

EDC/HRE, even if they do not always label, describe or categorise them in the same way. The Charter on EDC/HRE remains particularly attractive for my further analysis—as to the substance—because the consensual EDC standards include respect for the autonomy of member states, yet clearly and concisely set out the aims of citizenship education by isolating different components in the last part of the definition (c-1–2–3 in paragraph 2(a)). The Charter also defines the relationship between EDC and HRE.

*Conclusion to Part one*

*74 The Charter on EDC/HRE is a reliable anchor point*

The first challenge when analysing the issue of ‘EU citizenship education’ was to find a neutral and commonly accepted concept of citizenship education in general. The EDC concept and principles of the Charter on EDC/HRE have responded well to this challenge and proven to be a reliable and neutral anchor point. The legal status of the Charter on EDC/HRE is that of a recommendation of the Committee of Ministers of the Council of Europe. While not legally binding, it has potential legal effects for member states within the Council of Europe legal order. It can fulfil an interpretative function as a common European standard of great weight and is an indication of a wide European consensus which may limit the member states’ margin of appreciation in line with ECtHR case law. While the weaknesses of the Charter on EDC/HRE as a formal source have been acknowledged, it also has many strengths. Several factors give it a high degree of normativity. It is legitimate to expect that member states acting in good faith will take EDC standards into account within their domestic legal order. As a substantive source, the Charter is attractive in various ways, and complementary sources have been designated as well.

In this study, ‘EDC standards’ refer to the elements of the Charter on EDC/HRE which have been described, i.e. the definition of EDC closely interlinked with HRE, its objectives and principles (including respect for member states’ responsibilities, constitutions and priorities),<sup>598</sup> as further developed in other instruments of the Council of Europe normative framework.

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<sup>598</sup> See § 27.

### 75 *Proposal for recital*

Based on the conclusion of Part one, the following phrase is suggested as a recital in the preamble of a hypothetical EU legislative act:

*Whereas a European consensus exists on the need, the concept and principles of education for democratic citizenship and human rights, as expressed in the Council of Europe Charter on Education for Democratic Citizenship (EDC) and Human Rights Education (HRE).*

This is the first steppingstone in the reasoning of this study. The next step is to apply this common European standard to the situation of EU citizens in EU Member States.

### 76 *For sceptical readers*

Readers should not necessarily accept all the arguments I have advanced in Chapter two to develop the reasoning of this study (arguments on legal effects, evaluation of strengths, hardening of soft law, and good faith). As a premise for the analysis which follows, it is sufficient to take note of the legal realities described in the introduction and in Chapter one: provisions of the Treaties, the Statute, and the MOU; provisions of the Charter on EDC/HRE (form and substance), and the many Council of Europe instruments referred to in the normative context. Sceptical readers cannot deny their existence. The Recommendation on the Charter on EDC/HRE is part of the legal order of the Council of Europe, of which all EU Member States are members. The various Council of Europe instruments indicate there are commitments to EDC which it would, at least, be politically embarrassing to neglect.<sup>599</sup> This is certainly true for EU Member States, which claim to be established democracies (as appears from their constitutional provisions), and for the EU, which seeks to advance democracy and human rights in the wider world and aims to set an example in its external action (Articles 3(5) and 21 TEU). Even if one ignores the legal effects of the Charter on EDC/HRE as discussed in Chapter two and just starts from the text as a neutral standard which is widely accepted in Europe, one cannot avoid asking what this commitment to EDC implies for citizens living in Member States and, ipso facto, in the EU. At the very least, looking at the citizens in the EU through the glasses of another international organisation, namely the Council of Europe, is an interesting exercise. Applying the parameters of the EDC concept to the situation of the EU

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<sup>599</sup> Text to n 320.

citizen allows for an unprejudiced outsider's look. If the EU is eager to defend democracy and human rights worldwide, it should be ready for this confrontation.