CHAPTER 1 The Charter on Education for Democratic Citizenship and Human Rights Education (EDC/HRE)

A Form and substance

1. Legal status within the Council of Europe legal order

23 Terminology—endogenic and exogenic norms

The 'legal order' of the Council of Europe is the composite of valid legal norms based on the Statute of the Council of Europe–a treaty which functions as the founding text–and on statutory resolutions. [155] Some authors call it 'a common legal area', 'a pan-European legal area' ('un espace juridique paneuropéen'), or 'an autonomous legal order', and describe the Statute as 'constitutional'.[156] The expression 'legal instrument' is used in a wide sense, including conventions, recommendations, declarations, resolutions, guidelines, memoranda of understanding, etc.[157] Legal instruments contain 'norms', the term used to refer to the substance of the legal instrument. From the viewpoint of the EU, norms originating in normative systems other than that of the EU, are described as 'exogenic'; those norms originating in the EU legal order itself are 'endogenic'. The Charter on EDC/HRE is a norm exogenic to the EU, but a norm which the EU is committed to acknowledging (MOU). The first question here is: what are the legal status and effects of the Charter on EDC/HRE as a matter of Council

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155 N 121.

156 I.a. Benoît-Rohmer and Klebes, *Council of Europe Law - Towards a pan-European legal area* ('constitutional charter'); B Haller, H Krüger and H Petzold (eds), *Law in Greater Europe: Towards a Common Legal Area* (Kluwer Law International 2000); HG Schermers and NM Blokker, *International Institutional Law: Unity within Diversity* (5th edn, Martinus Nijhoff 2011); Separate Opinion of Pinto de Albuquerque in *Baka v Hungary* no 20261/12 (ECtHR 23 June 2016), para 23 ('an autonomous legal order').

157 More on the *legal* quality of CoE instruments, text to n 402, n 409 ff. Also in the EU legal order, 'legal instrument' gets a wide definition; see European Convention, Working Group IX on Simplification (aimed at reducing the number of legal instruments available to the Union's Institutions, then 15 types); Legal acts (Art 288 TFEU).

of Europe law? The answer is directly relevant to the EU Member States in their capacity as Council of Europe member states. What is meant by 'a standard' and to what extent the Charter on EDC/HRE can be qualified as a standard will be examined step by step in this Part. In what legal form the EU then acknowledges the EDC standards, will be analysed in Part two (reception of exogenic norms).

24   A non-binding Charter

The term 'Charter' is ambiguous. International practice contains examples of binding Charters (such as the UN Charter or the EU CFR) as well as non-binding Charters (such as the European Charter on the Participation of Young People in Local and Regional Life[158]). However, there is no doubt that the Charter on EDC/HRE is a non-binding text, a document without treaty status. The Charter is set out in the appendix to Recommendation CM/Rec(2010)7. Recommendations are, by definition, non-binding legal instruments. It was the clear intention of the member states that the Charter should be 'non-binding as a matter of public international law'.[159] The explanatory memorandum records how in 2009, a binding and a non-binding draft text was presented to the members of the Steering Committee for Education at a plenary meeting. The first draft text was a convention, using the language of obligation ('shall'), and providing for a reporting mechanism by states and for external supervision. The second text used softer terms ('should') and relied on self-evaluation by states. An overwhelming majority chose the non-binding variant.[160] To seal the non-binding character, a subtitle 'Charter without the status of a Convention' was added. This subtitle was dropped later when it was decided to adopt the Charter 'in the framework of a recommendation' in accordance with the practice of the Council of Europe, as advised by the Legal Advice Department of the Council of Europe. Since the Charter was adopted in the form of an appendix to a recommendation, its non-binding character was not in doubt. At the same time, however, the authors of the Charter on EDC/HRE wanted to express their strong commitment by choosing the title and form of a 'charter', a more 'weighty' document than those previ-

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158 CoE Congress of Local and Regional Authorities of Europe Recommendation 128(2003) on the revised European Charter on the Participation of Young People in Local and Regional Life (21 May 2003).
159 Explanatory memorandum para 32.
160 Explanatory memorandum paras 17–18. See text to n 518.

ously adopted.[161] The preamble of the Charter was reformulated as the preamble of the recommendation.[162]

25   Form: a recommendation of the Committee of Ministers addressed to member states

On 11 May 2010, under the terms of Article 15(b) of the Statute, the Committee of Ministers adopted 'Recommendation CM/Rec(2010)7 recommending the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education'.[163] Pursuant to Article 1(a) of the Statute, the Council of Europe aims 'to achieve a greater unity between its Members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress'. To pursue this aim, the Committee of Ministers acts on behalf of the Council of Europe as the decision-making body (Article 13 Statute). It is important to note the representation of all EU Member States in this body, as the Committee of Ministers is composed of the Ministers for Foreign Affairs of each member state of the Council of Europe, or a representative, if possible, a member of Government (Article 14 Statute). The Committee of Ministers has meetings at ministerial level (generally once a year) and at deputies level (regularly), the latter taking decisions of the same legal value.[164] Under Article 15 of the Statute, norm-setting by the Committee of Ministers can take the form of conventions (paragraph a), which become binding for members who ratify them afterwards, or 'in appropriate cases' the form of recommendations to the governments of members (paragraph b), which are legally non-binding. By adopting norms in these two forms the Committee of Ministers contributes to the creation of a common European legal area.[165] Council of Europe standards

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161   Explanatory memorandum para 32.

162   Explanatory memorandum paras 20–21, 23, 32. See text to n 466.

163   First preambular paragraph.

164   Meetings at deputies level are not provided for in the Statute. See Art 14 Rules of Procedure of the Committee of Ministers (each representative on the Committee of Ministers appoints a Deputy to act on its behalf when the Committee is not in session. They transact business and record decisions on behalf of the Committee of Ministers). More on the Committee of Ministers at Deputy level: CoE iGuide, Committee of Ministers: Procedures and working methods (24 September 2018).

165   Cornu, 'The impact of Council of Europe Standards on the European Union' 115. On the common legal space, more in G De Vel, *The Committee of Ministers of the Council of Europe* (CoE 1995); G De Vel and T Markert, 'Importance and Weaknesses of the Council of Europe Conventions and of the Recommenda-

(like UN standards) can thus be legally binding or non-binding. The fact that the member states have opted for a non-binding form, does not imply that they have not agreed on a common text containing 'a standard'.[166] The Council of Europe compendium of standards includes recommendations and guidelines adopted by the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the Commissioner for Human Rights, and the European Commission for Democracy through Law (hereafter the Venice Commission).[167]

Under the Statute, the strongest legal form for the Charter on EDC/HRE would thus have been a convention, ratified by all member states. In practice, however, the Committee of Ministers considers the field of education in general, and the sensitive field of education for democratic citizenship in particular, to be 'appropriate cases' (Article 15(b) Statute) for the use of recommendations. Scholars point to various advantages which make recommendations a politically interesting choice.[168] By contrast with conventions, which only become binding after a certain period of time

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tions addressed by the Committee of Ministers to Member States' in B Haller, HC Krüger and H Petzold (eds), *Law in Greater Europe: Towards a Common Legal Area* (Kluwer Law International 2000) 353; Benoît-Rohmer and Klebes, *Council of Europe Law - Towards a pan-European legal area* 123; S Schmahl and M Breuer (eds), *The Council of Europe: Its Law and Policies* (Oxford University Press 2017). For the type of texts adopted by the Committee of Ministers, see <www.coe.int/en/web/cm/adopted-texts-information>.

166 Oxford dictionaries define a 'standard' as '[a] level of quality or attainment' or '[s]omething used as a measure, norm, or model in comparative evaluations'.

167 Compendium of standards, see e.g. CoE Secretary General, State of Democracy, Human Rights and the Rule of Law in Europe. Report 2014, 9; also n 414.

168 De Vel and Markert, 'Importance and Weaknesses of the Council of Europe Conventions and of the Recommendations addressed by the Committee of Ministers to Member States' 347, 351, 353; Benoît-Rohmer and Klebes, *Council of Europe Law - Towards a pan-European legal area* 123 (it is said in the CoE that to advance the rule of law, a good recommendation is preferable to a bad convention). Bartsch explains a shift in 2000 from treaty obligations to recommendations, with more easily reached compromises: H-J Bartsch, 'The Acceptance of Recommendations and Conventions within the Council of Europe' in *Le rôle de la volonté dans les actes juridiques: Etudes à la mémoire du Professeur Alfred Rieg* (Bruylant 2000) 94. Sasse addresses four plausible explanations for the sustained norm production and credibility of the CoE, see Sasse, 'The Council of Europe as a Norm Entrepreneur: The Political Strengths of a Weak International Institution'. See also for international organisations in general, Schermers and Blokker § 1229: in some fields, as WHO, '[t]he speed and flexibility of recommendations are preferred to the cumbersome formality of legally binding regulations'.

and only on those who have ratified them, recommendations are immediately and universally applicable to all member states. While the process for the adoption of conventions tends to be lengthy and rigid because of the need for the consent of each state party, recommendations allow for a flexible and rapid response to changing circumstances. Moreover, the non-compulsory nature of recommendations ensures respect for member states' freedom, which is perceived as especially valuable in the education field, and even more so in the field of citizenship education, both areas which are traditionally closely associated with national sovereignty. What may be perceived as a legal weakness—namely, the non-binding form of the Charter on EDC/HRE—may actually be a political strength: the member states retain autonomy but commit to a common standard. It is therefore understandable that the Committee of Ministers has opted to use recommendations in many instances in the education field, inviting the governments of member states to act according to the norms set out in an appendix.[169] The Recommendation on the Charter on EDC/HRE is in keeping with this tradition. In accordance with the classic recommendation formula, the Committee of Ministers recommends that the governments of member states implement measures based on the provisions of the Charter on EDC/HRE set out in the appendix and ensure that the Charter is widely disseminated to the national authorities responsible for education and youth. The Secretary General of the Council of Europe is instructed to transmit the Charter on EDC/HRE to international organisations, such as the EU and the UN.

The Recommendation on the Charter on EDC/HRE entered into force upon adoption in 2010 and is addressed to 50 states: the 47 member states of the Council of Europe (all EU Member States, plus Azerbaijan, the Russian Federation, Turkey, Ukraine, etc.), as well as the parties to the European Cultural Convention who are not member states of the Council of Europe (Belarus, the Holy See, and Kazakhstan).[170] The Committee of Ministers thus contributed to a major objective of the European Cultural Convention added in 2004: '[c]reating conditions for full participation in democratic life'.[171]

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169 E.g. nn (and text) 214, 223, 253, 273, 283, 339, 345, 355, 356.
170 European Cultural Convention (Paris, 19 December 1954) ETS No 18. See 50 ratifications in list (n 121).
171 Ministers responsible for culture, education, youth and sport from the States Parties to the European Cultural Convention, Wroclaw Declaration on 50 Years of Cultural Cooperation (9-10 December 2004) ETS No 18, i.a. section I: 'Less than 10 years after the end of World War II, the adoption of the European Cultural Convention within the framework of the Council of Europe reflected the

As to the form, it may be concluded that the legal status of the Charter on EDC/HRE is that of a recommendation of the Committee of Ministers under Article 15(b) of the Statute. It is non-binding in the Council of Europe legal order, but implies a weighty commitment, reflected in the use of the word 'Charter'. What is the substance of this Charter?

2. Concept and principles of Education for Democratic Citizenship (EDC)

26   Substance

The Charter on EDC/HRE has four sections: (I) General provisions, (II) Objectives and principles, (III) Policies, and (IV) Evaluation and cooperation. In documents of the Council of Europe, in academic writing and in practice, 'Education for Democratic Citizenship' or 'EDC' is widely used as an umbrella term, referring to principles and practices recommended in the Charter on EDC/HRE.[172] Essential elements covered by the overarching concept 'EDC' will be briefly described. For more precise information, and in response to the call for wide dissemination, I have attached the Charter in annex to this study.[173]

27   Definitions of EDC/HRE and scope

When compared with previous instruments on EDC, the Charter on EDC/HRE represents distinct progress. Firstly, it responds to a need for clear concepts in order to facilitate implementation. Earlier Council of Europe instruments tended to give lengthy descriptions of what EDC *included* rather than truly *defining* it.[174] Moreover, the Charter is the first to deal with education for democratic citizenship (EDC) and human rights education (HRE) in conjunction with one another and define their relationship. It was felt that this could no longer be postponed. Before 2010,

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hope of future unity and a belief in the power of the humanistic spirit of education and culture to heal old and new divisions, prevent conflicts, and cement the democratic order'. See n 240.

172 Explanatory memorandum para 33 ('overarching concept'); M Hartley and T Huddleston, *School-community-university partnerships for a sustainable democracy: Education for Democratic Citizenship in Europe and the United States of America* (CoE 2010) 17.

173 Annex 1.

174 Explanatory memorandum para 34.

EDC and HRE were the subject of separate normative instruments.[175] Drawing on earlier documents of the Council of Europe[176] and of the UN[177], the Charter refines and extends the definitions of EDC and HRE in such a way that in both the words 'to empower' appear. Emphasis is placed on the outcome of education, which is not simply knowledge, but the empowerment of learners.[178] In accordance with the terms of paragraph 2(b) of the Charter,[179] the EDC concept can be studied in its various components. These components will be used as parameters to analyse the situation of EU citizens in Part three. For ease of reference in this study, I have numbered them (a) to (d).

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.

The definition of HRE is structured similarly:

> 'Human rights education' means education, training, awareness raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour, to empower learners to contribute to the building and defence of a universal culture of human rights in society,

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175 Explanatory memorandum paras 33, 37.
176 Further §§ 31 35 .
177 Reference to the right to education in the UDHR, ICESCR, and CRC, and to the World Conference on Human Rights, Vienna Declaration and Programme of Action (25 June 1993) A/CONF.157/23.
178 Explanatory memorandum para 35; and text to nn 201-202.
179 Definition cited in the Introduction § 7.

with a view to the promotion and protection of human rights and fundamental freedoms.[180]

EDC and HRE are 'closely inter-related and mutually supportive', as they 'differ in focus and scope rather than in goals and practices'. While 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', HRE looks at 'the broader spectrum of human rights and fundamental freedoms in every aspect of people's lives.'[181] EDC and HRE overlap, 'because the rights important to citizenship, for example, the rights to vote, to freedom of speech and to freedom of assembly, are classic human rights, which are as much the field of HRE as of EDC.'[182]

Given the interconnectedness of EDC and HRE, the use in this study of the term 'EDC' alone automatically implies HRE as well (only when EDC and HRE both need an explicit focus, will they be mentioned separately). In a legal analysis, human rights are part of the constitutional rights of democratic citizenship. If democracy and human rights are intrinsically related concepts[183], then EDC and HRE are intrinsically related too.[184] They are twin fields, with the same roots.[185]

The scope of the Charter does not cover areas related to EDC/HRE, such as intercultural education, equality education, education for sustainable development and peace education. Yet, 'where they overlap and interact' with EDC/HRE, the Charter principles apply.[186] The explanatory memorandum posits that all these areas have a specific focus (intercultural education addresses mutual understanding and respect in multicultural societies, education for sustainable development has an environmental focus, etc.),

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180 Charter para 2(b), emphasis added.
181 Charter para 3.
182 Explanatory memorandum para 37.
183 As stated in CoE Conference of International Non-Governmental Organisations (INGOs), Declaration on genuine democracy (24 January 2013), V (a)-(c) ('Genuine democracy and human rights are intrinsically related concepts which cannot exist without each other. Political rights and freedoms form part of human rights, while respect for human rights is essential to the establishment and maintenance of a democratic system'). See Annex 2 to this study.
184 More on the relationship in text to n 515, § 294 and text to n 2205. See also A Osler, 'Human Rights Education: The Foundation of Education for Democratic Citizenship in our Global Age' in J Arthur, I Davies and C Hahn (eds), *The SAGE Handbook of Education for Citizenship and Democracy* (Sage 2008).
185 See also DARE network, Democracy and Human Rights Education in Europe.
186 Charter para 1.

but they are nevertheless covered to a large extent by the overarching concept of EDC/HRE.[187] The same is true for related areas which are not mentioned in the 2010 Charter but came to the fore later, such as education for global interdependence and solidarity[188], global citizenship education[189] and global development education.[190] Global education addresses the global dimensions of EDC, and encompasses 'Development Education, Human Rights Education, Education for Sustainability, Education for Peace and Conflict Prevention and Intercultural Education'.[191]

28 *Objectives, principles and policies of EDC*

In its second section, the Charter describes the 'Objectives and principles' which 'should guide member states in the framing of their policies, legislation and practice'.[192] The words 'should guide' were deliberately chosen, indicating neither a prescriptive blueprint nor a mere background consideration.[193] These objectives and principles are fleshed out in the third section 'Policies'. The aim of the Charter is that *every person* within the territory of the member states has the opportunity of EDC/HRE.[194] EDC/HRE are thus not only reserved to citizens in the legal sense of a state's own

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187 Explanatory memorandum para 33, also para 7.

188 E.g. CoE Recommendation CM/Rec(2011)4 of the Committee of Ministers to member states on education for global interdependence and solidarity (5 May 2011). See n 2192.

189 E.g. UNESCO Global Citizenship Education: Preparing learners for the challenges of the 21st century (2014); UNESCO Global Citizenship Education: Topics and Learning Objectives (2015).

190 Global Development Education (GDE) in a cooperation CoE/EU, e.g. Intercultural Learning Exchange through Global Education, Networking and Dialogue (iLEGEND, project for school curricula helping 'to understand an increasingly interconnected world, and appreciate economic, political, environmental and cultural challenges that people from different countries face, from north to south'.

191 Definition of the CoE North-South Centre recalled in CoE Europe-wide Global Education Congress, European Strategy Framework For Improving and Increasing Global Education In Europe to the Year 2015 (Maastricht Global Education Declaration) (Maastricht, 15-17 November 2002), using the expression 'the global dimensions of Education for Citizenship'. See also Global Education Guidelines: a Handbook for Educators to Understand and Implement Global Education (Global Education Week Network, CoE, 2012); and United Nations Secretary-General's Global Education First Initiative, UN, NY, 2012.

192 Para 5.

193 Explanatory memorandum 40: the drafters did not choose the wording 'should base', nor the words 'should take into account'.

194 Charter para 5(a) (my emphasis).

nationals but apply to all residents in the member state. Strictly speaking, EDC should thus be differentiated from 'citizenship education' in the literal sense of the education of the state's own nationals. History has shown what a dangerous turn that concept may take.[195]

EDC/HRE is a lifelong learning process in which formal, non-formal and informal learning have a part to play.[196] EDC/HRE may be provided in schools in a structured way leading to certification (formal education). Member states should include EDC and HRE in the curricula at pre-primary, primary and secondary school level, as well as more generally in vocational education and training. They should also continue to support, review and update EDC and HRE in these curricula in order 'to ensure their relevance'.[197] In higher education, member states should promote the inclusion of EDC/HRE, with due respect for academic freedom.[198] EDC and HRE are also part of extra-curricular learning in planned education programmes outside schools to improve skills and competences (non-formal learning) and in daily life in the family and work environment, through media, etc. (informal learning).[199] Accordingly, the training of teachers and education professionals for EDC/HRE in schools, and the training of youth leaders, is vital and should be adequately planned and resourced by member states.[200]

Clarifying the objectives of EDC/HRE (already incorporated in their respective definitions), the Charter adds that, as preparation for living together in a democratic and multicultural society, EDC/HRE should develop the knowledge, understanding and skills for promoting social cohesion and handling differences and conflict,[201] and, crucially, should empower learners to participate in the democratic process:

> One of the fundamental goals of all education for democratic citizenship and human rights education is not just equipping learners with knowledge, understanding and skills, but also empowering them with

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195 Citizenship education under totalitarian regimes, as nazism or USSR. See § 288 n 2137. Further Heater, 'The history of citizenship education: a comparative outline'. On a right to education *for all*, see § 241 and text to n 2008.

196 Charter para 5(b) and (c). See Annex 5 to this study.

197 Charter para 6.

198 Charter para 7.

199 Definitions in para 2 (c)-(e).

200 Charter paras 5(h), 7 and 9.

201 Charter paras 5(f) and 13.

the readiness to take action in society in the defence and promotion of human rights, democracy and the rule of law.[202]

To reach the objectives of EDC/HRE, schools themselves should be democratically governed, and provide learning activities in a way which reflects human rights and democratic values.[203] Effective EDC/HRE involves a wide range of stakeholders in society as a whole, including pupils and educational institutions and professionals, but also policy makers, non-governmental organisations, parents, youth organisations, media and the general public.[204] Member states should promote their role in EDC/HRE and encourage partnerships and collaboration at state, regional and local level.[205]

29   Respect for member states' responsibility: the paragraph-4 principle

An important EDC principle which underlies the whole Charter, is respect for member states.[206] The Committee of Ministers recommends EDC/HRE '[b]earing in mind that member states are responsible for the organization and content of their educational systems'.[207] An essential provision of the Charter is paragraph 4, which states that the objectives, principles and policies relating to EDC/HRE 'are to be applied with due respect for the constitutional structures of each member state, using means appropriate to those structures' and 'having regard to priorities and needs of each member state'. This paragraph-4 principle will arise from time to time throughout the study. The Charter thus leaves an important margin of appreciation to member states as to its application.[208] Furthermore, its implementation relies on a system of self-evaluation by member states and on the encouragement to cooperate. Member states should develop criteria themselves for the evaluation of the effectiveness of their EDC/HRE programmes,[209] should regularly evaluate their strategies and policies, and adapt them as appropriate. Member states should cooperate in follow-up activities, i.a. by pursuing topics of common interest and common priorities, by fostering the existing network of EDC/HRE coordinators, exchanging good practice, or supporting networks. Because of 'the international

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202   Charter para 5(g).
203   Charter paras 5(e) and 8.
204   Charter paras 5(b) and (d).
205   Charter paras 10 and 5(i).
206   Explanatory memorandum para 29.
207   Preambular para 13.
208   To complement with text to n 394.
209   Charter paras 11 and 14; explanatory memorandum paras 41 and 53.

nature of human rights values and obligations and the common principles underpinning democracy and the rule of law', member states should cooperate internationally and regionally on EDC/HRE,[210] and share results achieved in the framework of the Council of Europe with other international organisations.[211]

Now that the form and substance of the Charter on EDC/HRE have been explained, I will examine how the elements of the Charter on EDC/HRE thus described—the definition of EDC (closely interlinked with HRE), its objectives and principles, including respect for member States' responsibilities, constitutional structures and priorities—form *standards* (hereafter EDC standards) and whether the Recommendation on the Charter on EDC/HRE has legal effects despite its non-binding character. To answer these questions, the Charter on EDC/HRE must first be situated in the context of the many normative instruments of the Council of Europe related to EDC. Its legal effects can then be appraised in Chapter two.

B Normative context

30 Ongoing process of standard-setting on EDC

The Charter on EDC/HRE was not drafted overnight by one or two well-intentioned authors. The Recommendation on the Charter on EDC/HRE is not some random recommendation of the Council of Europe. It is a milestone along a long path of persistent work and perseverance, involving numerous actors and spread over the course of several decades. The significance of the Charter on EDC/HRE cannot therefore be understood in isolation. The purpose of this section is to explain the Charter on EDC/HRE as a standard by putting it in the broader context of norm-setting on EDC and to provide insight into the rationale for so much joint action. This overview will provide the elements necessary to assess the legal effects of the Charter on EDC/HRE. The interpretation of a legal instrument depends not only on its wording, but equally on examining its provisions in their context and in the light of the objectives pursued.[212] Moreover, if the EU commits itself in the MOU to drawing on the expertise and activi-

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210 Charter para 5(j).
211 Charter para 16.
212 Cf Art 31 Vienna Convention on the Law of Treaties. Explanatory reports do not provide authoritative interpretations, yet their interpretative value is recognised.

ties of the Council of Europe to promote democratic culture and to empower young people to participate actively in the democratic process, in particular through EDC and HRE, then it is important to gain an overview of the action the Council of Europe has taken in this field. Throughout this chronological account and in anticipation of possible effects in the EU legal order, it should be borne in mind that the EU Member States were always participants in the Council of Europe bodies adopting the EDC instruments in question.[213]

1. Genesis of the Charter on EDC/HRE (2010)

31   *Early years: before 1997*

As early as the seventies and eighties, the Council of Europe recommended essential principles of education for democratic citizenship, without actually naming it as such.[214] It was after the fall of the Berlin Wall (1989) that education for democratic citizenship became a central preoccupation. At their First Summit in 1993, the Heads of State and Government adopted the Vienna Declaration, welcoming former communist countries into the Council of Europe. With the aim of making Europe 'a vast area of democratic security', new member states were reminded that 'accession presupposes that the applicant country has brought its institutions and legal sys-

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213   When in 1997 the work on EDC started, all the current EU Member States were members of the CoE (Croatia was the last to join the CoE, in 1996). See bibliography to this study for an overview of the various instruments per body of the Council of Europe. For organs and bodies, see Art 10 Statute and statutory resolutions.

214   CoE Recommendation R(83)13 of the Committee of Ministers to member states on the role of the secondary school in preparing young people for life (23 September 1983), appendix 'Principles for the guidance of those responsible for programmes concerned with preparing young people for life', see i.a. para 2. See also CoE Committee of Ministers Resolution (78)41 on the teaching of human rights (25 October 1978); CoE Recommendation R(83)13 of the Committee of Ministers to member states on the role of the secondary school in preparing young people for life (23 September 1983); CoE Recommendation R(85)7 of the Committee of Ministers to member states on teaching and learning about human rights in schools (14 May 1985); CoE Parlementary Assembly Recommendation 1111(1989) 'European dimension of education'; CoE Parliamentary Assembly Recommendation 1346(1997) 'Human rights education'; CoE Standing Conference of Ministers of Education, Resolution on 'the European dimension of education: teaming and curriculum content' (Vienna, 16-17 October 1991).

tem into line with the basic principles of democracy, the rule of law and respect for human rights'. Education was mentioned among the prime instruments for creating a cohesive yet diverse Europe.[215] In 1994, the European Ministers of Education (Standing Conference) emphasised 'the need for a coherent and sustained approach by schools to education for democratic citizenship', starting at an early age and making full use of possibilities in the formal curriculum and in extra-curricular activities.[216]

32 *Agenda setting: 1997*

At their Second Summit in 1997 (Strasbourg), the Heads of State and Government, taking account of the significant enlargement of the Council of Europe, underlined its essential standard-setting task. Conscious of the crucial role of education in achieving pluralist democracy and mutual understanding, they expressed the 'desire to develop education for democratic citizenship based on the rights and responsibilities of citizens, and the participation of young people in civil society'.[217] They outlined an Action Plan to strengthen democratic stability in the member states and launched the EDC project within one of the main areas for immediate action. A Steering Group for EDC/HRE was formed. In 1997, the European Ministers of Education adopted a work programme which comprised the EDC project.[218] The project unfolded in three phases.

33 *First phase: 1997–2000*

During this phase, EDC definitions were developed, and skills and competencies for effective democratic citizenship learning in schools were identified. Various sections of the Council of Europe cooperated, research was

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215 CoE First Summit of Heads of State and Government, Vienna Declaration (Vienna, 9 October 1993).

216 CoE Standing Conference of European Ministers of Education, Resolution on education for democracy, human rights and tolerance (No 1) (Madrid, 23-24 March 1994), paras 4–6.

217 CoE Second Summit of Heads of State and Government, Final Declaration and Action Plan (Strasbourg, 10-11 October 1997) (enlargement of the CoE from 23 to 32 member states by 1995; most new members belonged to the former communist system).

218 Three projects: EDC, Learning and Teaching about the History of Europe in the 20th Century, and Language Policies for a Multicultural and Multilingual Europe. See CoE Standing Conference of European Ministers of Education, Resolution No 1 on trends and common issues in education in Europe, Resolution No 2 on fundamental values, aims and the future role of educational co-operation in the Council of Europe (Kristiansand, Norway, 22-24 June 1997).

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done, and conferences held.[219] In a general 'Declaration and programme on education for democratic citizenship, based on the rights and responsibilities of citizens' (1999), the Committee of Ministers insisted on 'the urgency of strengthening individuals' awareness and understanding of their rights and responsibilities so that they develop a capacity to exercise these rights and respect the rights of others' and stressed 'the fundamental role of education in promoting the active participation of all individuals in democratic life at all levels: local, regional and national' (*the objective of this study is to add the EU level*). The Ministers called upon member states to make EDC 'an essential component of all educational, training, cultural and youth policies and practices', deeming it a high priority.[220] The Programme was added to the Declaration and underlined 'the evolving concept of democratic citizenship, in its political, legal, cultural and social dimensions'[221] (*I will argue that in this evolving concept, the EU dimension is increasingly importan*t).

During this phase, several instruments adopted by the Committee of Ministers and the Parliamentary Assembly highlighted *specific* aspects of EDC. The Committee of Ministers recommended EDC in secondary schools (reaffirming their 'decisive role')[222], at universities in European Studies (studies 'particularly well suited' to providing EDC)[223], and in social sciences ('strategic' for true democratic citizenship)[224]. The Parliamentary Assembly asked for the inclusion of duties and responsibilities in

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219 The explanatory memorandum to the Recommendation on the Charter on EDC/HRE (paras 1–22) explains the 'background, origins and negotiating history'. Preambular paras 7–10 mention some important instruments in the genesis of the Charter.

220 CoE Committee of Ministers Declaration and programme on education for democratic citizenship, based on the rights and responsibilities of citizens (Budapest, 7 May 1999), paras 6–7, 14–15.

221 Heading 3(1) in Key issues.

222 CoE Recommendation R(99)2 of the Committee of Ministers to member states on secondary education (19 January 1999) .

223 CoE Recommendation Rec(2000)24 of the Committee of Ministers to member states on the Development of European Studies for Democratic Citizenship (20 December 2000), appendix para 2(d). EDC is seen as a general principle to be applied in European Studies (which are defined in para 1).

224 CoE Recommendation Rec(2000)12 of the Committee of Ministers to member states on the social sciences and the challenge of transition (13 July 2000), recalling 'that the process of transition from totalitarian regimes to democracy requires efficient and independent social sciences able to contribute to a true democratic citizenship' (social sciences cover 'disciplines aiming at improving the understanding and functioning of society, as well as its welfare: mainly soci-

EDC, not only rights.[225] The Assembly further recommended that EDC become a part of the fight against terrorism[226], against religious intolerance[227] and against extremism[228].

In 2000, the European Ministers of Education endorsed the results of the EDC project (welcoming their quality) and called for a recommendation from the Committee of Ministers on EDC drawing up common guidelines for all educational systems beyond national specificities.[229] During the first phase, experts developed Council of Europe materials and scholars reflected on EDC.[230]

34   Second phase: 2001–2005

EDC policies and networks continued to be developed with national EDC coordinators[231] and experts. The 2002 Recommendation of the Committee of Ministers to member states on education for democratic citizenship—

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ology and anthropology, political science, contemporary history, psychology, educational science, economics *and law*' (emphasis added).

225 CoE Parliamentary Assembly Recommendation 1401(1999) 'Education in the responsibilities of the individual', see para 13.

226 CoE Parliamentary Assembly Recommendation 1426(1999) 'European Democracies facing up to terrorism'.

227 CoE Parliamentary Assembly Recommendation 1396(1999) 'Religion and democracy', paras 14(1), para 13(2)(a): 'teaching about religions as sets of values towards which young people must develop a discerning approach within the framework of education on ethics and democratic citizenship'.

228 CoE Parliamentary Assembly Recommendation 1438(2000) 'Threat posed to democracy by extremist parties and movements in Europe'.

229 CoE Standing Conference of European Ministers of Education, Resolution on results and conclusions of the completed projects on the 1997-2000 Medium-term programme: Educational policies for democratic citizenship and social cohesion: challenges and strategies for Europe (Cracow, 15-17 October 2000), see paras 9–10.

230 E.g. R Veldhuis, *Education for democratic citizenship: dimensions of citizenship, core competencies, variables and international activities* (CoE 1997); A Osler, 'European Citizenship and Study Abroad: student teachers' experiences and identities' (1998) 28 Cambridge Journal of Education 77; F Audigier, *Basic concepts and core competencies for education for democratic citizenship* (CoE 2000); C Bîrzéa, *Education for Democratic Citizenship: A LifeLong Learning Perspective* (CoE 2000); L Carey and K Forrester, *Sites of Citizenship: Empowerment, Participation and Partnerships* (CoE 2000); K Durr, V Spajic-Vrkaš and I Ferreira Martins, *Strategies of Learning Democratic Citizenship* (CoE 2000).

231 The Ministry of Education in each member state appointed a contact person within the EDC project, part of the network.

the forerunner of the 2010 Charter on EDC/HRE—was a landmark.[232] The Committee of Ministers affirmed that EDC was fundamental to the Council of Europe's primary task of promoting a free, tolerant and just society, and contributed 'to defending the values and principles of freedom, pluralism, human rights and the rule of law, which are the foundations of democracy'.[233] While respecting member state constitutional structures, national or local situations, and education systems, it recommended that national governments make EDC a priority objective of educational policy-making and reforms.[234] EDC should be 'seen as embracing any formal, non-formal or informal educational activity, including that of the family, enabling an individual to act throughout his or her life as an active and responsible citizen respectful of the rights of others'.[235] The Committee of Ministers set out general guidelines for EDC policies, outlined EDC objectives, content and methods as well as teacher training, and described the role of media and new information technologies. EDC could be a specific discipline but also be cross-curricular. Civic, political or human rights education could contribute to EDC without covering it completely. Multidisciplinary approaches were recommended, including history, philosophy, religion, languages, or social sciences. Priority was given to the acquisition of knowledge, attitudes and skills which reflected the fundamental values of human rights and the rule of law. The Committee of Ministers recognised that:

> education for democratic citizenship is a factor which promotes relations of trust and stability in Europe beyond the boundaries of the member states. The European dimension should consequently be a component as well as a source of inspiration when formulating the corresponding policies.[236]

Therefore, it was recommended that each state's contribution to the European and international debate on EDC should be reinforced by 'sites of cit-

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232 CoE Recommendation Rec(2002)12 of the Committee of Ministers to member states on education for democratic citizenship (16 October 2002).

233 Para 1.

234 Para 3.

235 Para 2.

236 CoE Recommendation Rec(2002)12 of the Committee of Ministers to member states on education for democratic citizenship (16 October 2002), appendix, heading 1. Remark the same terminology 'European dimension' as in the 1992 Maastricht Treaty provision on education, now Art 165 TFEU.

izenship', European networks for practitioners and researchers, and fora for experimenting on and developing EDC.[237]

In 2004, the Parliamentary Assembly recommended that the Committee of Ministers should 'draft a European framework *convention* on education for democratic citizenship and human rights' [238] and the European Ministers asked for 'the setting of European standards by means of appropriate *conventional* mechanisms' to be considered, because 'the Council of Europe should strengthen its role as a center of excellence for policies to equip people with the knowledge, skills and attitudes for life in democratic societies'.[239] In their Wroclaw Declaration on 50 Years of Cultural Cooperation, one of the new objectives (added to the original objectives of the European Cultural Convention[240]) was to create the conditions for full participation in democratic life, with EDC being seen as central to educational *quality*.[241] European action on EDC matched with international action to achieve quality education linked with democratic citizenship.[242]

Responding to the implementation gap—the difference between words and deeds on EDC[243]—the 2005 European Year of Citizenship through Education disseminated good practice and directed different players to

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237 Appendix heading 1–2.

238 CoE Parliamentary Assembly Recommendation 1682(2004) 'Education for Europe', para 8 (emphasis added).

239 Ministers responsible for culture, education, youth and sport from the States Parties to the European Cultural Convention, Wroclaw Declaration on 50 Years of Cultural Cooperation (9-10 December 2004) ETS No 18, heading III (emphasis added). See also CoE Conference of European Ministers responsible for Youth, Human dignity and social cohesion: youth policy responses to violence. Final Declaration (Budapest, 23-24 September 2005), calling for a framework policy document, and paras 4 and 11.

240 Text to n 171. The initial aim in 1954 was to contribute to the common cultural heritage of Europe (Article 1). Two other new objectives were 'A European dimension in standards, policy and practice' and 'Promoting cultural diversity and building up shared values'. See also 50 years of the European Cultural Convention (2004).

241 Heading I.

242 See 'Issues for discussion at meeting of OECD Ministers of Education' (18–19 March 2004): A meeting of Education Ministers from the Organisation for Economic Co-operation and Development (OECD) member states on the subject of 'Raising the Quality of Education for All': The issue for education is how to develop not only successful individuals with good workplace skills, but also 'democratic citizenship' — an outcome both linked to, and supportive of, social cohesion'.

243 JM Heydt, *Education for Democratic Citizenship: Words and Actions* (CoE 2001); K O'Shea, 'EDC policies and regulatory frameworks' (Strasbourg, 6-7 December

their responsibilities with regard to EDC (decision-makers in ministries, university vice-chancellors, school heads, teachers, trainers, NGOs, etc.).[244] Several states requested the assistance of the Council of Europe in developing their EDC policies and practice.[245] The 2005 Third Summit of Heads of State and Government was crucial. They reconfirmed the fundamental role of EDC/HRE and called for increased efforts. The action plan included 'Education: promoting democratic citizenship in Europe'.[246]

During the second phase too, EDC appeared in various *specific* Council of Europe instruments as an overarching concept, a platform for specific action within an integrated approach, a general principle informing, for example, history teaching[247], gender equality[248], e-learning[249], lifelong

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2001), section 3(1): 'La question de l'écart entre la politique et la pratique demeure l'un des problèmes majeurs dans les Etats membres'. For a systematic description of EDC policies in different member states and the compliance gap, see All-European Study on Education for Democratic Citizenship Policies (CoE 2005).

244 CoE Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (11 May 2010), twelfth preambular para; explanatory memorandum para 4. See evaluation of the year during the third phase.

245 See CoE Committee of Ministers, Terms of reference of the Ad hoc Advisory Group on Education for Democratic Citizenship and Human Rights (ED-EDCHR) (5 February 2007) CM/Del/Dec(2007)985/7.2.

246 CoE Third Summit of Heads of State and Government, The Declaration and the Action Plan (Warsaw, 16-17 May 2005): 'We will make full use of the opportunity to raise public awareness of European standards and values provided by the "European Year of Citizenship through Education" (...) The Council of Europe will enhance all opportunities for the training of educators, in the fields of education for democratic citizenship, human rights, history and intercultural education.'.

247 CoE Recommendation Rec(2001)15 of the Committee of Ministers to member states on history teaching in twenty-first-century Europe (31 October 2001), for history teaching to strengthen 'trusting and tolerant relations within and between states', recommends that member states adopt an integrated approach, using in particular the EDC project.

248 CoE Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making (12 March 2003), para 23.

249 CoE Recommendation Rec(2004)15 of the Committee of Ministers to member states on electronic governance ('e-governance') (15 December 2004), para 4.

learning[250] or promoting a Europe without divisions[251]. The Congress of Local and Regional Authorities of Europe adopted the Revised European Charter on the Participation of Young People in Local and Regional Life, which recognised that 'education about rights and duties of citizens in a democratic society must be made an integral part of any school curriculum to enable young people to contribute actively to democratic decision making'[252] and the Committee of Ministers recommended this Charter to member states.[253] To combat racism and intolerance, the European Commission against Racism and Intolerance (ECRI) adopted a general policy recommendation on school education referring to EDC and HRE.[254] During the second phase, new EDC materials were produced and scholars continued to reflect on the matter.[255]

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250 CoE Recommendation Rec(2003)8 of the Committee of Ministers to member states on the promotion and recognition of non-formal education/learning of young people (30 April 2003), i.a. on role of lifelong learning 'in promoting active participation in democratic life'; CoE Recommendation Rec(2004)4 of the Committee of Ministers to member states on the European Convention on Human Rights in university education and professional training (12 May 2004).

251 CoE Parliamentary Assembly Recommendation 1682(2004) 'Education for Europe'.

252 CoE Congress of Local and Regional Authorities of Europe Recommendation 128(2003) on the revised European Charter on the Participation of Young People in Local and Regional Life (21 May 2003), para 13.

253 CoE Recommendation Rec(2004)13 of the Committee of Ministers to member states on the participation of young people in local and regional life (17 November 2004), with in appendix the Revised European Charter on the Participation of Young People in Local and Regional Life, i.a. para 15.

254 CoE ECRI General Policy Recommendation No 10 on combating racism and racial discrimination in and through school education (15 December 2006), having regard to CM Rec(2002)12; i.a. para II(2)(a) ensuring that HRE 'is an integral part of the school curriculum at all levels and across all disciplines, from nursery school onwards', (f) 'revising school textbooks to ensure that they reflect more adequately the diversity and plurality of the society'.

255 E.g. P Belanger, *Education for Democratic Citizenship: Methods, Practices and Strategies* (CoE 2001); O'Shea, 'EDC policies and regulatory frameworks'; C Naval, M Print and R Veldhuis, 'Education for Democratic Citizenship in the New Europe: context and reform' (2002) 37 European Journal of Education 107; K Forrester, 'Leaving the academic towers: the Council of Europe and the Education for Democratic Citizenship Project' (2003) 22 International Journal of Lifelong Education 221; Lockyer, Crick and Annette, *Education for Democratic Citizenship: Issues of Theory and Practice*; All-European Study on Education for Democratic Citizenship Policies (CoE 2005); D Kerr and B Losito, *Tool on Key Issues for EDC Policies* (CoE 2004); D Kerr, 'Western Europe Regional Synthesis' in *All-European Study on Education for Democratic Citizenship Policies* (CoE 2004);

35 Third phase: 2006–2009

The first two phases highlighted the need for EDC and HRE 'to become a permanent strategic goal for the Council of Europe and its member states'.[256] A multi-disciplinary Ad Hoc Advisory Committee on Education for Democratic Citizenship and Human Rights guided the third phase of the EDC project, during which sub-projects were initiated to develop standards for EDC and to link policy and practice.[257] In the light of the experience acquired in the 2005 European Year,[258] and in order to consolidate and fine-tune the work, the Parliamentary Assembly and other Council of Europe bodies called for a new, appropriate European framework policy document to set out basic EDC/HRE principles and to establish a follow-

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C Bîrzea and others, *Tool for Quality Assurance of Education for Democratic Citizenship in Schools* (UNESCO, CoE, CEPS 2005); C Bîrzea, B Losito and R Veldhuis, 'Editorial' (2005) 4 Journal of Social Science Education; MH Salema, 'Teacher and Trainer Training in Education for Democratic Citizenship Competencies' (2005) 4 Journal of Social Science Education 39. One of the most popular manuals is 'Compass Manual on Human Rights Education with Young People', first published in 2002, now updated and translated in more than 30 languages <www.coe.int/en/web/compass>. See also Compasito, for children. National recommendatios for *Compass* in Denmark, Germany, Estonia and Austria (Commission/EACEA/Eurydice, Citizenship Education at School in Europe (2017) 82).

256 CoE Ad Hoc Committee of Experts for the European Year of Citizenship through Education (CAHCIT), Education for Democratic Citizenship and Human Rights: Programme of Activities (2006-2009), Learning and living democracy for all, DGIV/EDU/CAHCIT(2006)5.

257 CoE Committee of Ministers, Terms of reference of the Ad hoc Advisory Group on Education for Democratic Citizenship and Human Rights (ED-EDCHR) (5 February 2007) CM/Del/Dec(2007)985/7.2. Three lines of action for the 3rd phase in CoE Ad Hoc Committee of Experts for the European Year of Citizenship through Education (CAHCIT), Education for Democratic Citizenship and Human Rights: Programme of Activities (2006-2009), Learning and living democracy for all, DGIV/EDU/CAHCIT(2006)5 (ie education policy development and implementation for democratic citizenship and social inclusion; new roles and competences of teachers and other educational staff in EDC/HRE (defining competencies for teachers in EDC); and democratic governance of educational institutions). See also O Olafsdottir, 'Education for Democratic Citizenship and Human Rights: A Project by the Council of Europe' in VB Georgi (ed), *The Making of Citizens in Europe: New Perspectives on Citizenship Education* (Schriftenreihe Band 666, Bundeszentrale für politische Bildung 2008) 134.

258 CoE Evaluation Conference of the 2005 European Year of Citizenship through Education: Conclusions (Sinaia, 27-28 April 2006); D Kerr and J Lopes, *Implementation and outcomes of the 2005 European Year of Citizenship through Education: Learning and Living Democracy*, Report DGIV/EDU/CAHCIT (2006)11 .

up mechanism.[259] In 2007, the European Ministers of Education recommended unanimously, with the exception of the Polish delegation, that the Steering Committee for Education should continue its work on EDC/HRE programmes and draw up a reference framework.[260] The culmination of the third phase was Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on *the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education*. The Steering Committee for Education had drafted the Charter on EDC/HRE in close collaboration with various Council of Europe bodies, member state EDC/HRE coordinators, experts and networks.[261] The Charter on EDC/HRE is effectively 'the outcome of international co-operation among the 47 member states of the Council of Europe––and in the education field, between all the States Parties to the European Cultural Convention',[262] illustrating that educational cooperation is one of the cornerstones of the Council of Europe.[263] By consensus, the member states of the Council of Europe adopted the Recommendation on the Charter on EDC/HRE, with its

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259 CoE Parliamentary Assembly Recommendation 1791(2007) 'State of human rights and democracy in Europe', para 18(2), also para 2(3); CoE Parliamentary Assembly Recommendation 1849(2008) 'For the promotion of a culture of democracy and human rights through teacher education', paras 5–6. See also call in CoE Evaluation Conference of the 2005 European Year of Citizenship through Education: Conclusions (Sinaia, 27-28 April 2006) (n 258), paras 1, 3.

260 CoE Standing Conference of European Ministers of Education, Building a more humane and inclusive Europe: role of education policies, Resolution on the 2008-2010 programme of activities (Istanbul, 4-5 May 2007), paras 7–8 (also asking to reinforce work on indicators (with the European Commission) on quality assurance in the field of EDC/HRE). On front page: 'This resolution was adopted unanimously with the exception of the Polish Delegation'.

261 Details in explanatory memorandum to CoE Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (11 May 2010), paras 9–22. A study on the feasability of a reference framework for EDC/HRE had been submitted in 2007, drafted by an expert assisted by an informal group of experts. This was subsequently commented by numerous CoE consulted bodies, i.a. the Ad hoc Advisory Group on EDC and Human Rights, the Steering Committee on Human Rights, the Joint Council on Youth, the Steering Committee for Higher Education, the Bureau of the Steering Committee for Education, and in March 2008, the plenary Steering Committee for Education.

262 Explanatory memorandum para 40(j).

263 CoE Standing Conference of European Ministers of Education, Building a more humane and inclusive Europe: role of education policies, Resolution on the 2008-2010 programme of activities (Istanbul, 4-5 May 2007), para 14(1).

appendix, as was proposed by the Steering Committee for Education (CDED). Among them, as appears from the documents, were all the EU Member States, represented by their Ministers of Foreign Affairs or representatives thereof.[264] The EU representative to the Council of Europe was also present. No reservations were submitted.[265]

In addition to the general recommendation on EDC, *specific* instruments of Council of Europe bodies continued to refer to EDC, with EDC thus appearing as a general principle, a paradigm in which other issues were approached, or of which specific dimensions would be developed further. EDC was recommended in actions to promote the participation of young people in public life[266], new information and communications environment[267], gender equality[268], race equality[269], or the integration of migrants.[270] In 2008, the European Ministers for Foreign Affairs launched

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264 Addendum 1 to the Minutes of the sitting held at the Palais de l'Europe, Strasbourg on 11 May 2010 (CM(2010)PV-Add 1. On voting procedures, text to n 423 ff.

265 See n 433 and text.

266 CoE Recommendation Rec(2006)14 of the Committee of Ministers to member states on citizenship and participation of young people in public life (25 October 2006), importance of youth associations (non-formal learning).

267 CoE Recommendation Rec(2006)12 of the Committee of Ministers to member states on empowering children in the new information and communications environment (27 September 2006); CoE Recommendation CM/Rec(2007)11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment (26 September 2007); CoE Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet (7 November 2007): 'Member states should use the Internet and other ICTs in conjunction with other channels of communication to formulate and implement policies for education for democratic citizenship to enable individuals to be active and responsible citizens throughout their lives, to respect the rights of others and to contribute to the defence and development of democratic societies and cultures' (appendix, section I).

268 CoE Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education (10 October 2007), para 37.

269 CoE ECRI General Policy Recommendation No 10 on combating racism and racial discrimination in and through school education (15 December 2006) (fundamamental role of schools towards equality).

270 CoE Recommendation CM/Rec(2008)4 of the Committee of Ministers to member states on strengthening the integration of children of migrants and of immigrant background (20 February 2008), C(5) (ii): 'The school curricula should include education for democratic citizenship, human rights and intercultural competence.'.

the White Paper on Intercultural Dialogue, recognising that the competences necessary for intercultural dialogue are not automatically acquired but need to be learned, with EDC as one of the key areas of competence.[271] In the case of, for example, religious differences, teaching should be consistent with the aims of EDC and HRE, aiming at tolerance and critical thinking.[272] Public authorities should ensure that higher education institutions can fulfil their objectives, including 'preparation for life as active citizens in democratic societies'.[273] Categorising activities that foster the rule of law, the Committee of Ministers mentioned EDC and HRE as 'important activities that seek to promote the rule of law in indirect ways'.[274] One binding instrument is particularly noteworthy in this third phase: the 2005 Council of Europe Convention on the Prevention of Terrorism. It contains an *obligation* for member states to take appropriate measures in the field of education 'with a view to preventing terrorist offences and their negative effects'.[275] This instrument presaged the link between education and security, which was to become central in the next phase.

Throughout the third phase, materials were further developed to assist member states and practitioners with implementation (six manuals on EDC/HRE for school practice were included in an EDC Pack), scholarly reflections were published, and good practices shared.[276]

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271 CoE Committee of Ministers, White Paper on Intercultural Dialogue: Living together as equals in dignity (2 May 2008), paras 76 and 93–94 ('Education for democratic citizenship is fundamental to a free, tolerant, just, open and inclusive society, to social cohesion, mutual understanding, intercultural and interreligious dialogue and solidarity, as well as equality between women and men'). Also explanatory memorandum to the Charter on EDC/HRE, para 7.

272 CoE Recommendation CM/Rec(2008)12 of the Committee of Ministers to member states on the dimension of religions and non-religious convictions within intercultural education (10 December 2008), appendix para 5.

273 CoE Recommendation CM/Rec(2007)6 of the Committee of Ministers to member states on the public responsibility for higher education and research (16 May 2007), preambular paras 17–18, and appendix para 5. See in the same line CM/Rec(2012)7 (n 281).

274 CoE Committee of Ministers, The Council of Europe and the Rule of Law, CM(2008)170, para 62 fn 19 (categorisation of activities that further the rule of law).

275 CoE Convention on the Prevention of Terrorism CETS No 196 (Warsaw, opened 16 May 2005, entered into force 1 June 2007), Art 3(1). The EU and all EU Member States signed the Convention, but some did not ratify (e.g. BE, EL, IE).

276 Osler and Starkey, 'Education for democratic citizenship: a review of research, policy and practice 1995–2005'; CD Dziuban and others, 'Developing the Euro-

2. EDC standards after 2010: authoritative value of Charter on EDC/HRE confirmed

36 *Fourth phase: the Charter on EDC/HRE as a frequently cited reference point*

In the ongoing normative work of the Council of Europe since 2010, the Charter on EDC/HRE has been a frequently cited reference point.[277] Various recommendations of the Committee of Ministers refer to it and go on to consider specific aspects or dimensions of EDC, for instance in relation to the teaching of history[278], in the context of disadvantaged neighbor-

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pean Citizen: Investing in Europe's Democratic Future' (2007) 21 International Journal of Social Education 177; T Huddleston (ed) *Tool on Teacher Training for Education for Democratic Citizenship and Human rights Education* (revised, CoE 2007); Olafsdottir, 'Education for Democratic Citizenship and Human Rights: A Project by the Council of Europe'; Osler, 'Human Rights Education: The Foundation of Education for Democratic Citizenship in our Global Age'; HJ Abs (ed) *Introducing Quality Assurance of Education for Democratic Citizenship in Schools: A comparative Study on Ten Countries* (CoE 2009); P Brett, P Mompoint-Gaillard and MH Salema, *How all teachers can support citizenship and human rights education: a framework for the development of competences* (CoE 2009); B Guidetti, 'Intercultural education for citizenship in complex societies. Summary of the International Conference on Intercultural Education for citizenship' (2009) 4 Ricerche di Pedagogia e Didattica 1; A Keating, DH Ortloff and S Philippou, 'Citizenship Education Curricula: The Changes and Challenges Presented by Global and European Integration' (2009) 41 Journal of Curriculum Studies 145. For materials and good practices in this period, see R Gollob and P Krapf (eds), *Living in democracy: EDC/HRE lesson plans for lower secondary level* (EDC/HRE vol III, CoE 2008); R Gollob and P Krapf, *Exploring Children's Rights: Nine short projects for primary level* (EDC/HRE vol V, CoE 2007); R Gollob and P Krapf, *Teaching Democracy: A collection of models for democratic citizenship and human rights education* (EDC/HRE vol VI, CoE 2009); Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice (CoE, OSCE/ODIHR, UNESCO, OHCHR, 2009) 187.

277 Almost in all instruments cited in this section B. See also Hartley and Huddleston, *School-community-university partnerships for a sustainable democracy: Education for Democratic Citizenship in Europe and the United States of America* 51.

278 CoE Recommendation CM/Rec(2011)6 of the Committee of Ministers to member states on intercultural dialogue and the image of the other in history teaching (6 July 2011) ('history teaching constitutes an integral part of education for democratic citizenship').

hoods[279], the participation of young people[280], the responsibilities of public authorities[281], or global interdependence and solidarity[282].

The 2012 Recommendation of the Committee of Ministers on ensuring quality education, which has (i.a.) regard to the Charter on EDC/HRE is particularly important. This Recommendation describes *quality education* not only by reference to employability, but also with an expectation that education will promote democracy, respect for human rights, and responsible citizenship.[283] In the 2013 Helsinki agenda for quality education, the European Ministers of Education share this view, recalling that one of the four main purposes of education is '[p]reparation for life as active citizens in democratic societies' (echoing Article 13(1) ICESCR, third anchor point).[284]

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279 CoE Recommendation CM/Rec(2015)3 of the Committee of Ministers to member States on the access of young people from disadvantaged neighbourhoods to social rights (21 January 2015).

280 CoE Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18 (28 March 2012).

281 CoE Recommendation CM/Rec(2012)7 of the Committee of Ministers to member States on the responsibility of public authorities for academic freedom and institutional autonomy (20 June 2012) ('higher education fulfils the multiple purposes of preparation for the labour market, preparation for life as active citizens in democratic societies, personal development ...'); CoE Recommendation CM/Rec(2019)5 of the Committee of Ministers to member States on the system of the European Convention Human Rights in university education and professional training (16 October 2019).

282 CoE Recommendation CM/Rec(2011)4 of the Committee of Ministers to member states on education for global interdependence and solidarity (5 May 2011) (recommends a more prominent role for education for global interdependence and solidarity in the framework of the implementation of the Charter on EDC/HRE). See also CoE Parliamentary Assembly Recommendation 2157 (2019) 'Towards an ambitious Council of Europe agenda for gender equality'.

283 CoE Recommendation CM/Rec(2012)13 of the Committee of Ministers to member States on ensuring quality education (12 December 2012), preambular paras 25–26; appendix para 6 (d-f).

284 CoE Standing Conference of Ministers of Education, Governance and Quality Education (Helsinki, 26 -27 April 2013), see paras 6, 15, and 18 (1)-(2). See also CoE Standing Conference of European Ministers of Education, Final Declaration on 'Education for Sustainable Democratic Societies: the Role of Teachers' (Ljubljana, 4-5 June 2010), and especially CoE Standing Conference of Ministers of Education, Securing Democracy through Education: The development of a Reference Framework of Competences for Democratic Culture (Brussels, 11-12 April 2016), para 13.

In the 2012–2015 Strategy for the Rights of the Child, the Committee of Ministers builds on the achievements of the programme on EDC and HRE. In several policy cycles, the Charter on EDC/HRE appears among the *standards* protecting the child, and forms part of strategic objectives and priority areas.[285] Member states are supported in the effective implementation of the Charter on EDC/HRE, for instance through the pilot project scheme 'Human Rights and Democracy in Action' jointly funded by the EU and the Council of Europe.[286]

The importance of EDC continues to be confirmed by other Council of Europe bodies, such as the Conference of International Non-Governmental Organisations[287] and the Congress of Local and Regional Authorities, which uses the definition of EDC in the Charter and advocates 'draw[ing] up local policies, strategies and action plans for education for democratic citizenship'.[288] Unfortunately, the Venice Commission has not worked on EDC. This authoritative body sets standards on democracy with a focus on legal orders and the working of democratic institutions.[289]

37   EDC as a security imperative

Two interlinked developments mark the period after 2010. The first is that EDC gained momentum through its relationship with the issue of security

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285 CoE Committee of Ministers, Council of Europe Strategy for the Rights of the Child (2012-2015) (15 February 2012) CM(2011)171final, third policy cycle, strategic objective 4 (p 8); CoE, *Council of Europe Strategy for the Rights of the Child (2012-2015): Implementation report* (2016), 8, 17, 24; CoE Committee of Ministers, Council of Europe Strategy for the Rights of the Child (2016-2021): Children's human rights (3 March 2016) CM(2015)175 final, para 10, priority areas 3 and 4 (paras 37, 40, 48, 60, on participation in and through school, violence, and digitial citizenship education).

286 CoE Committee of Ministers, Council of Europe Strategy for the Rights of the Child (2016-2021): Children's human rights (3 March 2016) CM(2015)175 final, para 40.

287 CoE Conference of International Non-Governmental Organisations (INGOs), Declaration on genuine democracy (24 January 2013), para 13 ('Recognising that education is the key means of developing democratic values in the young, and wishing to encourage them to exercise fully the rights and assume the responsibilities of citizenship').

288 CoE Congress of Local and Regional Authorities of the Council of Europe Resolution 332(2011) 'Education for democratic citizenship: tools for cities', paras 2, and 5–7, and explanatory memoranum paras 6–11.

289 CoE Committee of Ministers Resolution(2002)3, Revised Statute of the European Commission for Democracy through Law (Venice Commission) (21 February 2002). Especially Statute Art 1(2)(b) would allow work on EDC/HRE.

in Europe. EDC became a central preoccupation in the drive for 'democratic security' after the fall of the Berlin wall (1989), and renewed commitment to EDC has resulted from the challenges of radicalisation and terrorism. Acknowledging that these are complex phenomena, several Council of Europe and EU bodies have pointed to education for democratic citizenship and human rights as an important part of the response and a matter of urgency.[290] Most terrorist suspects are European citizens. EDC and HRE are also needed to address the problems resulting from the influx of migrants and refugees.

In the 2015 report on the 'State of democracy, human rights and the rule of law: A shared responsibility for democratic security in Europe', the Secretary General of the Council of Europe recalls the consensus among political scientists that 'democracies rarely go to war with each other.'[291] In order to assess the performance of each member state, five pillars of democratic security are distinguished (each broken down into parameters and detailed criteria). One of them is the 'Inclusive society and democratic citizenship' pillar, with EDC as a measurement criterion (to see whether specific action has been taken to increase the priority given to EDC/HRE in education policies). Curricula should be reviewed and updated in line with the Charter on EDC/HRE (country monitoring suggests that there are still large gaps).[292] EDC is one of the basic criteria for assessing the degree to which states promote inclusion and democratic citizenship. 'Building and reinforcing inclusiveness in our societies—and thereby empowering all citizens *to exercise and defend their rights, to value diversity and to play an active part in democratic life*—is an essential element of democratic security' (the three components of the definition of EDC in the Charter on EDC/HRE).[293] The successive reports on the state of democracy, human rights and the rule of law continue in the same vein, inter alia recommending

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290 Discussed in various fora. See e.g. CoE Exchange on the religious dimension of intercultural dialogue: the role of education in the prevention of radicalisation leading to terrorism and violent extremism (Strasbourg, 9-10 November 2016); World Forum for Democracy 2016, Democracy & equality: does education matter? (Strasbourg, 7-9 November 2016); CoE Conference, Securing Democracy through Education (Nicosia, 22-23 March 2017). See also CoE Parliamentary Assembly Recommendation 2084(2016) 'Foreign fighters in Syria and Iraq'. See for EU reactions §§ 127 .

291 CoE Secretary General, State of democracy, human rights and the rule of law: A shared responsibility for democratic security in Europe. Report 2015, 6.

292 Ibid 13, 86–88. On practice, see text to n 523.

293 Ibid 75 (emphasis added); see also 86.

assessment of the need to make the Charter on EDC/HRE a binding legal instrument.[294] In 2016, the Charter on EDC/HRE was included in a Compendium of the most relevant Council of Europe texts in the area of democracy.[295]

38 *The Reference Framework of Competences for Democratic Culture (RFCDC)*

A further development was the work on a Reference Framework for Competences for Democratic Culture (RFCDC). In 2011, a 'Group of Eminent persons' was asked by the Secretary General of the Council of Europe, Thorbjørn Jagland, to analyse the threat of rising intolerance and discrimination and loss of democratic freedoms (i.a. through populism, xenophobic parties, and Islamic extremism). This Group regarded educators as the primary actors for change and urged them to develop 'intercultural competencies' as core elements in school curricula.[296] Intercultural and democratic competences were developed in the RFCDC at the insistence of the Committee of Ministers (Declaration and Action Plan), the European Ministers of Education, the Secretary General, and the Parliamentary Assembly.[297] The RFCDC was officially launched in April 2018 during the con-

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294 CoE Secretary General, State of democracy, human rights and the rule of law—a security imperative for Europe. Report 2016, 81–101 (pillar on inclusive societies), 97 (criteria), 201 (binding); CoE Secretary General, State of democracy, human rights and the rule of law: Populism—How strong are Europe's checks and balances? Report 2017, 112 (narrowing implementation gaps); CoE Secretary General, State of democracy, human rights and the rule of law: Role of institutions—Threats to institutions Report 2018 (ch 5, education and culture for democracy).

295 CoE Secretariat, Compendium of the most relevant Council of Europe texts in the area of democracy CDDG(2016)Compendium, Chapter E. The Compendium has been drawn up by the SG, authorised for publication by the CM, reflecting 'the state of play as regards the texts adopted by Council of Europe bodies in areas that fall into the shared definition of democracy' and with 'no legal force nor authoritative status'.

296 CoE Report of the Group of Eminent Persons of the Council of Europe, *Living together: combining diversity and freedom in 21st century Europe*, p 37, 61, para 31. Joschka Fischer headed the Group; members were Emma Bonino (Italy), Timothy Garton Ash (UK), Martin Hirsch (France), Danuta Hübner (Poland), Ayşe Kadıoğlu (Turkey), Sonja Licht (Serbia), Vladimir Lukin (Russia) and Javier Solana (Spain).

297 CoE Committee of Ministers Declaration 'United around our principles against violent extremism and radicalisation leading to terrorism' (19 May 2015) CM(2015)74-final; CoE Committee of Ministers, The fight against violent extremism and radicalisation leading to terrorism - Action Plan (19 May 2015)

ference 'Democratic Culture—from words to action' (Copenhagen).[298] It aims to support member states in the implementation of the Charter on EDC/HRE and to increase effectiveness of EDC and HRE.[299]

The RFCDC has the Charter on EDC/HRE as a main source of inspiration and refers to the central conceptual foundations of EDC/HRE. The enormous value of having a single, consensual EDC concept in the Charter on EDC/HRE is underscored when it is compared with the *101* schemes on citizenship education audited to establish the model for the RFCDC.[300] The schemes examined—schemes drawn up by Council of Europe or EU bodies, UNESCO, OECD, member state governments, and academic

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CM(2015)74 add final, especially heading 2(1)(1); CoE Standing Conference of Ministers of Education, Governance and Quality Education (Helsinki, 26 -27 April 2013), para 21(4); CoE Standing Conference of Ministers of Education, Securing Democracy through Education: The development of a Reference Framework of Competences for Democratic Culture (Brussels, 11-12 April 2016), see paras 12–14 (also on quality education), 20, 31, 37. See also CoE Committee of Ministers, Thematic debate: 'Living together implies having a level of common competences as regards intercultural and democratic dialogue, as well as a system of attitudes, behaviour and common values. Can these be taught?'—Follow-up (4 and 6 July 2012); CoE Committee of Ministers Action Plan on Building Inclusive Societies (2016-2019) (15-16 March 2016) CM(2016)25; CoE Secretary General, The fight against violent extremism and radicalisation leading to terrorism - Implementing the Action Plan. Report (18 May 2016); CoE Parliamentary Assembly Recommendation 2088(2016) 'Towards a framework of competences for democratic citizenship'. See also nn 291 and 294.

298 <www.coe.int/en/web/education/-/official-launch-of-the-reference-framework-of-competences-for-democratic-culture-rfcdc-and-of-the-implementation-network>.

299 More in text to n 300.

300 Competences for democratic culture: Living together as equals in culturally diverse democratic societies (CoE 2016) 3 (four phases). See CoE Committee of Ministers, The fight against violent extremism and radicalisation leading to terrorism - Action Plan (19 May 2015) CM(2015)74 add final, especially 2.1.1; CoE Standing Conference of Ministers of Education, Securing Democracy through Education: The development of a Reference Framework of Competences for Democratic Culture (Brussels, 11-12 April 2016), see paras 12–14 (also on the quality of education), 20, 31, 37. Also CoE Committee of Ministers, Thematic debate: 'Living together implies having a level of common competences as regards intercultural and democratic dialogue, as well as a system of attitudes, behaviour and common values. Can these be taught?'—Follow-up (4 and 6 July 2012); CoE Committee of Ministers Action Plan on Building Inclusive Societies (2016-2019) (15-16 March 2016) CM(2016)25; CoE Secretary General, The fight against violent extremism and radicalisation leading to terrorism - Implementing the Action Plan. Report (18 May 2016).

researchers—are evidence of the variety of approaches to citizenship education.[301] The proliferation of schemes, which moreover differ considerably, presents 'a dilemma to educational planners and policy makers who wish to find an authoritative model upon which to base their work'.[302] The Glossary to the RFCDC reiterates the definition of EDC (concept in para 2). It is interesting that the authors added this comment to the definition:

> As democratic citizenship is not limited to the citizen's legal status and to the voting right this status confers, education for democratic citizenship includes all aspects of life in a democratic society and is therefore related to a vast range of topics such as sustainable development, participation of people with disabilities in society, gender mainstreaming, prevention of terrorism and many others.[303]

EDC does indeed relate to *all* the rights and obligations which the law confers on citizens, including those concerning sustainable development, disability, gender, etc. Citizens' participation rights, moreover, relate to the prevention of terrorism and much more. All these subjects fall ipso facto under the definition of para 2 of the Charter on EDC/HRE. The legal status of citizens and component (c-1) cannot be construed narrowly.

The RFCDC proposes a model of 20 democratic competences needed for effective participation in a culture of democracy.[304] Democratic competence is defined as 'the ability to mobilise and deploy relevant psychological resources (namely values, attitudes, skills, knowledge and/or understanding) in order to respond appropriately and effectively to the demands, challenges and opportunities presented by democratic situations'.[305] The RDCDC sets out the values, attitudes, skills, and knowledge and critical understanding which an individual needs in order to be an

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301 Appendix A. See also Grammes, 'Different Cultures in Education for Democracy and Citizenship'.

302 Competences for democratic culture: Living together as equals in culturally diverse democratic societies (CoE 2016), 27.

303 CoE Reference Framework of Competences for Democratic Culture, Vol 1: Context, concepts and model (2018), 72. See also definition of 'democratic culture', etc. in p 71 ff.

304 See Annex 3 to this study.

305 CoE Reference Framework of Competences for Democratic Culture, Vol 1: Context, concepts and model (2018), 32 (intercultural competences are defined likewise as a response to intercultural situations; for citizens who live within culturally diverse democratic societies, they are an integral aspect of democratic competence).

active participant in a 'democratic culture/society/group'[306]—there is, notably, no mention of the state.[307] It will be possible to apply these democratic competences in the EU context as they have been chosen to be multipurpose, flexible, open and dynamic.[308] An example is the competence specifying the expected knowledge and critical understanding of the world (including politics, law, human rights, etc.).[309] Moreover, 447 descriptors have been developed. Descriptors are 'statements referring to concrete observable behaviour of a person with a certain level of competence'.[310]

The RFCDC is 'not a prescribed or even recommended European curriculum'.[311] It is a reference document, a tool to enable European education systems to specify learning outcomes, and is destined for use in school curricula at different levels of formal education. The democratic competences in the RFCDC and their descriptors add precision to the EDC standards.

For the purposes of this study, the concept of EDC in the Charter on EDC/HRE is useful in itself, especially in its components (c-1–2–3), which set out the EDC and HRE objectives, i.e. empowering citizens to exercise and defend their democratic rights and responsibilities in society, to value diversity (in its behavioural aspects), and to play an active part in democratic life. These components will be used as parameters to apply EDC/HRE standards to the position of EU citizens under EU law. Furthermore, the EDC concept provides a common denominator from which to approach citizenship education, bridging the different political systems in the member states. It is possible to apply the EDC parameters and still

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306 CoE Reference Framework of Competences for Democratic Culture, Vol 3: Guidance for implementation (2018), 12.

307 See § 150 statal thinking, i.a. text to n 1026.

308 Competences for democratic culture: Living together as equals in culturally diverse democratic societies (CoE 2016), 31.

309 See ibid 52–53 (also knowledge and critical understanding of culture, media, economies, environment, and sustainability...).

310 Including 135 key descriptors. See CoE Reference Framework of Competences for Democratic Culture, Vol 2: Descriptors of competences for democratic culture (2018), p 11; CoE Reference Framework of Competences for Democratic Culture, Vol 3: Guidance for implementation (2018), p 12: descriptors cover only those values, attitudes, skills, and knowledge and understanding which are learnable, teachable and assessable.

311 CoE Reference Framework of Competences for Democratic Culture, Vol 1: Context, concepts and model (2018), 20: 'The Framework is thus a tool for use in designing and developing curricula, pedagogies and assessments suitable for different contexts and education systems as determined by those responsible'. It provides a shared language.

respect national constitutional differences. Even within the EU, the political systems of the Member States differ widely (constitutional monarchies and republics; presidential, semi-presidential, and parliamentary systems; unitary states, federal systems, and states with devolved powers to certain regions; unicameral and bicameral parliaments, etc.). However, they are all representative democracies, their constitutions guaranteeing free elections and human rights. The concise common denominator of EDC is wide enough to embrace different national concepts and allow for diverse approaches in the member states. The democratic competences and their descriptors in the RFCDC provide additional detail.

39 *Ongoing work on EDC*

The follow-up activities since 2010 continue to involve a wide range of actors.[312] National public authorities, educational establishments, NGOs, youth organisations, partnerships, networks, and other stakeholders, put Council of Europe instruments into practice. Materials and tools for the implementation and assessment of EDC have been developed further and made available through Council of Europe publications.[313] Strategic support has been offered to policy makers.[314] EDC continues to be studied in social science.[315] At the 2016 Standing Conference, the Ministers of Educa-

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312 See i.a. CoE Committee of Ministers, Terms of reference for the Steering Committee for education policy and practice (CDPPE), 1 January 2018 until 31 December 2019, CM(2017)131-addfinal (Education for Democracy).

313 R Gollob, P Krapf and W Weidinger (eds), *Taking Part in Democracy: Lesson plans for upper secondary level on democratic citizenship and human rights education* (EDC/HRE vol IV, CoE 2010); R Gollob, P Krapf and W Weidinger (eds), *Educating for democracy: Background materials on democratic citizenship and human rights education for teachers* (EDC/HRE vol I, CoE 2011). See also § 126 on the ACCI and the CCCI, in co-operation with the EU.

314 I.a. D Kerr and others, *Strategic support for decision makers: Policy tool for education for democratic citizenship and human rights* (CoE 2010); Curriculum Development and Review for Democratic Citizenship and Human Rights Education (prepared by Felisa Tibbits for UNESCO/CoE/Office for Democratic Institutions and Human Rights/Organization of American States, 2016).

315 E.g. Hartley and Huddleston, *School-community-university partnerships for a sustainable democracy: Education for Democratic Citizenship in Europe and the United States of America*; K Hüfner, 'The Human Rights Approach to Education in International Organisations' (2011) 46 European Journal of Education 117; D Kerr and A Keating, 'Intercultural, citizenship and human rights education: the challenges of implementation for policy, practice and research' (2011) 53 Educational Research 119; Becker, 'Politische Bildung in Europa'; Grammes, 'Different Cultures in Education for Democracy and Citizenship'; D Kerr, *Implementation of the Council of Europe Charter on Education for Democratic Citizenship and*

tion supported the development of a long-term strategy for a more coherent and comprehensive approach to EDC/HRE and requested the Council of Europe to consider ways of increasing the impact of the Charter.[316] Successive chairmanships of the Council of Europe mention education for democratic citizenship and human rights among their priorities.[317] Every five years, a Council of Europe report and a conference assess the impact of the Charter on EDC/HRE.[318]

Human Rights Education: Final Report (CoE Steering Committee for Educational Policy and Practice, 2012); J Menthe, 'Education for Democratic Citizenship: Values vs Process' in M Print and D Lange (eds), *Schools, Curriculum and Civic Education for Building Democratic Citizens* (Sense 2012); GH Helskog, *Democracy and diversity in education. Report of the International conference at Buskerud University College (Norway 12-13 March 2013)* ; Korostelina and Lässig, *History education and post-conflict reconciliation: reconsidering joint textbook projects*; M Print and D Lange (eds), *Civic Education and Competences for Engaging Citizens in Democracies* (Springer 2013); Arbués, 'Civic Education in Europe: Pedagogic Challenge versus Social Reality'; R Otte, 'The Council of Europe's work on "Education for Democratic Citizenship and Human Rights Education" and its links to the PIDOP project' in M Barrett and B Zani (eds), *Political and Civic Engagement: Multidisciplinary Perspectives* (Routledge 2014); Curriculum Development and Review for Democratic Citizenship and Human Rights Education (prepared by Felisa Tibbits for UNESCO/CoE/Office for Democratic Institutions and Human Rights/Organization of American States, 2016). See also A Osler, *General Rapporteur Conference report, in CoE Proceedings of the Conference on 'Human Rights and Democracy in Action - Looking Ahead: The Impact of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education' (Strasbourg, 29-30 November 2012)* (2013).

316 CoE Standing Conference of Ministers of Education, Securing Democracy through Education: The development of a Reference Framework of Competences for Democratic Culture (Brussels, 11-12 April 2016), paras 22, 31.

317 E.g. Priorities of the Czech Chairmanship of the Committee of Ministers of the Council of Europe (May—November 2017) CM/Inf(2017)12, section 4; Priorities of the Finnish Presidency of the Committee of Ministers of the Council of Europe (21 November 2018–17 May 2019) CM/Inf(2018)30, point 3. See also Stocktaking of the Finnish Presidency CM/Inf(2019)16: 'The Expert Meeting of the Education Policy Advisers Network (EPAN) on Education for Democratic Citizenship and Human Rights was held on 16–17 April 2019 in Helsinki with a focus on implementing the Council of Europe's Reference Framework of Competencies for Democratic Culture (RFCDC)'.

318 First review cycle (2010–2012), see CoE Proceedings of the Conference on 'Human Rights and Democracy in Action - Looking Ahead: The Impact of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education' (Strasbourg, 29-30 November 2012); see i.a. Kerr, *Implementation of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education: Final Report*; and Osler, *General Rapporteur*

40   Conclusion

The genesis of the Charter on EDC/HRE and the period after its adoption have revealed its solid foundations, its authority and major political significance. The Charter is a cornerstone in the Council of Europe normative framework on EDC. A huge number of legal instruments containing EDC norms have been mentioned: about 30 recommendations of the Committee of Ministers, various declarations and action plans of the Committee of Ministers, about 10 recommendations of the Parliamentary Assembly, 3 declarations of Summits of Heads of State and Government, about 10 declarations of the Standing Conference of European ministers of Education, several Secretary General reports, and various instruments of the Conference of International Non-Governmental Organisations (INGOs), the Congress of Local and Regional Authorities of the Council of Europe, etc.[319] Together, these instruments demonstrate that EDC is a common objective, a paradigm in which all organs and bodies of the Council of Europe cooperate, a generally accepted principle. The *political* consensus is undeniable. EDC standards belong to the category of 'generally accepted rules, which would be politically embarrassing to neglect'.[320] The question is: what is their *legal* impact? Having clarified the normative context, I will now examine the legal effects.

Conference report, in CoE Proceedings of the Conference on 'Human Rights and Democracy in Action - Looking Ahead: The Impact of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education' (Strasbourg, 29-30 November 2012). Second review cycle (2012–2017), see CoE Conference, Learning to Live Together: a Shared Commitment to Democracy: Conference on the Future of Citizenship and Human Rights Education in Europe (Strasbourg, 20-22 June 2017).

319   Overview in bibliography.

320   Applying Schermers and Blokker § 1226 (recommendations of international organisations reflecting the generally held view on a given matter).