

Kris Grimonprez

The European Union and Education for Democratic Citizenship

Legal foundations for EU learning at school



Nomos

Luxemburger Juristische Studien –
Luxembourg Legal Studies

edited by

Faculty of Law, Economics and Finance
University of Luxembourg

Volume 20

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The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.d-nb.de>

ISBN 978-3-8487-6074-9 (Print)
978-3-7489-0203-4 (ePDF)

British Library Cataloguing-in-Publication Data

A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-6074-9 (Print)
978-3-7489-0203-4 (ePDF)

Library of Congress Cataloging-in-Publication Data

Grimonprez, Kris

The European Union and Education for Democratic Citizenship

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807 pp.

Includes bibliographic references and index.

ISBN 978-3-8487-6074-9 (Print)
978-3-7489-0203-4 (ePDF)

Published by Nomos Verlagsgesellschaft, Baden-Baden, Germany 2020.
Printed and bound in Germany.



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1st Edition 2020

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*To Linde, Sander, Niels, Elke, Lise, Thomas,
Zoë, Floor, Lotte and Wout
To all children in the EU
May they be educated in the spirit of the values of Article 2 TEU¹*

1 Article 2 Treaty on European Union: ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.’.

Preface

The book that you have in your hands is the fruit of an exceptional path. Much more than a rigorous, careful and detailed revision of the PhD thesis that Kris Grimonprez defended brilliantly at the University of Luxembourg in December 2018, this book emerged from the author's commitment not only to legal academic research but also to social and political change. The unique combination at the genesis of this work, far from detracting from the intellectual value of the endeavour, has led the author to engage in an in-depth scientific analysis of a legal problem – the scattered dimensions of the right to education, of citizenship education and its relationship to EU citizenship – with a view to inform the normative development of the legal systems that shape and influence our collective life. The book has a dual audience. On the one hand, it is directed at the community of EU lawyers, in whose regard the author convincingly makes three main arguments. First, the absence of an EU dimension in education for democratic citizenship is the hidden face of the EU's democratic and civic deficit. Put in stronger terms, the author reminds us that without linking EU citizenship to citizenship education, attempts to remedy the widening gap between EU integration and citizens may easily continue to fail. Secondly, the general principles of law with which EU lawyers work and the status of EU citizenship have educational implications and there are enough legal normative grounds for establishing an EU dimension in education for democratic citizenship. Thirdly, the EU has competence to support education for democratic citizenship and its EU dimension. On the other hand, this book also addresses all professionals involved in citizenship education and educational policy. In their regard, Kris Grimonprez argues that law has a value for citizenship education and that EU law has necessary consequences for the content of citizenship education. Given the significance of the EU's impact on our societies and on citizens' rights, curricula of both primary and secondary education and teachers' training can no longer ignore the importance of EU learning, and, particularly, of the European dimension of education for democratic citizenship. While the reader is unlikely to be both an EU lawyer and an education scholar or practitioner, they should bear in mind the dual character of this work that makes the book unique. The critical reader should also be aware from the outset that the author does not shy away from the difficulties that her topic

raises: that both citizenship education and EU citizenship are contentious matters is one of the reasons why this book should trigger a wider discussion on education for democratic citizenship in the European Union.

The book brings together a wealth of material on international law instruments and on EU law (as the impressive and lengthy list of primary sources can testify), analyzing both the interactions between them and their implications for EU law. Core issues of EU law are discussed in depth, always with the view to advance the argument on the legal foundations for EU learning at school. Thus, as the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education of 2010 and the right to education defined in international instruments (the 1966 International Covenant on Economic, Social and Cultural Rights and the 1989 Convention on the Rights of the Child) are two of the “anchor points” for citizenship education of EU citizens, the reader will find an accurate mapping of the different modes of reception of exogenic legal norms in the EU legal order. Similarly, because one of the aims of the book is to identify the substance of citizenship education of EU citizens, the reader is provided with an analysis of EU citizenship rights, of the democratic participation rights enshrined in the Title II of the Treaty on European Union and of other EU rights and obligations of both mobile and static citizens, all in light of the standards of education for democratic citizenship (identified by the author on the basis of the Charter of the Council of Europe). The book goes one step further: it identifies the learning content of citizenship education of EU citizens, showing how it can be included in mainstream education. For this purpose, the reader is presented with a possible teaching method, accompanied by a beautiful transformation of the case law of the Court of Justice of the European Union into stories that pupils could be taught in order to develop their critical thinking, to later exercise their rights and responsibilities as citizens, to value diversity and to play an active part in democratic life. Finally, because education is often treated as a matter of national policy and part of the states’ duties and prerogatives, the whole work could stumble upon the competence of the European Union. The author therefore concludes her work with the analysis of the EU’s supporting competence, as enshrined in Article 165 of the Treaty on the Functioning of the European Union, and of the principles of subsidiarity and proportionality, inquiring how, combined, this Treaty article and principles relate to the autonomy of the Member States in providing for the inclusion of an EU dimension in citizenship education.

The questions with which the book opens are many, complex and controversial. All are carefully intertwined in an analysis that only an author with a masterful domain of EU law and highly committed to citizenship education could successfully undertake. In times of deep challenges to the European Union, the arguments made in this book should be seriously considered by both critics and advocates of citizenship education; and, irrespective of where one stands in the debate, by those concerned with the democratic and civic deficits that spread deeper into the social and political structures of the state, while afflicting particularly the European Union.

Joana Mendes
Professor of Comparative Administrative Law
University of Luxembourg

Acknowledgements

My gratitude goes to all the people who have accompanied me on the journey to completion of the doctoral dissertation on which this study is based: 'The EU Dimension in Education for Democratic Citizenship—a Legal Analysis', defended at the University of Luxembourg on 20 December 2018. I would like to thank the members of the thesis supervision committee who have guided me from the very beginning: Professor Pascal Ancel, Professor Jörg Gerkrath, Professor Luc Heuschling, Professor Johan van der Walt, and, last but not least, Professor Herwig Hofmann. Conversations with him were precious in helping me to structure my wide-ranging ideas and lofty intentions on the basis of legal anchor points. My particular gratitude goes to Professor Joana Mendes, the dissertation supervisor, who mentored the final phase. I am indebted to the members of the defence committee, Professor Eleftheria Neframi (University of Luxembourg), Professor Christian Calliess (Freie Universität Berlin) and Professor Kurt Willems (KU Leuven). Their positive feedback has meant a lot to me and their pertinent comments were taken into account to improve the study. A special word of thank goes to ECtHR Judge Síoфра O'Leary, who was a member of the defence committee but could not be present due to unexpected circumstances. She read the text in great detail and made many valuable suggestions. I benefited from her shared strong belief in the power of education.

I have had the privilege of discussing topics and ideas with many experts in the legal field and in multidisciplinary contexts. I would like to thank ECJ Judges Egils Levits, Sacha Prechal, and Christiaan Timmermans, and Professor Piet Van Nuffel. Exchanges with discussants at conferences deepened my insights (inter alia at FIDE (Fédération Internationale pour le Droit Européen), NECE (Networking European Citizenship Education), Lifelong learning platforms, European summit for critical thinking education, Politicologenetmaal).

I am grateful to the people who gave me a forum for testing learning methods for the EU dimension in citizenship education in practice, both in secondary schools and in Teacher Training at the KU Leuven (in particular Professor Ellen Claes).

My sincere gratitude also goes to Susan Pawlak, who skillfully improved my use of English. It was a pleasure working with her.

Numerous people have encouraged me warmly in the undertaking of this study. I thank my children for their loving support, and my grandchildren for their patience while watching their grandmother at her computer with curiosity.

Most of all, I want to thank my husband, Koen Lenaerts. During endless conversations—at the table, in the car, at the seaside, or in the forest—he listened, objected, nuanced, and increasingly shared my passion for the citizenship education of EU citizens.

My deepest motivation for this work comes from my belief in the values on which the EU is founded. As a proud Flemish, Belgian, and EU citizen, I am thankful to all those who have enhanced my awareness of these values in the past. I hope to be a solid link in the ongoing chain for the future. Democracy has to be born anew every generation, and education is its midwife (John Dewey). Wise efforts are more necessary than ever to educate citizens in our common values in order to ensure a peaceful and happy life in the European Union.

Kris Grimonprez

Luxembourg, 30 October 2019

Abbreviations

AFSJ	Area of Freedom, Security and Justice
AG	Advocate General
AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IA, IT, LT, LU, LV, MT NL, PL, PT, RO, SE, SI, SK	EU Member States: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Finland, France, Croatia, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, Netherlands, Poland, Portugal, Romania, Sweden, Slovenia, Slovakia
Bull	Bulletin
BVerfG	Bundesverfassungsgericht (DE)
CADE	Convention Against Discrimination in Education
CFR	Charter of Fundamental Rights of the European Union
Charter on EDC/HRE	Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (CM/Rec(2010)7)
CM	Committee of Ministers (CoE)
CMLRev	Common Market Law Review
CoE	Council of Europe
Commission	European Commission (EU)
CoR	Committee of the Regions
Council	Council of the European Union
CRC	Convention on the Rights of the Child
CRELL	Centre for Research on Lifelong Learning
DG	Directorate-General of the European Commission
Dir	Directive
EAC	Education and Culture (DG)

EACEA	Education, Audiovisual and Culture Executive Agency
EC	European Community (Treaty establishing the European Community, 1992)
ECAS	European Citizen Action Service
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe)
ECI	European citizens' initiative
ECJ	Court of Justice of the European Union
ECRI	European Commission against Racism and Intolerance (CoE)
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
ed(s)	editor(s)
EDC	Education for Democratic Citizenship
edn(s)	edition(s)
EEC	European Economic Community (Treaty establishing the European Economic Community, 1957)
EERJ	European Educational Research Journal
EESC	European Economic and Social Committee
ELJ	European Law Journal
ELRev	European Law Review
EP	European Parliament
ESC	European Social Charter
ET	Education and Training
ET2020	Strategic Framework for European Cooperation on Education and Training ('ET 2020')
EU	European Union
fn(s)	footnote(s) external to the work
HRE	Human Rights Education
i.a.	Inter alia

ICCPR	International Covenant on Civil and Political Rights
ICCS	International Civic and Citizenship Education Study
ICESCR	International Covenant on Economic, Social and Cultural Rights
IEA	International Association for the Evaluation of Educational Achievement
INGOs	International Non Governmental Organisations
JCMS	Journal of Common Market Studies
JRC	Joint Research Centre (Commission)
JSSE	Journal of Social Science Education
MEP	Member of the European Parliament
MOU	Memorandum of Understanding between the EU and the Council of Europe
n/nn	footnote(s) internal to the work
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
OJ	Official Journal of the European Union
OSCE	Organisation for Security and Cooperation in Europe
PA	Parliamentary Assembly (CoE)
Parliament	European Parliament
Reg	Regulation
Res	Resolution
RFCDC	Reference Framework of Competences for Democratic Culture
Rn	Randnummer
TEU	Treaty on European Union (as amended by the Lisbon Treaty)
TFEU	Treaty on the Functioning of the European Union
UDHR	Universal Declaration of Human Rights

Abbreviations

UN	United Nations
UN ComESCR	UN Committee on Economic, Social and Cultural Rights (ICESCR)
UN ComRC	UN Committee on the Rights of the Child (CRC)
UN HRCCom (ICCPR)	UN Human Rights Committee (ICCPR)
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNTS	United Nations Treaty Series

Abstract

Education for democratic citizenship equips learners with knowledge, skills and understanding and develops their attitudes and behaviour with the aim of empowering them to exercise and defend their democratic rights and responsibilities in society, to value diversity and to play an active part in democratic life (the consensual definition in the Charter on Education for Democratic Citizenship and Human Rights Education of the Council of Europe, 2010). What does this mean for EU citizens? The study reads this Charter in combination with EU law and argues that an EU dimension must be incorporated in national citizenship education. A method for objective, critical and pluralistic EU learning is proposed, a method based on the Treaties and on case teaching (stories for critical thinking).

Starting from EU law, suitable content for the EU dimension in mainstream education is then explored on the basis of four criteria: (i) additional content for national education for democratic citizenship, (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 (who live at home in their own country). A broader view of EU citizenship is developed, beyond that resulting from classic citizenship rights.

Finally, it is argued that the EU has the legal competence to support the EU dimension in education. Member States are invited to take more action to ensure quality education, which must now include education for democratic citizenship and its EU dimension. Democracy in the EU needs an educational substratum.

Aide mémoire

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.²

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.³

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

2 Para 2 Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education.
3 Art 20(1) Treaty on the Functioning of the European Union, Art 9 Treaty on European Union (emphasis added).

Table of Contents

Preface	7
Acknowledgements	11
Abbreviations	13
Abstract	17
Aide mémoire	19
Introduction	27
Contrasting observations	27
The gap between the EU and its citizens	36
The two-fold challenge for ‘EU citizenship education’	39
Three anchor points	44
Research questions, method and objectives	46
PART I Education for Democratic Citizenship and the Council of Europe	61
Introduction: Relevance of Council of Europe norms on education for the EU and its Member States	63
CHAPTER 1 The Charter on Education for Democratic Citizenship and Human Rights Education (EDC/HRE)	73
A Form and substance	73
1. Legal status within the Council of Europe legal order	73
2. Concept and principles of Education for Democratic Citizenship (EDC)	78
B Normative context	84
1. Genesis of the Charter on EDC/HRE (2010)	85

2. EDC standards after 2010: authoritative value of Charter on EDC/HRE confirmed	97
CHAPTER 2 Effects of the Charter on EDC/HRE in the Council of Europe legal order	109
A Relevance for the interpretation of ECHR provisions	109
B Limitation of member states' margin of appreciation	123
C Strengths and weaknesses of the Recommendation on the Charter on EDC/HRE	128
1. Strengths	132
2. Weaknesses	154
3. Implications for the duty to act in good faith	161
D Law in context—some caveats	164
Conclusion to Part one	178
PART II Education for Democratic Citizenship and the European Union	181
Introduction: The schema of modes of reception of exogenic norms	183
CHAPTER 3 Stronger modes of reception of exogenic norms in the EU legal order	191
A Accession of the EU to conventions (mode 1)	191
1. General	191
2. Indirect relevance of accession to conventions for Education for Democratic Citizenship	194
B General principles of EU law (mode 2)	197
1. General	197
2. The bold proposition of a general principle on Education for Democratic Citizenship	199
C Incorporation of the title of exogenic instruments in EU law (mode 3)	217
1. General	217
2. Occasional reception of EDC standards by incorporation of the title	228

CHAPTER 4 Weaker modes of reception of exogenic norms in the EU legal order	233
A Incorporation of the substantive content of exogenic norms in EU law (mode 4)	233
1. General	233
2. Fragmented incorporation of the substantive content of EDC standards	243
B Inspiration and cooperation (mode 5)	255
1. General	255
2. Shared inspiration and cooperation to implement EDC standards	258
C Interpretation of EU law taking account of exogenic norms (mode 6)	270
1. General	270
2. Taking account of the Charter on EDC/HRE in the interpretation of EU law	272
Conclusion to Part two	291
PART III Content for the EU dimension in Education for Democratic Citizenship	295
Introduction: Criteria for determining content for the EU dimension	297
CHAPTER 5 Objective, critical and pluralistic EU learning	321
A EU primary law: objectivity	323
1. A European constitutional space	323
2. Foundational values, objectives and principles of the EU	339
B Case teaching: critical thinking and pluralism	356
CHAPTER 6 The EU dimension based on classic EU citizenship rights	381
A The right to move and to reside freely	383
B Other EU citizenship rights	425
1. The right to equal treatment in European Parliament and municipal elections	426
2. The right to equal diplomatic or consular protection	430

3. The right to petition the European Parliament	430
4. The right to apply to the European Ombudsman	433
5. The right to communicate in a Treaty language	437
6. The right to a European citizens' initiative	438
C The ambiguities of EU citizenship do not preclude the relevance of EU citizenship rights for EDC	453
CHAPTER 7 The EU dimension based on democratic participation rights in Title II TEU	465
A The right to participate in the democratic life of the Union	468
B The right to vote for the European Parliament	471
C The right to vote for the national parliament and its EU dimension	482
D Rights and opportunities in participatory democracy	490
CHAPTER 8 The EU dimension based on other EU rights and obligations	507
A Relevance of EU rights and obligations for Education for Democratic Citizenship	507
1. Additional content	515
2. Significant content	524
3. Inviting critical thinking	530
4. Affecting the large majority of citizens	537
B Stories for case teaching	541
1. Free movement rights and fundamental rights	543
2. Equality rights and obligations	546
3. Social rights and obligations	553
4. Privacy rights and obligations	556
5. Consumer rights and obligations	570
6. Environmental rights and obligations	580
Conclusion to Part three	586

PART IV Competence to provide for the EU dimension in Education for Democratic Citizenship	589
Introduction: Actors	591
CHAPTER 9 Conferral of competence to the EU	595
A The principles	595
B Quality education	602
1. Quality education at UN level	603
2. Quality education at Council of Europe level	624
3. Quality education at EU level	626
C Developing the European dimension in education	630
D Encouraging the participation of young people in democratic life in Europe	639
CHAPTER 10 Subsidiarity, proportionality and Member State action	647
A Subsidiarity and proportionality of EU action	647
B Member State action	673
Conclusion to Part four	686
Summary and general conclusion	689
Annexes	699
1. The Charter on Education for Democratic Citizenship and Human Rights Education	699
2. Relationship between democracy, human rights and the rule of law	705
3. The Reference Framework of Competences for Democratic Culture	706
4. EU Recommendation on key competences for lifelong learning	706
5. Forms of citizenship education	708
Bibliography	709
1. EU	709

Table of Contents

2. UN human rights instruments	740
3. Council of Europe	743
4. EU/CoE	755
5. Some comparative law sources	755
6. Authors	758