Balancing various interests often requires complex rules. Awareness of complexity and learning how to handle it, is part of education for democracy and respect for pluralism. The complexity of the EU is sometimes used as a counterargument: the EU is too complex for learning at school. However, its complexity is precisely why EU learning is necessary. The essential elements of the EU must be explained and reflected on in schools to empower EU citizens. Adult citizens rarely use their leisure time to discover what an EU directive is. Education teaches us how to address complex issues. The Latin texts of Cicero and mathematical problems are not simple either. Teachers and pupils should not be underestimated. Challenges are an inherent part of all learning. Citizenship education and the EU are no exception. Democracy and the rule of law are not only required in simple situations, on the contrary.

This does not mean that the (sometimes complex) rights and arguments in the following analysis are intended to serve as didactic material for schools. Rather, the analysis should function as legal fieldwork, a foundation for schools and for educational authorities who intend to add an EU dimension to EDC in mainstream education. These actors must develop adequate materials, simplifying EU law while keeping the fundamentals

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<sup>1069</sup> See <[ec.europa.eu/eurostat/statistics-explained/index.php/Migration\\_and\\_migrant\\_population\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Migration_and_migrant_population_statistics)>; on 1 January 2017, 16.9 million persons lived in one EU Member State with the citizenship of another EU Member State (Romanian, Polish, Italian, Portuguese and German citizens were the five biggest groups of EU-citizens living in other EU Member States in 2017).

<sup>1070</sup> Shaw, 'Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism', sub-heading D 1.

intact. This is a challenging but unavoidable task in a society based on democracy, fundamental rights and the rule of law.<sup>1071</sup>

### *159 Outlining the content for the EU dimension*

Applying the four relevance criteria, I will now use a combined reading of EU law and EDC standards as a basis for specific EU learning content. The aim is to analyse how EU law impacts on the components of EDC and to determine what additional content is needed to empower the citizens living in the EU: what is the EU dimension of the exercise of rights and responsibilities (c-1), the EU dimension of valuing diversity (c-2), and the EU dimension of playing an active part in democratic life (c-3), with a view to the promotion and protection of democracy and the rule of law?<sup>1072</sup> Juxtaposing EU law and the empowerment aims of EDC standards automatically produces content for the EU dimension, as the simplified outline below shows.

#### *Content for the EU dimension in Education for Democratic Citizenship*

EDC standards	+ EU law	➔ EU dimension in EDC
<p>Education for Democratic Citizenship empowers citizens to</p> <ul style="list-style-type: none"><li>- exercise their rights and responsibilities in society</li><li>- value diversity</li><li>- play an active part in democratic life</li></ul>	<ul style="list-style-type: none"><li>- Classic EU citizenship rights (Arts 20–24 TFEU)</li><li>- Participation rights (Title II TEU)</li><li>- All other EU rights and obligations (EU law in general)</li></ul> <p style="text-align: center;">↑↑↑ EU values, objectives, principles  (e.g. Arts 2–5 TEU, Arts 18–19, 28, 45 TFEU, CFR)</p>	<p>Relevance criteria</p> <p>✓ Additional content</p> <p>✓ Significant content</p> <p>✓ Critical thinking</p> <p>✓ Affects the large majority of EU citizens</p>

<sup>1071</sup> See in general on a hard core relevant for political education, different from positivist law: Oberreuter, 'Rechtserziehung'.

<sup>1072</sup> Charter on EDC/HRE, para 2; components numbered in § 27 .

To answer the question of content for the EU dimension, I will first look at the ‘classic’ citizenship rights, i.e. the rights listed in Articles 20–24 TFEU and usually associated with EU citizenship by EU lawyers (Chapter six). Their relevance for mainstream education is explored on the basis of the four criteria set out above<sup>1073</sup>: do they provide additional (i) and significant (ii) content for national EDC, invite critical thinking (iii) and affect the large majority of citizens, who are static (iv)? At first glance, classic citizenship rights at once provide the obvious content for the EU dimension of EDC components (c-1) and (c-3): they consist of rights and responsibilities and relate to playing an active part in democratic life. However, the exercise of formulating content for the EU dimension does not stop there. Secondly, in Chapter seven, the participation rights in Title II TEU are addressed. I will explain how EU citizenship rights—i.e. rights conferred by virtue of the status of citizen of the Union—extend beyond the classic list of citizenship rights. The (often forgotten) citizenship right to participate in the democratic life of the Union, laid down in Article 10(3) TEU, deserves particular attention. The various expressions of this right will be examined as to their relevance for the EU dimension. Thirdly, in Chapter eight, a still broader look on the legal position of EU citizens is taken. The many other rights which citizens derive from EU law, simply known as ‘EU rights’ and corresponding obligations, constitute an even more persuasive basis for the EU dimension of EDC according to the four criteria. These three categories of rights supply content for the core of an EU dimension of EDC, as they impact on the three empowerment aims of EDC (c-1–2–3), to greater and lesser extents.

#### *160 More than just narrow legal content*

The approach which explains rights and obligations is not only valuable *per se*, but it is the starting point for widening perspectives and for reflection. At first sight, the three following chapters may seem to limit the content for the EU dimension of EDC to rights and obligations. Yet, the narrow legal view must be transcended. The value of law for the field of citizenship education has already been explained.<sup>1074</sup> In the following analysis of rights and obligations, ‘law’ is more than the technical rule in legal instruments. It includes the deeper layers of values, objectives and principles which EU law embraces, or aims to embrace, and thus opens the door for debate, essential in citizenship education. In each chapter, rights and

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1073 §§152-157 .

1074 § 13 .

obligations are supported by the foundational values, objectives and principles of the EU and will provide significant content (ii). They pervade the society in which EU citizens live and are directly relevant for education in various key competences. In order to attain the deeper layers and to widen perspectives, Chapter five proposes an adapted learning method to bring this content in classrooms.

### *161 Aide mémoire*

This schema restates the focus of this study in order to guide the reader through the further analysis. Letters will be used to refer to EDC components and to criteria for relevance for mainstream education.

*Effects of a combined reading of EDC standards and EU law*

**Education for Democratic Citizenship (EDC) means:**

- (a) education, training, awareness raising, information, practices and activities which aim
- (b) by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour
- (c) to empower the learners
  - (c-1) to exercise and defend their democratic rights and responsibilities in society
  - (c-2) to value diversity
  - (c-3) to play an active part in democratic life
- (d) with a view to the promotion and protection of democracy and the rule of law.<sup>1075</sup>

**Citizenship of the Union** is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be *additional* to and not replace national citizenship.<sup>1076</sup>

Four criteria for determining relevant content for the **EU dimension of EDC in mainstream education** consistent with EU law:

- (i) *additional* content for national EDC
- (ii) significant content,  
i.e. relating to foundational (EU primary law) values, objectives and principles
- (iii) inviting critical thinking
- (iv) affecting the large majority of EU citizens, including 'static' citizens

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<sup>1075</sup> Para 2 Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education.

<sup>1076</sup> Art 20(1) Treaty on the Functioning of the European Union, Art 9 Treaty on European Union (emphasis added).

