

**European Master's Degree in Human Rights and Democratisation**



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**Citizenship tests in Europe**  
**Keeping a low European profile**

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FANNY LE RESTE

Supervisor: Eva Ersbøll  
The Danish institute for Human Rights

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University of Southern Denmark



*'At least we are not French'*

Suggestion for the British motto-writing competition  
organised by the Times of London, following the political  
discussions over the meaning of 'Britishness' and British citizenship.

(Reported in *The New York Times*, 26 January 2008)



## ABSTRACT

*During the last six years, five Western European countries have created a naturalisation test that examines the candidate's knowledge of the society. Naturalisation tests, which have existed for different reasons in Eastern European countries since the 1990s, are one instance of the membership criteria now flourishing all over Europe at different levels of the integration process. The goal of this thesis is to determine whether national citizenship tests are reconcilable with the project of building a Union citizenship and a sense of a European identity based on shared values. The study is based on the results of a survey that was sent to experts in nine member states in order to obtain information on the content of the test. This study shows that the tests practiced in the countries under scrutiny are not designed in that perspective, but could, in theory, be used as a tool to foster the individual's sense of having a European identity.*

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My family, for always supporting me.

## List of abbreviations

- CBP : Common Basic Principles
- ECN : European Convention on Nationality
- OMC : Open Method of coordination
- TFEU : Treaty on the functioning of the European Union
- TEU : Treaty on European Union

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# **Introduction**

## **Background**

During the recent years, many European states have tightened the integration requirements in their naturalisation procedures. Applicants are asked to meet an increasing number of membership requirements before being recognised as citizen. This tendency is reflected in the multiplication of oaths of allegiance, naturalisation tests (or citizenship tests) and references to probationary citizenship. So far, at least thirteen European Union (EU) member states require ‘knowledge of the society’ as a condition for the acquisition of citizenship. During these tests, the candidate is examined upon his/her knowledge of the country’s history, functioning and values before being granted citizenship.

In so far as naturalisation tests are a requirement on the way to national citizenship, they also condition access to European citizenship. Reliance on national membership criteria seems at first sight antithetic to the development of the EU as a political project. Indeed, the notion of European citizenship suggests that the significance of borders is meant to diminish not only with regards to trade and services but also as regards individuals. Instead of emphasising pluralism, and shedding light what countries have in common, national citizenship tests seem to restore the legitimacy of relying on national identity. The main hypothesis of this thesis is that a naturalisation test that is purely national-centric is obstructive to the construction of the EU as a political project. This dissertation will be an attempt to find out if and how naturalisation tests could, on the contrary, become a constructive element for the EU project.

## **Research question**

The question the thesis will therefore address is the following:

- How can naturalisation tests be reconciled with the project of building a European citizenship and fostering a sense of European identity?

## **Existing literature**

The literature on citizenship tests is growing. A large number of scholars discuss the legitimacy of the use of naturalisation tests and its implications on the understanding of citizenship and belonging. Other studies look at countries' policies and analyse the procedural aspects, the effects and the political discourses surrounding the establishment of citizenship tests. A few studies examine the actual content of the different naturalisation tests.

## **Significance**

This thesis has been inspired by all these works and tries to bring a European perspective on the debate over citizenship tests. The research starts from the observation that the practice of naturalisation tests is developing and there are no clear indications that countries are likely to abandon these policies in the near future. Therefore, while the legitimacy of citizenship tests is addressed in some sections, it is not the main focus of this thesis. This dissertation aims at finding out whether the practice of citizenship testing, that can be qualified as a European trend, can serve the development of the notion of European citizenship, still under construction. For that purpose, this thesis will examine under what conditions naturalisation testing is compatible with the EU objectives. The study will not address directly the legality of the citizenship tests in EU law, but the influence that the EU institutions may have over the shaping of member states' naturalisation policies.

## **Outline and methodology**

The first part of the dissertation will rely on EU law. The European legal framework on citizenship and integration will be analysed, as they are the two areas of EU law susceptible to address citizenship tests. This legal framework will help defining the content of the notion of European citizenship and its impact on national citizenship laws. The thesis will also analyse the extent of states' cooperation in the area of integration, because naturalisation tests are also integration measures.

The second part of the thesis will be based on secondary sources. The research will analyse the rationale for the introduction of citizenship tests put forward in the literature on the basis of the context and the political discourses surrounding their establishment. The official justifications for the creation of naturalisation tests will be confronted to the different aspects of the Union citizenship as a status vector for rights and based on values. The aim of this part is to determine how the objectives of Union citizenship and those of the naturalisation tests can go hand in hand, and maybe even support each other.

The last part of this dissertation is based on the results of a survey that I sent to experts in the field of citizenship, in the countries that use a naturalisation test. The survey aims at obtaining information about the content of the different citizenship tests. The data collected are confronted to the various theories on European citizenship exposed previously. The objective of this part is to determine whether the aims related to the construction of the EU as a political project are served in the tests.

# 1 The European Union and citizenship tests

## 1.1 Definitions

### 1.1.1 Nationality and citizenship

The European convention on nationality (ECN) defines the term nationality as the ‘legal bond between a legal person and a state’.<sup>1</sup> Although the ECN regards both terms as synonymous, the concept of citizenship is wider than the mere legal link of nationality.<sup>2</sup> Citizenship envisages the individual in the community. It refers to the relationship between the individual and the state, but also between the individuals themselves and touches upon their rights and duties towards each other. The literature traditionally decomposes this notion into three main features.<sup>3</sup> Citizenship as a status encompasses the formal link between the individual and the entity, and the procedure to acquire it. The ‘civil, political and social rights and duties’ subsequently conferred to the citizen are considered part of the status.<sup>4</sup> From this status follows citizenship as an activity, concerning what the individual actually does with these rights and how he/she participates in the political arena. The third facet of citizenship is the identity aspect. For Wiener, the identity of a citizen is the answer to the question ‘who does belong and why’.<sup>5</sup> These three facets have been summarised by Dora Kostakopoulou as ‘What you are, what you owe or get and what you feel’.<sup>6</sup> The thesis will refer to citizenship as a broad concept, not restricted to the legal link of nationality but including the rights, duties and identity attached to it.

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<sup>1</sup> European Convention on Nationality, 1997 (ECN), Article 2a. The European Convention on Nationality has only been ratified by eleven of the twenty-seven member states of the European Union (EU) (2 May 2011). Eight countries (Belgium, Cyprus, Estonia, Ireland, Lithuania, Slovenia, Spain and the United Kingdom) have not even signed it. However it provides the most comprehensive and widely acknowledge recent international instrument on nationality law.

<sup>2</sup> Explanatory Report to the European Convention on Nationality, 1997, para.23.

<sup>3</sup> Van Oers, p. 53 in Van Oers et al. (eds.), 2010.

<sup>4</sup> Martiniello, p.345 in Aleinikoff & Klusmeyer (eds.), 2000. Other specific rights such as the reserved access to certain professions, particularly public offices, are part of the status.

<sup>5</sup> Wiener, 2007, p. 34.

<sup>6</sup> Kostakopoulou, 2003, p. 86

Citizenship is a traditional issue of sovereign power. The ECN recalls that ‘each state shall determine under its own law who are its nationals’.<sup>7</sup> This principle of state autonomy has been constantly reaffirmed in international conventions, to the point that it is qualified by many scholars as a generally recognised principle of international law.<sup>8</sup>

### *1.1.2 Naturalisation*

Naturalisation is one form of acquisition of citizenship. The most common modes of acquisition of citizenship are those that occur at birth. Depending on the countries, it is based on the nationality of the parents of the individual (*ius sanguinis*) or on the place of birth (*ius soli*).<sup>9</sup> The acquisition of citizenship by naturalisation however does not rely on a right acquired by birth or the activation of a right by unilateral declaration of the individual. Naturalisation implies the acceptance by the state of an individual’s application. The state can condition this acceptance to a number of requirements.

The only few limits to the discretion of the state in naturalisation, beside the state’s own commitments in international law, are ‘customary international law and the principle of law generally recognised with regards to nationality’.<sup>10</sup> It encompasses, for example, the duty to avoid statelessness.<sup>11</sup> States that are signatory to the ECN are also bound to respect some basic rules regarding naturalisation requirements. States shall provide for such a possibility to persons ‘lawfully and habitually resident on its territory’ and limit the residence requirement to a maximum of ten years.<sup>12</sup> The conditions under which naturalisation is granted should not be discriminatory<sup>13</sup> and should be justifiable, ‘in particular as regards integration’.<sup>14</sup>

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<sup>7</sup> ECN, Article 3, para. 1.

<sup>8</sup> Hailbronner, p. 52 in Bauböck et al. (eds.), 2006.

<sup>9</sup> No country has a system solely based on *ius soli*. (Hailbronner, p. 54 in Bauböck et al. (eds.), 2006)

<sup>10</sup> ECN, Article 3, para. 2.

<sup>11</sup> The right to a nationality is enshrined in the Universal Declaration of Human Rights, 1948, Article 15.

<sup>12</sup> ECN Article 6, para. 3

<sup>13</sup> ECN, Article 5

<sup>14</sup> Explanatory report to the ECN, Article 6 para. 3

### 1.1.3 Integration

For Robinson, integration is a ‘chaotic concept; a word used by many but understood differently by most’.<sup>15</sup> Indeed, there is no single and generally acknowledged definition of integration.<sup>16</sup> The multiplication of integration measures follows the increase of the settlement of migrants in European states. They are designed to lead to social cohesion. Integration is presented as a means to avoid social division and exclusion.<sup>17</sup> As Favell has put it, integration ‘is about imagining the national institutional forms and structures that can unify a diverse population’.<sup>18</sup>

Authors generally agree that three areas at least are concerned with the immigrant’s integration: social interaction with the local population, economic inclusion and political participation and empowerment. Several studies have tried to assess the level of integration in different countries.<sup>19</sup> They are based on facts and policies observable in the given countries, in a wide range of areas including non-discrimination, housing, education, etc. The data analysed differ from study to study, exemplifying the lack of common definition on the exact meaning of integration. The term integration has been preferred to assimilation used until the 1980s.<sup>20</sup> The former term implied an acculturation of the immigrant, who was expected to become ‘the same’ as the other members of the society.<sup>21</sup>

In the current governments’ discourses, integration measures refer to all policies destined at the avoidance of social exclusion of immigrants. In this thesis, the term integration measure will be limited to those that target the immigrant individually, in his/her way to citizenship.

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<sup>15</sup> Robinson, *Defining and measuring successful integration*, 1998, p.118, quoted in Ager & Strang, 2008, p.167.

<sup>16</sup> Castles & Miller, 2009, pp. 245-258, quoted in Kamal, 2011, Unit 8 ‘Immigrant incorporation and integration’ (31 March 2011).

<sup>17</sup> Kamal, 2011, Unit 8 (31 March 2011).

<sup>18</sup> Favell, 2005, p. 46.

<sup>19</sup> Migrant Integration Policy Index (MIPEX), available at <http://www.mipex.eu>; Geddes & Nissen, 2005, European civic and citizenship inclusion index; Council of Europe, 1997, Measurement and indicators of integration; Ager & Strang 2008.

<sup>20</sup> Favell, 2005, pp. 42-51.

<sup>21</sup> Foblets & Yanasmayan, p. 271 in Van Oers et al. (eds.), 2010.



#### 1.1.4 *The European citizenship*

The sovereignty of the member states of the EU in granting citizenship has been confirmed in a declaration attached to the Maastricht treaty.<sup>22</sup> The EU has no competence over naturalisation. However, due to the increase of its competences and the jurisprudence of the European Court of Justice, now Court of Justice of the European Union (the Court), the EU has gained some influence on the domain of nationality law.<sup>23</sup> In 1992, the treaty of Maastricht created the European citizenship.<sup>24</sup> European citizenship<sup>25</sup> remains today a secondary status in the sense that only the citizenship of a member state of the European Union gives access to the European citizenship. The treaty of Lisbon reaffirms this accessory nature when it states that ‘citizenship of the Union shall be additional to and not replace national citizenship’.<sup>26</sup> Yet, all citizens of EU member states benefit automatically from this additional status.<sup>27</sup>

a) The EU citizenship confers additional rights to its beneficiaries. Articles 20 to 24 of the treaty on the functioning of the European Union (TFEU) list some of the rights that are granted to EU citizens. Other rights are recognised throughout the treaties. Citizens of the EU have the right to vote and stand for the elections to the European Parliament, as well as for the municipal elections where they reside, wherever it is on the territory of a member state (Article 22 TFEU). The right to petition to the European Parliament and to seize the European ombudsman are not exclusive rights of EU citizens (Article 24 paragraphs 2 and 3 TFEU). EU citizens and other legally resident persons also have the right to access official documents (Article 15 TFEU). A European citizen has the right to address the European institutions and receive an answer in his/her own language,

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<sup>22</sup> ‘The question whether an individual possesses the nationality of a member state shall be settled solely by reference to the national law of the member state concerned’ (Declaration on nationality of a member state, 1992).

<sup>23</sup> This has been recognised by René de Groot, 2004, p. 14.

<sup>24</sup> Treaty establishing the European Community, 1992, Part two, Articles 8-8e.

<sup>25</sup> In the thesis, the terms European citizenship, Union citizenship and EU citizenship will be used interchangeably.

<sup>26</sup> Treaty on the Functioning of the European Union (TFEU), 2010, Article 20 para. 1.

<sup>27</sup> The declaration on nationality law annexed to the Maastricht treaty allows member states to make an additional declaration ‘for information’ on who is to be considered as citizen for the purpose of European citizenship. (Declaration on nationality of a member state, 1992).

provided it is the official language of a member state (Article 24 paragraph 4 TFEU). Since February 2011, EU citizens have the right to initiative. By virtue of this right, individuals can propose a policy project to the commission.<sup>28</sup> Through the rights described, the citizens are conferred the possibility to politically participate at the EU level. The power of the European Parliament in decision making has been constantly growing at the EU level.<sup>29</sup> Additionally, the EU policies are developing, both in scope and in volume, becoming more prominent at the national level. Consequently the European citizens' participation has an increasing impact on their individual situation.

b) The EU citizenship provides for individual rights and freedoms that go beyond political participation. Citizens of the EU have the right to move and reside within the territory of the member states (Article 21 TFEU). A European citizen on the territory of a third state (a state that is not member of the EU) has the right to be provided diplomatic protection by the representation of any member state, if his/her country has no representation (Articles 23 TFEU and 35 Treaty on European Union). European citizens are granted the rights provided for in the Charter of fundamental rights of the European Union. This Charter was adopted in Nice on 7 December 2000, with the objective to make 'more visible' the fundamental rights and freedoms recognised in the EU.<sup>30</sup> The Charter comprises six chapters dealing with the 'common values'<sup>31</sup> of dignity, freedom, equality, solidarity, citizenship and justice. Although member states have taken the commitment to grant third country nationals with 'rights and obligations comparable to those of citizen of the Union',<sup>32</sup> the status of European citizen remains a guarantee for a more secure status and a better protection of rights.

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<sup>28</sup> European Parliament and Council Regulation 211/2011. It was already envisaged in Article 24 para. 1 TFEU.

<sup>29</sup> A major progress in that direction is the change brought by the Lisbon treaty in lawmaking. The 'co-decision procedure', in which the Council and the Parliament have the same degree of power has become the 'ordinary legislative procedure' and has been extended to new policy fields. (Article 294 TFEU).

<sup>30</sup> Charter of Fundamental Rights of the European Union, 2000, Preamble.

<sup>31</sup> Ibid.

<sup>32</sup> European Council, the Stockholm programme, p. 30, para. 6.1.4 ; In the Tampere Council, the member states already declared their intention that the legal status of third country nationals should be 'approximated to that of member states' nationals' (Presidency conclusions, Tampere European Council, 1999, p. 19).

### *1.1.5 Lack of awareness about European citizenship*

a) European citizenship as a status seems to be undervalued by a part of the European Union's population, according to the polls and the literature. Margiotta and Vonk affirm that 'very few Europeans perceive themselves primarily as European citizens'.<sup>33</sup> Eurobarometer, the European public opinion poll, revealed in May 2008 that while 91% of the interviewees felt attachment for their nation, only 49% of them felt attached to the EU.<sup>34</sup> Nicholas Moussis deplors that 'in their great majority, citizens ignore the many rights that they have acquired thanks to European integration'.<sup>35</sup> The Eurobarometer for autumn 2010 diagnosed that 'the European population's objective knowledge of the EU remains fragile and fragmented'.<sup>36</sup> One of the conclusions of the Eurobarometer for spring 2010 is that 'Europeans do not feel sufficiently well informed about their rights as EU citizens'.<sup>37</sup>

b) Active European citizenship is not self-evident. The low participation in the European Parliamentary election<sup>38</sup> and the little number of citizens of the EU living in a member state other than their own actually making use of their right to vote<sup>39</sup> is an indicator of a lack of concern for European affairs. The Eurobarometer for autumn 2010 exposed that less than half (46%) of the European population declared that they knew how the institutions work.<sup>40</sup>

c) The institutions are aware of this situation. In its resolution on 'problems and prospects concerning European citizenship', the Parliament called for the launch of 'better and more effective informative campaigns' that 'raise awareness'.<sup>41</sup> The main priorities of the Commission's Europe for Citizens programme concern the involvement of citizens in integration through civic participation and democracy in Europe, and their

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<sup>33</sup> Margiotta & Vonk, 2010, p. 5.

<sup>34</sup> European Commission, Eurobarometer 69, 2008, p. 67.

<sup>35</sup> Moussis, 2011, pp. 163 and 169.

<sup>36</sup> Ibid. p. 53.

<sup>37</sup> European Commission, Eurobarometer 73, 2010, p. 41.

<sup>38</sup> In 2009, 57% of abstention (Special Eurobarometer 320, 2009, p. 2).

<sup>39</sup> European Parliament, Resolution 2008/2234, 2009, p. 16.

<sup>40</sup> Eurobarometer 74, 2011, p. 51.

<sup>41</sup> European Parliament, 2009, pp. 15-16.

empowerment to develop a sense of European identity.<sup>42</sup> It is one of the political priorities expressed by states in the 2010-2014 Stockholm programme to turn European citizenship into a ‘tangible reality’.<sup>43</sup> The fact that Union citizenship is only an additional status to the one of national citizenship does not serve its popularity. An individual does not first and foremost become European citizen. It is the acquisition of national citizenship that comprises this supplementary status. The accession to national citizenship is therefore still the ultimate end to reach. Applicants for naturalisation are therefore aware of the fact they are about to acquire national citizenship, but may not be conscious of the fact that they become simultaneously European citizen.

d) This lack of awareness can be explained by different reasons. Some authors denounce the fact that the notion of European citizenship is a creation from ‘the top’, without the involvement of the population. Holmes and Garcia deplore the elite-driven process of creating EU citizenship, in which public opinion was only to be convinced of the merits of the project a posteriori.<sup>44</sup> This may explain the lack of popularity and support for the status.<sup>45</sup> Some authors point at the disinterest or disconnection of the population with the project. Indeed, the ‘democratic deficit’ of the EU is often denounced.<sup>46</sup> The EU institutions have repeatedly affirmed their intention to get ‘closer’ to the citizens.<sup>47</sup> The complexity of the political mechanisms and the little knowledge of the functioning of the institutions are acknowledged by both the literature and the EU as another source for the lack of support.<sup>48</sup> This can be improved by a ‘de-mystification’ of the work of the institutions.<sup>49</sup> A first step to overcome this distance would be to develop EU civic and citizenship education. EU education is advocated for by the institutions of the EU, at several phases.

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<sup>42</sup> European Commission, The Europe for Citizens Programme Priorities 2009-2010, Available at [http://ec.europa.eu/citizenship/programme-priorities/doc16\\_en.htm](http://ec.europa.eu/citizenship/programme-priorities/doc16_en.htm)

<sup>43</sup> European Council, the Stockholm programme, 2010, p. 4.

<sup>44</sup> Dell’Olio, 2005, p. 16.

<sup>45</sup> Wiener, 2007, p. 1.

<sup>46</sup> Ibid., p. 7.

<sup>47</sup> Ibid.

<sup>48</sup> Preston, pp. 207-209.

<sup>49</sup> Ibid. pp. 209-213.

## 1.2 The development and influence of European Union citizenship law

Due to the existence of the European citizenship, the nationality laws of different member states have become increasingly interlinked. When an individual is naturalised by a member state, he/she simultaneously becomes a European citizen. This new situation has implications for the other member states that have to ensure the rights described above for an individual they did not recognise as citizen. For that reason, many authors have concluded that a certain level of harmonisation in state practices could be expected<sup>50</sup> and would even be desirable.<sup>51</sup> Although the EU institutions cannot formally coerce states in their nationality laws, the Court has played a major role in building-up the implications and content of the notion of EU citizenship.

### 1.2.1 *The case-law of the Court of Justice of the European Union in citizenship matters*

a) The jurisprudence of the Court has contributed to develop some of the impacts of the status of EU citizenship on state practices. The first case in which the Court had to deal with the European citizenship was the 1992 *Micheletti* case. In that case, the Court recalled the power of each member state ‘to lay down the conditions for the acquisition and loss of nationality’.<sup>52</sup> However, it indicated that by doing so, states have to give ‘due regard to community law’. The Court concluded that a state cannot subject the recognition of citizenship granted by another member state to additional conditions.<sup>53</sup> Consequently, a citizen who has been given the citizenship of one member state can enjoy his/her rights as European citizen in all member states without being imposed additional requirements. This ruling implies an important effect on states. Countries that lead very restrictive naturalisation policies have to accept on their territory individuals who have been naturalised under much more open conditions.<sup>54</sup> For that reason, states

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<sup>50</sup> Hailbronner, pp. 90-91 in Bauböck et al. (eds.), 2006.

<sup>51</sup> De Groot, 2004, p. 17.

<sup>52</sup> C369-90 *Micheletti*, 1992, para. 10; repeated in C192/99, *Kaur*, 2001, para. 19.

<sup>53</sup> C369-90, *Micheletti*, 1992, para. 10.

<sup>54</sup> The different outcome of the Nordic Union is often referred to in the literature. The growing interlinks between nationality laws of different countries lead the member states to decide that ‘significant differences cannot be maintained’ (Bauböck & al., 2006, p. 16).

fear so-called ‘naturalisation tourism’.<sup>55</sup> According to this phenomenon, individuals would acquire the citizenship of a country where naturalisation is easy, with the purpose of settling in another member state directly after, thanks to their newly acquired freedom of movement. The state on which territory the individual is settled has to accept the presence and guarantee the EU rights of this (maybe unwanted) person by virtue of his/her status as a Union citizen. In this process, individuals give up a part of their rights (notably political rights). Indeed, despite the important rights conferred by European citizenship, the status of ‘resident of a member state who possesses the nationality of that member state’ is still a factor for more rights than the mere status of Union citizen.<sup>56</sup> In most countries the EU citizen will not have the right to vote in the national elections.<sup>57</sup>

Scholars have recognised that the Micheletti ruling could importantly expand the influence of European citizenship on nationality laws.<sup>58</sup> Authors have discussed what is encompassed in the ‘community law’ that should be observed by states in their citizenship laws.<sup>59</sup> The literature usually detects three principles that could curtail states’ autonomy. First, the principle of solidarity could be violated if a member state’s decision that affects importantly the EU population is taken without consultation of the others. Second, fundamental rights should be respected in nationality law. Third, freedom of movement would be infringed if a nationality law provides for the loss of citizenship in case of residence abroad, including in another member state.<sup>60</sup> In the 2010 Rottman case, the Court specified that states should take into consideration the principle of proportionality in their naturalisation policies.<sup>61</sup> Although the case concerned a

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<sup>55</sup> Van Oers et al. in van Oers et al. (eds.), 2010, p. 320.

<sup>56</sup> De Groot, 2004, p. 15.

<sup>57</sup> Earnest, 2003, p. 18.

<sup>58</sup> Margiotta & Vonk, 2010, p. 15.

<sup>59</sup> De Groot, 1998, p. 123.

<sup>60</sup> De Groot, 2004, pp. 11-14.

<sup>61</sup> C135/08, *Rottmann*, 2010, para. 59. Kochenov denounces the fact that the Court did not give an appreciation of the proportionality in *Rottmann* but left this appreciation to national courts (Kochenov, 2011)

situation of withdrawal of nationality, observers have admitted that subjection to the principles of EU law can be extended to cases of grant and refusal of citizenship.<sup>62</sup>

b) The Court has also demonstrated a proactive approach in making European citizenship more and more attractive as a status, in terms of rights guaranteed. Since the 2001 *Grzelczyk* case, the court has affirmed several times that ‘European citizenship is destined to become the fundamental status of nationals of the member states’.<sup>63</sup> This assumption has been the basis for an expansion of the rights deriving from the European citizenship. In the *Rottmann* case for the first time, the Court has directly derived rights from the status of European citizen, without reference to the national membership.<sup>64</sup> In the 2011 *Zambrano* case, the Court declared that the EU law precludes member states from refusing residency and a work permit to third country nationals upon whom a minor who is a European citizen is dependant.<sup>65</sup> According to the Court, the state’s refusal to grant these documents would deprive the child of ‘the genuine enjoyment of the substance of the rights conferred by virtue of her status as a Union citizen’.<sup>66</sup> This implies that a state has the obligation to make sure that such a child’s family has the ability to live with him/her and provide for the child’s means of subsistence. For the first time, the Court accepted to adjudicate a case dealing with the rights of a citizen who had not made use of his/her freedom of movement.<sup>67</sup> Previously, the Court used to require that the case had a transnational dimension in order to examine it.<sup>68</sup> Therefore this case contributed to expand the rights provided by the European citizenship and their protection in several ways. A European citizen gets rights directly from the Lisbon Treaty, without having to cross a border, but by the mere fact of possessing the status of citizen. These ‘EU rights’ can even create derived rights for third country nationals.

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<sup>62</sup> Davies, 2010; Kochenov, 2010.

<sup>63</sup> C-184/99, *Grzelczyk*, 2001, para. 31; C-413/99, *Baumbast*, 2002, para. 82; C-148/02, *Garcia Avello*, 2002, para. 22.

<sup>64</sup> Azoulay, 2011.

<sup>65</sup> C-34/09, *Zambrano*, 2011, para. 45.

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*, paras. 40 & 42.

<sup>68</sup> C-224-98, *D’Hoop*, 1998, para. 29; C-184/99, *Grzelczyk*, 2001, para. 33.

A few weeks later, in the McCarthy case, the Court declared that EU citizens who have not exercised their rights of free movement cannot invoke Union citizenship to regularise the residence of their non-EU spouse. The Court justified its decision by explaining that the state's refusal to grant a residence permit to McCarthy's spouse did not 'deprive her of the genuine enjoyment of the substance of the rights conferred by virtue of her status as a Union citizen'.<sup>69</sup> The reasoning of the Court is that, contrary to the child in the Zambrano case, McCarthy's subsistence is not dependent on the stay of her spouse on the territory of the EU.

### *1.2.2 The impact of EU law on states naturalisation practices and European trends*

In spite of the growing influence of EU law on their practice, states do not seem to be opting for a harmonisation in naturalisation rules. It seems as if the Court is willing to 'challenge member states' autonomy'.<sup>70</sup> However, as for today, this Court can only verify compliance to basic principles of European law. As long as they abide by these principles, states are autonomous, in pursuance of the treaty provisions.

#### *a) The lack of a autonomy for the status of European citizenship*

Loïc Azoulay interprets the two outcomes of the Zambrano case as the recognition of a new dimension of the European citizenship, namely 'the protection of rights of Union citizens as genuine 'Europeans' committed to the European Union, its territory and its common values, and not only to the member states'.<sup>71</sup> Indeed, this status is taking more importance overtime. While some scholars questioned the very existence of such thing as a European citizenship at its creation, these voices are less and less prominent.<sup>72</sup> The jurisprudence of the Court has demonstrated that EU citizenship is not a mere 'confirmation' of pre-existing rights, but it is a dynamic notion, that goes beyond the six 'citizenship articles'.<sup>73</sup> Some authors even argue that European citizenship is in the

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<sup>69</sup> C-434/09, *McCarthy*, 2011, para. 54.

<sup>70</sup> De Groot & Seling, 2010.

<sup>71</sup> Azoulay, 2011.

<sup>72</sup> Kostakopoulou, 2007, pp. 623-625.

<sup>73</sup> Wiener, 2007, p.6. For Kay Hailbronner, the European citizenship entails a 'gradual substitution of important elements of nationality of states' (Hailbronner, p. 37 in Bauböck et al. (eds.), 2006). From this perspective, the European citizenship is destined to take more and more importance over national prerogatives (Ibid., p. 86).



process of reaching, thanks to this case-law, a legal autonomy.<sup>74</sup> The treaties mention that the Union citizenship is ‘additional’ to national citizenship. From this perspective, both statuses complement each other. National citizenship links the individual with the national society, while the Union citizenship gives him/her additional rights in the supranational entity that is the EU.<sup>75</sup> However, insofar as the mode of acquisition is concerned, the EU citizenship is subordinated to the acquisition of national citizenship. Most of the authors agree on the fact that EU citizenship is not ready to become a fully autonomous status, dissociated from national citizenship,<sup>76</sup> albeit this outcome has been envisaged in the scholarship.<sup>77</sup> As long as a strong link of subordination binds the legal concepts of national and European citizenship, the coexistence of different rules for acquisition and loss would be incoherent.<sup>78</sup> The separation of the two statuses with different scopes would require a revision of the treaty, which is not likely to happen soon.<sup>79</sup> Naturalisation issues are politically controversial and governments thus want to keep their say over this area.<sup>80</sup> For the authors of the NATAC project, nationality law should remain an area that states can adapt to their local specificities and therefore the EU should not have competency over it. However, they recognise that a degree of convergence among member states in this area is required.<sup>81</sup>

#### *b) Lack of convergence in naturalisation laws*

The harmonisation that some scholars deem ‘desirable’<sup>82</sup> has not happened. The only concrete commitment that states have undertaken at the EU level is the engagement, in the Tampere programme, to offer third country nationals the opportunity to ‘obtain the nationality of the member state in which they are resident’.<sup>83</sup> Nonetheless, ten years

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<sup>74</sup> Margiotta & Vonk, 2010, pp. 14-19.

<sup>75</sup> See supra, note 26.

<sup>76</sup> Bauböck & Honohan, 2010; De Groot, 2004, p. 17.

<sup>77</sup> De Groot, 2004, p. 18.

<sup>78</sup> Kochenov, 2010; Kostakopoulou, 2010, pp. 9-10.

<sup>79</sup> Some authors support the possibility of granting the EU citizenship to third country nationals (e.g. De Groot, 2004, pp. 17-19; Beasley, 2006).

<sup>80</sup> The recurrent debates over dual nationality are an example of the sensitivity of naturalisation policies in the national forum (current debates in France and the Netherlands for example).

<sup>81</sup> Bauböck et al., p. 31 in Bauböck et al. (eds.), 2006.

<sup>82</sup> See supra, note 51.

<sup>83</sup> Presidency Conclusions, Tampere European Council, 1999, para. 21; Wiesbrock, 2010, p. 646.

after, the Parliament still advocated for the states to ‘review their citizenship laws and explore the possibility of making it easier for non-nationals to acquire citizenship’.<sup>84</sup> However the EU cannot coerce states in their citizenship laws, as demonstrated in the previous section, unless they violate principles of European law. One possible way for citizenship laws to harmonise can be found in the informal influence that member states exercise on each other and on future member states, in order to avoid policies that could be very disruptive for the EU.<sup>85</sup> Nevertheless, a real harmonisation rests in the hands of states.<sup>86</sup> Although some trends may be observed in naturalisation policies, diverging provisions remain.<sup>87</sup> The NATAC project has concluded, after an in-depth comparison of the EU-15 naturalisation practices, that there is overall no ‘European model’ of citizenship law. While many states have had more restrictive legislations towards naturalisation since 2000, some states have taken the opposite direction.<sup>88</sup> Yet, many authors have noticed a clear tendency in the field of integration requirements<sup>89</sup> towards increasingly restrictive practices<sup>90</sup> and the resort to membership requirements,<sup>91</sup> while the content of the policies diverge.<sup>92</sup> For Cowles et al. the situation of integration policies in the EU is one of ‘differential adaptation with national colours’.<sup>93</sup> The multiplication of integration measures prior to naturalisation illustrates the will of the governments to keep a certain control over the individuals who are entering the territory and acquiring citizenship.

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<sup>84</sup> European Parliament Resolution 2008/2234(INI), 2009, para. 17.

<sup>85</sup> See, for example, the influence of the EU on the Baltic states’ citizenship laws before their entry in the European Union (Järve, 2009). Before the accession of Romania, some EU agencies raised the potential problems caused by the policy of restitution offered to Moldovans. The policy became more restrictive in 2003, but in 2007 the open policy started again (Margiotta and Vonk, 2010, p. 12). In 2000 Germany finally abandoned its refusal of jus soli, giving in to pressure from other member states (Pilgram, 2011, p. 11).

<sup>86</sup> One instance of the adaptation of a state’s policy to EU citizenship is the recognition in Germany in 2007 of dual citizenship, for EU citizens only (Winter & John, 2010, p. 6).

<sup>87</sup> Bauböck & Honohan, 2010; Hansen & Weil 2001, pp. 3-13.

<sup>88</sup> Bauböck et al., pp. 20-23 in Bauböck et al. (eds.), 2006.

<sup>89</sup> Wallace Goodman, 2010(a).

<sup>90</sup> Wiesbrock, 2010, p. 673.

<sup>91</sup> Wallace Goodman, 2010(c), p. 35.

<sup>92</sup> Perrin, 2010, p. 9.

<sup>93</sup> Quoted in Mulcahy, 2008, p.117.

## 1.3 The EU and integration requirements

### 1.3.1 *The cooperation of member states regarding integration measures*

a) The only way a real harmonisation can occur is by a decision of governments to coordinate their policies to some extent. The NATAC project suggested that member states develop an open method of coordination (OMC) in the field of acquisition and loss of citizenship.<sup>94</sup> According to this procedure, member states would remain in charge of the creation and implementation of citizenship policies. The role of the OMC would be limited to the development of common standards and objectives. This suggestion was not taken over by states. In 2001, the commission wrote a communication proposing an OMC in the field immigration,<sup>95</sup> with the view to promote a ‘progressive convergence’ in this area. Carrera has observed that this communication was never really discussed by states, although existing OMC in the field of social protection and inclusion may touch upon integration issues.<sup>96</sup>

Nevertheless, it seems that some recent integration measures are the result of a process of imitation among governments.<sup>97</sup> This tendency can be explained by the fact that states are looking around for good practices as they still have not found a solution to address integration issues on their territory.<sup>98</sup> As the next part will illustrate, innovative integration measures are spreading from country to country. Sometimes governments even explicitly mention other countries’ experience as a model of inspiration or a justification when introducing a new integration measure.<sup>99</sup> States have also developed a framework for cooperation at the EU level in integration matters.<sup>100</sup>

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<sup>94</sup> Bauböck et al., pp. 31-32 in Bauböck et al. (eds.), 2006.

<sup>95</sup> European Commission COM (2001)387, 2001.

<sup>96</sup> Carrera, 2009, pp. 55-58.

<sup>97</sup> Wiesbrock, 2010, p. 673.

<sup>98</sup> Kamal, 2011, Unit 8 (31 March 2011).

<sup>99</sup> See, for example, Denmark (Adamo, p.22 in Koenig & Wright (eds.), 2008) or even Hungary, who referred to the tests as a policy ‘known in international practice’ as early as 1993 (Tóth, Hungary report, Stik & al. (eds.), 2010, p. 7).

<sup>100</sup> For Carrera and Wiesbrock, the introduction of integration requirements in the EU debate was pushed by representatives of some countries (namely Austria, Germany and the Netherlands), driven by the intention to make their national civic integration policies recognised at the EU level and enjoy a greater discretionary power (Carrera & Wiesbock, 2009, pp. 5-11). Mulcahy’s analysis of the process of drafting

b) The role of the EU institutions is limited to one of inciting cooperation and providing for platforms for exchange of good practices.<sup>101</sup> The instruments of the EU policy on integration are the common basic principles (CBP) for integration policies,<sup>102</sup> a handbook on integration and an integration fund. States are discussing the elaboration of common European modules that would provide guidance for the elaboration and assessment of member states' integration measures.<sup>103</sup> European ministers in charge of integration meet at the occasion of ministerial conferences on integration to discuss the prospects of this cooperation. The framework is primarily concerned with newly arrived immigrants. However it sometimes intersects with naturalisation policies. Indeed, the issues of immigration and naturalisation are closely related.<sup>104</sup> The integration requirements put in place for the acquisition of a visa or a residence permit and those put in place for the acquisition of nationality follow a similar logic of assessing the immigrant's integration and knowledge of society, in view of the grant of a status. In some countries the same requirement exists for the permanent residence permit and naturalisation.<sup>105</sup> If states agree on putting forward one integration practice at the EU level, this practice is likely to spread at all levels of the integration process. It is the case of integration tests that exist in some countries before the entry on the territory, for acquisition of a permanent residence permit and for access to citizenship.

### *1.3.2 The EU framework on integration and naturalisation tests*

Integration tests refer to the knowledge tests required for immigrants at all phases of their integration, for the acquisition of a status: a visa, a permanent residence permit or citizenship. Integration tests are addressed several times in the different documents composing the European framework on integration. Some non-binding remarks on the

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and adoption of the EU framework confirms this hypothesis (Mulcahy, 2008, p. 128, 'Has Dutch policy become Europeanised?')

<sup>101</sup> European Council, the Stockholm programme, 2010, p.30.

<sup>102</sup> European Council document 14615/04, 2004, pp. 15-24.

<sup>103</sup> European Council, the Stockholm programme, 2010; European Commission SEC (2010) 357, 2010.

<sup>104</sup> This has been often recognised (e.g.: De Groot, 2004, p. 14)

<sup>105</sup> See, in the next part of the thesis, the integration tests practiced in the Netherlands and in the United Kingdom.

procedures and content of these tests are formulated. Several documents even explicitly mention the use of these tests in naturalisation procedures.

a) CBP no. 2 affirms that ‘integration implies respect for the basic values of the EU’.<sup>106</sup> The Commission has proposed that this can be done by emphasising civic orientation and raising public awareness of basic values. According to CBP no. 4 ‘basic knowledge of the host society’s language, history and institutions is indispensable to integration’.<sup>107</sup> These two CBP can be interpreted by states as supportive for integration tests. One of the chapters of the third handbook on integration is specifically dedicated to ‘acquisition of nationality and the practice of active citizenship’.<sup>108</sup> The handbook provides some guidance on how language and integration tests should be organised.<sup>109</sup> According to this document, tests should be standardised and comparable, in order to limit administrative discretion. Governments shall assure a very high passing rate and provide for free, quality certified and flexible preparatory courses, with possibilities for exemptions. Concerning the naturalisation tests, the handbook advises that conditions should encourage immigrant population to apply and successfully acquire nationality. The writers of the handbooks raised the point that the effects of the tests in improving participation, well-being and the sense of belonging of the individual should be assessed. The handbook on integration and the future modules are meant to offer models for both types of test. The content of the European integration framework has no mandatory value but can influence governments. Mulcahy attempted to identify the way in which countries have adapted their policies to the CBP on civic integration, albeit acknowledging that a deeper empirical analysis would be needed. It resulted that around half of the EU-15 countries’ policies were conform to the CBPs, three of which were pre-existent to the EU framework.<sup>110</sup>

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<sup>106</sup> European Council document 14615/04, 2004, p. 19.

<sup>107</sup> Ibid. p. 20.

<sup>108</sup> European Commission, *Handbook on Integration for policy-makers and practitioners, third edition*, 2010, Chapter five, pp. 101-126.

<sup>109</sup> Ibid. pp. 111 & 107-119.

<sup>110</sup> Mulcahy, 2008, pp. 126-132.

b) During the 2008 Ministerial conference on integration in Vichy, member states have concluded that during the introductory phase of the immigrant integration, information material ‘featuring content on European values which is common to member states’ should be provided.<sup>111</sup> According to the Commission, one of the priorities of the EU strategy on integration is the promotion of ‘European values: fundamental rights, intercultural dialogue and active citizenship’.<sup>112</sup> The next parts of this thesis will attempt to assess whether these concerns are part of the citizenship tests policies in different member states. It is interesting to observe whether European identity and participation are part of the states’ concerns in drafting naturalisation policies. Integration measures being a precondition for access to national citizenship, they are also placed on the way to Union citizenship. It is also important for the future candidate to receive information that is useful for his/her integration and enlightened political participation. A better knowledge of the functioning of the EU and EU rights would not only enhance participation but support for the project.

## **1.4 Conclusion**

The first chapter has illustrated how the concept of Union citizenship has developed since its creation in 1992, notably due to the case-law of the Court. This status is becoming more and more attractive in terms of individual rights and political participation. The acquisition of Union citizenship is subordinated to the acquisition of national citizenship, a field in which member states retain a wide autonomy that they want to protect. The existence of the European citizenship has not lead to substantial convergence in member states’ nationality laws. One trend is yet observable in the field of integration requirements, being increasingly restrictive and relying on membership criteria. EU member states have developed an innovative method of cooperation in the field of integration. Within this framework, states have emphasised the importance of the knowledge of the host society’s language, history and institutions as well as of European values, for the individual’s integration.

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<sup>111</sup> European Commission SEC (2010) 357, 2010.

<sup>112</sup> Ibid. p. 4.

As Dell’Olio affirms, ‘the focus on nationality for the purpose of European citizenship and the effort to shape a European identity are not necessarily mutually exclusive’.<sup>113</sup> Indeed, it depends on the content of nationality laws and policies, and the objectives they are meant to serve. The next parts will assess whether existing naturalisation tests take the European project and its values into consideration when shaping their naturalisation tests.

## 2 Naturalisation tests in the European Countries

The naturalisation test practice is interesting as it has spread rapidly in the recent years in Western Europe. It is a rather new practice in Europe that exemplifies a change in the conception of access to citizenship, based on ‘membership criteria’.<sup>114</sup>

### 2.1 The development of naturalisation tests

#### 2.1.1 *The tests created in Eastern Europe in the 1990s*

For specific reasons that will be explained in the next chapter, some eastern European states (including the Baltic states) started already in the 1990s to test their applicants for naturalisation. Lithuania was the first one to create a constitutional examination in 1989/1991.<sup>115</sup> Hungary instituted in 1993 an examination on the knowledge of the ‘constitutional, cultural and historical heritage of Hungarians’.<sup>116</sup> This examination can be either oral or written, similarly to the Latvian knowledge of society test introduced in 1994.<sup>117</sup> It was followed in 1995 by the test on ‘knowledge of the Estonian Constitution and the Law on citizenship’.<sup>118</sup> Since 1999, applicants for naturalisation in Romania have to prove ‘elementary knowledge about the Romanian

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<sup>113</sup> Dell’Olio, 2005, p. 2

<sup>114</sup> Wallace Goodman, 2010(c), pp. 13-15.

<sup>115</sup> In 1989, Lithuania was still part of the Soviet Union. Therefore the law concerned citizenship of the Lithuanian Soviet Socialist Republic. After independence, the 1991 citizenship law re-stated this obligation. (Barrington, pp.262-264 in Aleinikoff & Klusmeyer (eds.), 2000; Kuris, 2010, p. 15).

<sup>116</sup> Tóth, Hungary report for Strik et al. (eds.), 2010, p. 7.

<sup>117</sup> Kruma, p. 252 in van Oers et al. (eds.), 2010.

<sup>118</sup> Järve, 2009, p. 49; Citizenship Act of Estonia, 1995, [www.legislationline.org](http://www.legislationline.org)

culture and civilisation'.<sup>119</sup> Examinations on the knowledge of the Constitution are different from knowledge of society tests. The former test the applicant on his/her knowledge of the legislation, while the latter test a body of knowledge that has been selected. It can contain references to *inter alia*, history, traditions or social norms.

### 2.1.2 *A rapid development in western European countries in the 2000s*

It is of common practice for countries to demand a certain level of language proficiency in order to grant citizenship.<sup>120</sup> However it is only recently that states started to formally assess these skills, evaluating both oral and written skills, with a pre-defined level to reach. A proof of language abilities is sometimes required through diplomas or interviews during which a civil servant will assess the applicant's ability to understand and be understood.<sup>121</sup> Besides, some countries have created a language test specifically for the purpose of naturalisation.<sup>122</sup> Many countries referred to the Council of Europe's Common European Framework of Reference in order to establish the threshold. Since the establishment of language tests, the required level has constantly increased.<sup>123</sup> This level varies among the countries, between level A2 (basic user, immediate needs) and B2 (independent user, abstract and complex ideas).<sup>124</sup>

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<sup>119</sup> Bauböck & Honohan, 2010, p. 16; Law No. 21 on Romanian citizenship, 1 March 1991 revised 17 May 2009 ([www.eudo-citizenship.eu](http://www.eudo-citizenship.eu)).

<sup>120</sup> Nineteen countries out of the twenty seven member states of the European Union do so, namely Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia and the United Kingdom (source: Vink et al.). This requirement exists for example in British nationality law since 1915 (Ryan, , United Kingdom report for Strik et al. (eds.), 2010, p. 4), in Lithuania since 1938 (Kuris, 2010, p. 8)

<sup>121</sup> France 1993(Pascouau, France report for Strik et al. (eds.), 2010, p. 19), Austria 1998-2006 (Perchinig, pp. 29-34 in van Oers et al. (eds.), 2010), Germany 2000-2007 (Seveker & Walter, Germany report for Strik et al. (eds.), 2010, p. 46), the Netherlands before 2003 (Strik et al., Netherlands report for Strik et al. (eds.), 2010, p. 64), United Kingdom before 200 4 (Ryan, United Kingdom report for Strik et al. (eds.), 2010, p. 5). See also Wallace Goodman, 2010(a), p. 10.

<sup>122</sup> Austria 2006, Denmark 2002, the Netherlands 2003, the United Kingdom 2004, Germany 2007, (Strik et al., Synthesis report, 2010, p. 78).

<sup>123</sup> Strik et al., Synthesis report, 2010, p. 113. See also Bauböck & Honohan 2010, p. 15: This graph shows that policies in all the countries are heading towards more formal language tests, except from Belgium, who in 2000 stopped requiring language skills.

<sup>124</sup> A2 in the Netherlands and Austria; B1 in Estonia, Germany, Latvia, the United Kingdom; B2 is only applied in Denmark (Strik et al., Synthesis report, 2010, p.78 ; Wallace Goodman, 2010(a), p. 11). Although there is no formal language test in Hungary, the knowledge test is meant to act as such. The textbook is supposed to be designed on the knowledge of a 'moderately well educated person with good linguistic competences' (Tóth, Hungary report for Strik et al. (eds.), 2010, p.14). However, due to the



On 1 April 2003, a new Dutch Nationality Act entered into force, entailing the establishment a new integration requirement. According to this act, applicants to naturalisation have to demonstrate their knowledge of the Dutch society.<sup>125</sup> This knowledge is assessed by a multiple choice test. The Netherlands were rapidly imitated by other European states. In 2005 the United Kingdom introduced an assessment of the ‘knowledge of life’ in the United Kingdom.<sup>126</sup> In 2006 Austria started implementing a test covering ‘basic knowledge of the democratic order of the Austrian Republic’ and the history of Austria and the province.<sup>127</sup> Denmark established from May 2007 a naturalisation test, assessing knowledge of ‘Danish culture, history and society’.<sup>128</sup> In 2008, Germany followed the trend by installing a knowledge of society test covering the issues of ‘Living in a democracy, history and responsibility, people and society’ and questions about the federal state where the applicant resides.<sup>129</sup>

## 2.2 The context

The two different ‘waves’ of introduction of naturalisation tests have occurred in different contexts. Schematically, the first one that occurred in the nineties in Eastern European countries represented an attempt to deal with the past, while the second can be described as an attempt to deal with a ‘new’ phenomenon of immigration.<sup>130</sup>

### 2.2.1 *Eastern European concerns after the fall of communism*

a) After the collapse of the Soviet Union, Estonia and Latvia shaped their nationality laws in a way that opposed the ethnic-autochthones and the Russians who moved to

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complexity of the examination, the actual level required for passing the test has been evaluated as ‘at least C1’ (implicit meaning and complex subjects) (Strik et al., Synthesis report, 2010, p.100).

<sup>125</sup> Revised Dutch Nationality Act (Rijkswet op het Nederlanderschap) (van Oers, p. 60-62 in van Oers et al. (eds.), 2010).

<sup>126</sup> Ryan, United Kingdom report for Strik et al. (eds.), 2010, p. 20. The test is only one of the two ‘possible routes’ to citizenship. The applicant can alternatively provide a proof of his/her attendance of an ESOL course.

<sup>127</sup> Perchinig, Austria report for Strik et al. (eds.), 2010, p. 16.

<sup>128</sup> Ersbøll, p.59 in van Oers et al. (eds.), 2010.

<sup>129</sup> Seveker & Walter, United Kingdom report for Strik et al. (eds.), 2010, p. 50.

<sup>130</sup> ‘Differences remain concerning utility or origin of membership requirements; integration of new comers vs. acknowledgement of co-ethnics’ (Wallace Goodman, 2010(a), p. 15).

these states during the Soviet era.<sup>131</sup> Restrictive nationality legislations were a tool to slow down the access of Russians to citizenship and the rights attached to it.<sup>132</sup> Although Lithuania distinguished itself by its inclusive approach to citizenship during the post-soviet transition,<sup>133</sup> this country also established a citizenship test.<sup>134</sup> As a consequence, the tests were drafted by the authorities in an exclusionary fashion for non-ethnically nationals. The knowledge requirement was also used by the new leaders as a way to preserve the identity, the culture and the language of these three small countries, elements that had been under threat during the previous decades.<sup>135</sup>

b) Hungary and Romania made use of nationality law with a different purpose. It was a means for the rulers to re-create ‘the pre-communist citizenry’, by facilitating the re-integration of former citizens who had preserved their language and culture.<sup>136</sup> Therefore the introduction of the test was not meant to be an obstacle for all categories of applicants. This is reflected in the procedural aspects of the tests, still nowadays: the language plays an important part in the test, which helps ethnic nationals who are usually brought up in this language, and ethnically originated individuals benefit from large exemptions.<sup>137</sup>

c) During the negotiations for the accession of these countries to the EU, Western European countries raised concerns about the high rate of external acquisition and encouraged Hungary and Romania to restrict access to nationality.<sup>138</sup> On the contrary,

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<sup>131</sup> The term Russian encompasses ‘Russians, Belarusians, Ukrainians and others’. The terms ‘Russophonic’ or ‘Russophone’ are also used. (Galbreath, 2003, p. 38).

<sup>132</sup> Barrington, pp. 253-303 in Aleinikoff & Klusmeyer (eds.), 2000. Latvia and Estonia created the status of non-citizens, for the citizens of the Former USSR who had no other citizenship. This status was qualified by Helsinki Watch as a ‘second-class’ citizenship entailing only a limited amount of rights (see Human Rights Watch, 1993; Latvian citizenship law, 1994. Available at <http://eudo-citizenship.eu/NationalDB/docs/LAT%20Citizenship%20Law%20%28%20as%20in%201994,%20English%29.pdf> (Consulted on 9 July 2011)).

<sup>133</sup> Galbreath, 2003, p. 43; Barrington, p.262 in Aleinikoff & Klusmeyer (eds.), 2000.

<sup>134</sup> Kruma, 2009, p. 108

<sup>135</sup> Liebich, 2009, pp. 2-3; Barrington, p.285 in Aleinikoff & Klusmeyer (eds.), 2000.

<sup>136</sup> In Romania, the conditions are favourable to former Romanians living in Moldova and Ukraine (Iordachi, 2009; Margiotta & Vonk, 2010, pp. 11-12).

<sup>137</sup> The revisions brought to the Hungarian citizenship test constantly go towards a more favourable attitude towards ethnic Hungarians (concern mostly the regime of exemptions). (Tóth, Hungary report for Strik et al. (eds.), 2010, pp. 7-12).

<sup>138</sup> Iordachi, 2009, p.186.

the Baltic states underwent pressure in order to liberalise their policies. International observers have interestingly pointed at the importance of favouring the individuals' situations over the history and nation matters.<sup>139</sup>

### 2.2.2 *Western Europe: immigration and multiculturalism*

a) Despite the critiques directed at the Eastern European countries, a few years later, it was the turn of Western European countries to embrace this naturalisation practice. Since the 1960s these countries have been facing growing immigration. This phenomenon has led to an ethnic and religious diversification of the population.<sup>140</sup> Governments are looking for responses to the increasing heterogeneity of their population and the diminishing sense of allegiance.<sup>141</sup>

b) One solution envisaged by the states was to absorb the new individuals into the host society, regardless their ethnic origin. This process of assimilation or 'making the same' is qualified in the literature as the 'French model'.<sup>142</sup> This model has been rejected by many scholars in the eighties, in the name of the right to equal recognition.<sup>143</sup> Accordingly, Western European countries have led multicultural policies, which take into consideration and even foster cultural differences. However, in the last decade, the reliance on multiculturalism is under decline.<sup>144</sup> States tend to re-consider the appropriateness of assimilation policies.<sup>145</sup>

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<sup>139</sup> The exclusionary nature of the Latvian and Estonian citizenship laws were criticised by the Council of Europe, the Committee on Security and Cooperation in Europe and Helsinki Watch. Barrington, p.282-292 in Aleinikoff & Klusmeyer (eds.), 2000; Järve, 2009; Kruma, Lithuania report for Strik et al. (eds.), 2010, pp. 8-9.

<sup>140</sup> Joppke, 2007(b), p. 38.

<sup>141</sup> Wong, 2002, pp. 65-67. Wong talks not only about the diminution of the sense of allegiance but also of the multiplication of belongings and allegiance experienced by migrants as well as EU citizens.

<sup>142</sup> Foblets & Yanasmayan, p. 271 in van Oers et al. (eds.), 2010; Wihtol De Wenden, pp. 77-88 in Koenig (ed.), 2003.

<sup>143</sup> Favell, 2005. See for example: Taylor, Ch., 'The Politics of Recognition', pp.25-75 In *Multiculturalism: Examining the Politics of Recognition*. Princeton, New Jersey: Princeton University Press, 1994; Kymlicka, W., *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*. New York: Oxford University Press, 2001; Parekh, B., *Rethinking Multiculturalism*. London: Palgrave, 2000.

<sup>144</sup> Rex, J. & Singh, G., pp. 3-4 in Koenig (ed.), 2003.

<sup>145</sup> Brubaker talks about 'return of assimilation' about integration measures in France, Germany and the United States (Brubaker, pp. 39-58 in Joppke & Morawska (eds.), 2003). It is important to recall that

c) The recent return to membership and active participation as leitmotifs in integration policies has been qualified by Mouritsen as ‘civic turn’.<sup>146</sup> Resort to naturalisation tests, oaths of allegiance and integration contracts<sup>147</sup> together with the public denunciations of multiculturalism by political leaders<sup>148</sup> evidence this reversal. Wallace Goodman affirms that the establishment of the tests is related to ‘a perceived failure of past immigrant integration policies’.<sup>149</sup> Some authors have even advanced that by creating a naturalisation test, a country gives the signal that it accepts itself as a country of immigration.<sup>150</sup> This analysis is undermined by the fact that in the years preceding the introduction of citizenship tests, official discourses have testified a negative attitude towards immigration and naturalisation.<sup>151</sup> Islam is often denounced as a source of illiberal practices.<sup>152</sup> The creation of the test occurs in a context in which governments establish overall increasingly restrictive integration measures.<sup>153</sup>

### 2.2.3 *Other instances of integration testing*

a) Naturalisation tests pre-existed outside Europe. It was created in the United States already at the beginning of the twentieth century and formalised in 1952.<sup>154</sup> In Canada, applicants for naturalisation have been asked to have ‘knowledge of Canada’ from as early as 1985.<sup>155</sup> A major difference with the European tests is that these early tests are

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some countries, such as Sweden and Finland have continuously rejected civic integration (Mulcahy, 2008, p. 123).

<sup>146</sup> Mouritsen, 2009, p. 23.

<sup>147</sup> Van Oers, et al., pp. 307-330, in van Oers et al. (eds.), 2010; Wallace Goodman, 2010(c), pp. 18-19.

<sup>148</sup> ‘Angela Merkel says German multicultural society has failed’, BBC, 17 October 2010, <http://www.bbc.co.uk/news/world-europe-11559451> (14/06/2011); ‘PM: ‘Multiculturalism has failed’, BBC, 5 February 2011, <http://www.bbc.co.uk/news/uk-politics-12374039>; ‘Sarkozy declares multiculturalism “a failure”’, France24, 11 February 2011, <http://www.france24.com/en/20110210-multiculturalism-failed-immigration-sarkozy-live-broadcast-tf1-france-public-questions>. See Mouritsen, 2009, pp. 25-26.

<sup>149</sup> Wallace Goodman, 2010(c), p. 18.

<sup>150</sup> Klekowski von Koppenfels, pp. 11-14 in Bauböck & Joppke (eds.), 2010.

<sup>151</sup> Coussey, M., p.84 in Gundara & Jacobs (eds.), 2000; Kymlicka, 2003, pp. 201-202.

<sup>152</sup> Orgad, 2009, p. 6.

<sup>153</sup> Wiesbrock, 2010, p.673.

<sup>154</sup> Etzioni, 2007, p.354.

<sup>155</sup> Revision of the Citizenship Act, 1985 (<http://laws-lois.justice.gc.ca/eng/acts/C-29/index.html> (consulted on 9 July 2011)). A similar test was established in Australia on 1 October 2007 (Cheng, 1). It

not perceived as an obstacle. These tests are seen by scholars and applicants as demonstrating an accommodating and favourable attitude towards immigrants than those practiced in Europe.<sup>156</sup>

b) In France, Greece and Slovakia, the knowledge of society of the applicant for naturalisation is evaluated informally, in an interview.<sup>157</sup> Other countries do not test, but provide mandatory citizenship courses. It is the case of Luxembourg.<sup>158</sup> In Spain the applicant is vaguely required to demonstrate his/her 'sufficient social integration into Spanish society'.<sup>159</sup> In the aforementioned states, formal and informal tests are flourishing at other levels of the integration process (entry on the territory, acquisition of permanent residence permit).<sup>160</sup> In the Netherlands (since January 2010) and the United Kingdom (since 2 April 2007, date of establishment of the requirement for indefinite leave), the same 'knowledge of society' is required for permanent residence and citizenship.<sup>161</sup> Both at the level of integration and naturalisation, all countries tend to formalise their requirements over time.<sup>162</sup>

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also exists, for example, in South Korea ([www.korea.net/detail.do?guid=28262](http://www.korea.net/detail.do?guid=28262) (consulted on 9 July 2011)) and Mexico (Wallace Goodman, p. 35 in Bauböck & Joppke (eds.), 2010).

<sup>156</sup> Klekowski von Koppenfels, pp. 11-12 in Bauböck & Joppke (eds.), 2010; Etzioni, 2007, pp. 353-356; Adamo, p.24 in Koenig & Wright (eds.), 2008; Kymlicka, 2003, p. 196.

<sup>157</sup> Source: Vink et al.. The new French law on immigration, integration and nationality formalises the content of this interview. The applicant who had to prove 'assimilation' (Code Civil Article 21-24) will now have to demonstrate his/her adhesion to the 'principles and values essential to the French Republic' as well as a knowledge of 'history, culture and society', which content will be fixed by a decree (Law no.2011-672, 16 June 2011).

<sup>158</sup> Grand Duché of Luxembourg Government, Ministry of Justice, 'The Luxembourg Nationality- Law of 23 October 2008'. Luxembourg: Information and Press Service of the Luxembourg Government, January 2009, p. 16. It is also an alternative for applicants to British citizenship (Ryan, United Kingdom report for Strik et al. (eds.), 2010, p. 20).

<sup>159</sup> Wallace Goodman, 2010(c), p. 18.

<sup>160</sup> Germany, the Netherlands and the United Kingdom test knowledge of society for the acquisition of residence permits, while Denmark assesses 'active citizenship'. The Netherlands, Denmark and France require a certain knowledge of society or values as a condition for admission on the territory (usually on grounds of family reunification) (Strik et al., Synthesis report, 2010, pp. 11-16). See the table 'integration programmes in the EU-15' (Mulcahy, 2008, pp. 124-125).

<sup>161</sup> Strik et al., Synthesis report, 2010, pp. 81-82. Since April 2007, the Dutch naturalisation test was replaced by the integration examination, that immigrants have to pass within three years after their arrival. It is only in 2010 that this requirement was also imposed for permanent residence (Strik et al., Netherlands report in Strik et al. (eds.), 2010, pp. 64-65).

<sup>162</sup> See Bauböck & Honohan, 2010, p. 16; van Oers et al. (eds.), 2010.

c) Because most EU countries are looking for a good model of integration policy,<sup>163</sup> the establishment of both naturalisation and integration tests is discussed all over Europe.<sup>164</sup> The thesis is limited to the written knowledge tests because they ask standardised questions to all applicants. Therefore the content of the test can be studied, whereas the conditions and content of an interview are more flexible and depend on the civil servant running it.<sup>165</sup> The thesis is limited to naturalisation tests because they tackle closely the issues of citizenship and belonging.

### 2.3 The aims of the citizenship tests

The creation of naturalisation tests is justified, by scholars and politicians, by reference to the realisation of several aims. The justifications for creating citizenship tests are interesting as they give a symbolic account of what is important for a new citizen to know. The official objectives put forward give a ‘signal to the outside (who can expect to belong) and to the electorate’.<sup>166</sup> These justifications can be related to the traditional conceptions of the citizen put forward in the literature on citizenship. These different approaches are based on the expectations of the state towards the new members of its citizenry,<sup>167</sup> expectations that are reflected in the formulation of the naturalisation tests questions. For this reason, authors have classified the tests practiced in different countries according to these traditional conceptions on citizenship, depending on the knowledge which they emphasise.<sup>168</sup>

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<sup>163</sup> Kamal, 2011, Unit 8 (31 March 2011).

<sup>164</sup> See, for example, European Commission, *Handbook on Integration for policy-makers and practitioners, third edition*, 2010. Chapter 5: Acquisition of nationality and the practice of active citizenship, pp. 101-125.

<sup>165</sup> Opinions diverge on the best solution for the applicant (e.g.: Wallace Goodman, 2010(c), p.18). On the one hand a written examination offers the possibility to know the questions in advance. All applicants are treated on an equal footing because they are asked the same questions in the same conditions, while the level of the interview depends on the interviewer. On the other hand an interview provides for an exchange in which the interviewer can take into consideration elements such as the difficulties of the individual or his/her motivation in order to be more lenient. It is not the case with a computer or a written test. In addition, an oral test does not discriminate against the individuals who are illiterate.

<sup>166</sup> Kamal, 2011, Unit 9 (7 May 2011).

<sup>167</sup> Etzioni, 2009, p. 358.

<sup>168</sup> Van Oers, pp. 54-58 in van Oers et al. (eds.), 2010; Kostakopoulou, 2003, pp. 94-96; Michalowski, 2009.

### 2.3.1 *Integration*

The creation of a naturalisation test is often justified by politicians as a means for integrating newcomers. According to the political discourses, the aim of the test is to enhance the ability of the individual to settle, understand the public debate and participate in the political system.<sup>169</sup>

a) In order to serve the economic and social integration of the applicant, the state sometimes offers introductory programmes in which the newcomer is taught about how to deal with everyday situations. This teaching refers to the relations of the individual with the public services, the bank or the welfare system for example.<sup>170</sup> The applicant is then tested on this knowledge, in order to assess whether he/she is able to find his/her way and be autonomous.<sup>171</sup> This approach corresponds to a conception of integration, in which the migrant's individual interests are served by the measure provided by the state.<sup>172</sup>

b) Most tests require the applicant to learn the basic elements of the functioning of the political system. This knowledge will enable him/her to participate and hence become an active citizen. The knowledge of some basic references also helps the applicant to participate in the debates with his/her fellow citizens and have an enlightened opinion when getting politically involved. The educational function of the test has been advocated by several authors.<sup>173</sup> The test fills the gap in the newcomer's knowledge of history, institutions and culture, knowledge that the 'natives' have acquired during their schooling in the country.<sup>174</sup> Similarly to the obligation to learn the language, the applicant is expected to master the common political language. This conception of citizenship is primarily based on a republican perspective. A republican test emphasises

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<sup>169</sup> In Denmark (Ersbøll, p. 128 in van Oers et al. (eds.), 2010), the United Kingdom (van Oers, p. 65 in van Oers et al. (eds.), 2010) or in the Netherlands (Carrera and Wiesbrock, 2009, p. 22).

<sup>170</sup> This is the objective of the British test (Kiwani, pp. 60-75 in Koenig & Wright (eds.), 2008; Van Oers, pp. 64-65 in van Oers et al. (eds.), 2010)

<sup>171</sup> Joppke, 2007(a), p. 4.

<sup>172</sup> See for example the opinion of Kiwan, 'A journey to citizenship in the United Kingdom', pp. 60-75 in Koenig & Wright (eds.), 2008.

<sup>173</sup> Winter & John, 2010, p. 8; Kiwan, p. 71 in Koenig & Wright (eds.), 2008.

<sup>174</sup> Hansen, pp. 25-27 in Bauböck & Joppke, 2010.

political rights and participation,<sup>175</sup> civic duties and common good.<sup>176</sup> The citizen is made especially aware of what he/she gets and owes by entering the society.

c) Authors have pointed out that testing the knowledge that is considered necessary for integration exemplifies a change in the meaning of integration. What used to be considered as a ‘two way process’, involving both the society and the individual becomes a challenge for the sole newcomer to overcome.<sup>177</sup> Although member states have repeatedly affirmed the importance of the strong involvement of the host society,<sup>178</sup> integration requirements seem to exemplify a different logic. The applicant has to demonstrate that he/she did enough efforts to deserve the citizenship, status that is considered as a reward for a successful integration. Even more than at the previous phases of integration, the applicant has to show his/her worthiness, because he/she has to deserve the status that will make him/her part of the national community.<sup>179</sup> Accordingly, politicians in several countries have affirmed that naturalisation should not be ‘too’ easy.<sup>180</sup> Scholars have recalled that naturalisation used to be conceived as a step in the integration process of the immigrant, whereas it has now become the crowning of a successful process.<sup>181</sup> This change in the understanding of integration finds an illustration in various types of integration requirements created in most member states. Nonetheless, states have recently reaffirmed their attachment to integration being a ‘two-way process’ in the Stockholm programme.<sup>182</sup> The European Handbook on integration stresses that the ‘efficiency and ultimate effectiveness’ of the language and

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<sup>175</sup> Van Oers, pp.56-57 in van Oers et al. (eds.), 2010.

<sup>176</sup> Dell’olio, 2005, p. 9.

<sup>177</sup> E.g. Ersbøll, p. 149 in Van Oers, et al., 2010.

<sup>178</sup> See Common Basic Principles (European Council document 14615/04, 2004, pp. 15-24).

<sup>179</sup> In different countries, politicians have recalled that citizenship is not ‘just a paper’ (Guido Westerwelle, member of German Parliament) it has to be ‘earned’ (Home Office, United Kingdom), because it is the ‘first prize’ (Rita Verdonk, Dutch Minister for Foreigners Affairs and Integration) (Source: van Oers, pp. 62-72 in van Oers et al. (eds.), 2010).

<sup>180</sup> De Hart & Van Oers, p. 318 in Bauböck et al. (eds), 2006. See, for example, the declarations from the FPÖ, Austria (Perchinig, Austria report for Strik et al. (eds.), 2010, p. 10); Christian Democrats and Conservative liberals, Dutch Parliament (Strik et al., Netherlands report for Strik et al. (eds.), 2010, p. 70).

<sup>181</sup> Van Oers, p. 62 in Van Oers et al. (eds.), 2010.

<sup>182</sup> European Council, the Stockholm programme, 2010, p. 30, para. 6.1.5.



integration conditions still ‘need to be externally evaluated [...] before being confirmed as integration incentives’.<sup>183</sup>

### 2.3.2 *National identity*

a) Ogard has noted that the time of the creation of a naturalisation test is often used to define the national identity.<sup>184</sup> In order to avoid the dilution of national identity into the multiple cultures brought by different groups of immigrants, governments want to make sure that the newcomer knows and respects the basic elements of national identity. This concern leads to a test based on a communitarian perspective on citizenship. A communitarian perspective places importance on the cohesion of the society, based on a shared history and a common identity. The test therefore evaluates whether the newcomer is ready to enter the community, without undermining the social cohesion. For that purpose, the applicant is tested on his/her knowledge about the particular features of the national community such as history, the anthem, the flag, etc.<sup>185</sup> The aim of this communitarian practice is to familiarise the applicant to the host society’s symbols, references and culture.<sup>186</sup> It corresponds to a form of assimilationist conception of citizenship, in the sense that newcomers have to become the ‘same’, based on the model of what Carrera calls the ‘perfect citizen’.<sup>187</sup> Carrera points at the risk of a communitarian conception of citizenship to turn into the promotion of a (created) national identity against ‘otherness’.<sup>188</sup>

b) Kadelbach defines identity as the ‘self-perception and portrayal of a human being which results from the awareness of belonging to certain groups or having distinct

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<sup>183</sup> European Commission, *Handbook on Integration for policy-makers and practitioners, third edition*, 2010. p. 116.

<sup>184</sup> Orgad, 2010, pp.21 & 26.

<sup>185</sup> The very practice of testing, however it is formulated, has as a first purpose the evaluation of the knowledge of the individual. Lavine and Schatz have demonstrated that there is no causal link between the knowledge of the symbols and participation in society (Lavine & Schatz, 2007). Consequently, the upshot of a communitarian test is mainly symbolic.

<sup>186</sup> Foblets & Yanasmayan, p. 271 in van Oers et al. (eds.), 2010.

<sup>187</sup> Carrera, 2009, p. 441.

<sup>188</sup> Ibid.

characteristics'.<sup>189</sup> According to this definition, the building of identity necessarily relies on distinctiveness from other groups. It is the nature of the distinctive elements chosen that makes the identity more or less exclusionary. If these elements relate to features acquired by birth or hardly accessible by newcomers, it denotes a 'thick' conception of identity. If the constitutive elements are reachable by a newcomer without effort, the conception of identity is thinner and therefore more inclusionary.<sup>190</sup>

### 2.3.3 *Reduction of naturalisations and selection*

a) More pragmatically, some politicians have clearly stated their intention of reducing naturalisation flows with the implementation of a test.<sup>191</sup> Some scholars maintain that this objective is likely to be the main rationale for the introduction of these policies, 'in spite of all official justifications'.<sup>192</sup> This assertion is confirmed by the observation that overall, countries with the most restrictive naturalisation policy are more likely to set up a test.<sup>193</sup> The link between the creation of a test and a drop in number of naturalisation is yet not clearly established in every country.<sup>194</sup>

b) A libertarian conception of citizenship leads the society to weigh the costs and benefits implied by the acceptance of the newcomer within the society.<sup>195</sup> Some studies have pointed at the risk for the test to constitute a discriminatory obstacle for the access to citizenship of these least favoured categories of population, in the absence of sufficient measures for exemptions and accommodation.<sup>196</sup> If the test is deliberately

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<sup>189</sup> Kadelbach, 2003, p. 50.

<sup>190</sup> Michalowski, 2009.

<sup>191</sup> Perchinig, p. 32 in van Oers et al. (eds.), 2010.

<sup>192</sup> Van Oers et al., p. 318 in van Oers et al. (eds.) 2010; Etzioni, 2007, p. 353.

<sup>193</sup> Michalowski, 2009, p. 11; Wallace Goodman, 2010(b), pp. 764-765. This observation does not mean that countries without tests have a liberal policy (See de Hart and Van Oers, p. 324 in Bauböck et al. (eds.), 2006).

<sup>194</sup> The creation of a test is often combined with other modifications in naturalisation requirements. It is therefore difficult to assess what is the exact factor for the decline in the number of naturalisations or applications, as was observed in Austria, Denmark and Germany. In the United Kingdom, the number of naturalisations has even increased during the four years following the implementation of the test. (Strik et al., Synthesis report, 2010, pp. 93-95). In other countries the subsequent drop is clearer for example in the Netherlands (van Oers p. 49 in Koenig & Wright (eds.), 2008). The study of the pass rate of the test is also important.

<sup>195</sup> Kostakopoulou, 2005, p. 95.

<sup>196</sup> Ersbøll, p. 140-141 and van Oers, pp. 102-103 in van Oers et al. (eds.), 2010.

meant to exclude the least-educated and the poorest applicants, it is an instrument of libertarian policy, implying that only rich or highly skilled individuals can benefit to the society. The elements of procedure are decisive in order to assess whether the test is meant to be selective.

c) The conditions and procedures of the naturalisation tests vary from country to country, as demonstrated in several comparative studies.<sup>197</sup> A written test penalises the individuals with poor reading and writing skills. It can dissuade some persons to apply, or even constitute an insurmountable hurdle for those who try.<sup>198</sup> In any case, it may act as a deterrent that gives to potential applicants the unpleasant message that they have to 'be tested' before being accepted. Although the test is usually not the main source of expenses in the naturalisation procedure,<sup>199</sup> the price of the test may constitute an additional barrier to naturalisation. In the absence of a common framework of reference at the European level as it exists for languages, it is difficult to compare the level of knowledge required in different countries.<sup>200</sup> Nevertheless scholars working on citizenship tests have used a range of indicators in order to categorise tests as rather liberal or restrictive.<sup>201</sup> Elements of procedure reflect the extent to which the government is ready to provide assistance to the applicant. Countries offer more or less information on the procedure, preparatory material and courses.<sup>202</sup> This factor exemplifies whether the state intends to back the candidate in his/her integration process.<sup>203</sup> The scope of exemptions granted by the government on different grounds

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<sup>197</sup> Van Oers et al. (eds.), *A Re-definition of Belonging? Language and Integration Tests in Europe*, 2010; Strik et al. (eds.), *The INTEC Project: Integration and Naturalisation tests: The new way to European citizenship – A comparative study in nine Member States on the national policies concerning integration and naturalisation tests and their effects on integration*, 2010; Wallace Goodman, 2010(c).

<sup>198</sup> The Netherlands is the only country where illiteracy is explicitly mentioned a ground for exemption or accommodation of the procedure. Exemptions are granted under exceptional conditions. (Strik et al., Netherlands report for Strik et al. (eds.), 2010, p. 66)

<sup>199</sup> In Austria while the test is free, the rest of the naturalisation procedure is very costly and the financial requirements are very high. (Perchinig, Austria report for Strik et al. (eds.), 2011, p. 51)

<sup>200</sup> Although the European Commission is trying to establish indicators for monitoring citizenship education (de Weerd et al., 2005).

<sup>201</sup> Michalowski, 2009; Bauböck & Joppke, 2010.

<sup>202</sup> Strik et al., Synthesis report, 2010, pp. 82-84.

<sup>203</sup> Etzioni, 2007, pp. 356-358.

shows how the authorities are ready to accommodate to specific situations.<sup>204</sup> The literature distinguishes between two categories individuals qualifying for exemptions from taking integration tests. One category regroups the individuals who cannot be expected to take and pass the test. On the other hand, states usually exempt categories of individuals who are deemed integrated enough and consequently do not need to take the test.<sup>205</sup> Practical modalities of the examination itself have been used in comparative studies, such as the proportion of questions that have to be answered correctly and the time available to each candidate.<sup>206</sup> The pass rate is an important indicator of the potential exclusionary effect of the test.<sup>207</sup> By acting on these aspects of the test, some governments can use this instrument as a real obstacle to access citizenship, for certain categories of applicants.<sup>208</sup> Based on these procedural indicators, an analysis of states practice shows that ‘once tests are introduced, requirements for naturalisation have only been strengthened’.<sup>209</sup>

d) For Cheng, in some countries the integration tests were clearly established as a political instrument against Islamic immigrants. She bases her argumentation on the content of political discourses surrounding the establishment of the tests.<sup>210</sup> This argument is supported by the experience of the test in Baden-Württemberg (Germany) in 2005, where only individuals coming from countries members of the Organisation of the Islamic Conference were submitted to a very intrusive interview scrutinising their inner adherence to liberal values.<sup>211</sup> Indeed, procedural elements are not the only aspects

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<sup>204</sup> In Denmark, post traumatic stress disorder is explicitly excluded from the grounds for exemption (Ersbøll & Gravesen, Denmark report for Strik et al. (eds.), 2010, p.59).

<sup>205</sup> Strik et al., Synthesis report, 2010, pp. 86-90.

<sup>206</sup> For example the Austrian test allows, in average, more than eight minutes per questions while in Estonia applicants have less than two minutes for each questions (estimation on the basis of the information found in Perchinig, Austria report for Strik et al. (eds.), 2010 and [www.ekk.edu.ee](http://www.ekk.edu.ee)). The Danish government has announced that it is considering the replacement multiple choice questions by open questions. This practice would allow for more flexibility in the answers but would also be a bigger hurdle for lower-skilled people (Ersbøll & Gravesen, Denmark report for Strik et al. (eds.), 2010, p. 62).

<sup>207</sup> For example, Groenendijk & van Oers, pp. 9-10 in Bauböck & Joppke (eds.), 2010.

<sup>208</sup> Conversely, these elements can be used in the objective of facilitating access for certain categories, as is the case in Hungary for example (Tóth, Hungary report for Strik et al. (eds.), 2010, pp. 7-12)

<sup>209</sup> Strik et al., Synthesis report, 2010, p. 105.

<sup>210</sup> Cheng, 2009.

<sup>211</sup> Cheng, 2009, pp. 58-60; Orgad, 2010, pp. 13-14. See examples of questions: Van Oers, p. 75 in Van Oers et al. (eds.), 2010.

that can influence the selective effect of the test. As the next section will show, the formulation of the test can be used in an exclusionary way. After the denunciation of the Baden-Württemberg practice, Germany has unified the test at the federal level. For many authors, the use of the test as a means to select or exclude specific groups<sup>212</sup> is discriminatory.<sup>213</sup>

#### 2.3.4 *Liberal tests?*

a) A liberal conception of citizenship regards the individual as autonomous. Carens considers that ‘the most liberal citizenship test is none at all’,<sup>214</sup> because a test as such puts a barrier to the individual’s autonomy. Other authors, in line with Joppke, affirm that a test can be liberal as long as it is limited to the aim of ensuring that the individual is aware of the liberal tenets of the host society.<sup>215</sup> In other words, according to Joppke, the applicant is tested over his/her knowledge of ‘what is right’ rather than on his/her feeling of ‘what is good’.<sup>216</sup> Following this argument, the fact that a test requires knowledge of liberal values does not automatically renders this test liberal. Indeed, a test that evaluates the feelings or the morals of the applicant, and his/her attitude towards liberal rules, would fall into an assimilationist or coercive conception of citizenship, antagonist to the liberal stance.<sup>217</sup> A test that examines the applicant’s beliefs can be featured by governments in order to exclude particular groups, deemed incompatible with the liberal state that is ‘for liberal people only’.<sup>218</sup> In a liberal test as supported by Joppke, the applicant is asked to know the law. Personal opinions and beliefs are not scrutinised, as they do not concern the public sphere. The objective of

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<sup>212</sup> Muslims are not the only possible target. In 2010 an application was rejected on the grounds of the left-wing ideology of the applicant, ‘incompatible with the liberal democratic values of Germany’ (Wallace Goodman, 2010(c), p. 18), although the German Constitutional Court has declared that citizens are ‘legally not required to personally share the values of the Constitution’ (Poscher, 2007, quoted in Joppke, 2008, p. 542).

<sup>213</sup> Orgad, 2010, pp. 91-92; Klekowski von Koppenfels, p. 11 in Bauböck & Joppke (eds.), 2010; MacNamara & Shohamy, 2008, p. 91.

<sup>214</sup> Carens, pp. 19-21 in Bauböck & Joppke (eds.), 2010.

<sup>215</sup> Joppke, 2007(a).

<sup>216</sup> Michalowski, 2009, pp. 5-6.

<sup>217</sup> Orgad, 2010, p. 2.

<sup>218</sup> Joppke, 2007(b), p. 44.

such a liberal test is to make sure that the individual entering the society knows what he/she is allowed and not allowed to do, in a liberal society.

b) These categorisations are not absolute. All tests mix several approaches to citizenship. Moreover, depending on its formulation, a question can be linked to different concepts. While authors expect governments to direct themselves towards liberal practices,<sup>219</sup> a comparative analysis of different tests has shown that ‘citizenship has become more communitarian and civic republican in character’ overtime.<sup>220</sup>

With the development of freedom of movement and the construction of the European Union, authors have argued that integration policies can no longer be based on strictly national conceptions of republican or communitarian citizenship.<sup>221</sup> European citizenship has been identified by the literature as an example of ‘postnational’ membership.<sup>222</sup> Carrera and Wiesbrock affirm that civic integration programmes exemplify the struggle between nationalism and Europeanisation.<sup>223</sup> The next part of the thesis will try to identify how the transposition to the level of European citizenship of the aims described above can serve the individuals and the shaping of a European identity.

## **2.4 The aims of citizenship tests and the EU project**

This chapter aims at identifying how some of the justification and theories exposed in the previous chapters can be applied to the European citizenship. It is an attempt to determine how the inclusion of such perspectives on European citizenship could serve both the future European citizen and the European project. The understanding of the EU as a project based on values can serve developing the newcomer’s sense of EU belonging, without having to reject national affiliations based on other affective or ethnic considerations.

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<sup>219</sup> Joppke & Morawska, pp.3-8 in Joppke & Morawska (eds.), 2003.

<sup>220</sup> Van Oers et al., p. 320 in van Oers et al. (eds.), 2010.

<sup>221</sup> Kruma, pp. 264-267 in van Oers et al., 2010.

<sup>222</sup> Soysal, 1994.

<sup>223</sup> Carrera & Wiesbrock, 2009, p. 1.

### 2.4.1 *Integration*

a) Because of the rights conferred by the Union citizenship, the benefits of a test in terms of integration at the EU level may be inexistent if the knowledge required is strictly anchored at the national level. Indeed, if the tests overlook the advantages that European citizenship provides to a citizen who is living in another member state, some individuals may not use the knowledge acquired for the test. A European citizen who uses his/her freedom of movement and lives in another member state may never need the information about the country of which he/she holds citizenship. He/she may even live in a country where the language is different.<sup>224</sup> It will probably be the case that basic knowledge needed for socio-economic integration will be different, because public administrations and their functioning differ from country to country. Therefore a test requiring a very concrete knowledge of national procedures can be useless to the applicant's integration in another member state.

b) On the other hand, a test that makes the applicant familiar with his/her rights to move can serve the individual's integration when living in another member state. The new European citizen gets to know under what conditions he/she is entitled to move, reside, study and start an economic activity abroad, thanks to this status. The individual can also be made aware of his/her other rights and the existence of the Court of Justice of the EU to protect these rights. Awareness about the benefits of the European citizenship therefore serves the everyday life of the future citizen. This awareness can also further his/her interest in European matters, by realising the practical implications of this project on concrete issues.

c) A European citizen settled outside his/her country of nationality has a different range political rights than when he/she is living in his/her country of nationality. In a republican perspective, it is important that the citizen living abroad is aware of his/her rights to stand and vote for local and European elections. It is also important that any

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<sup>224</sup> De Groot, 2004, p. 18; Kostakopoulou questions the utility of the knowledge and language tests created at a time when the knowledge and translations are easily accessible on the internet, and multilingualism widespread (p. 17 in Bauböck & Joppke (eds.), 2010).

citizen is aware of his/her other means to participate at the EU level, in order to be an active citizen. For that, according to the republican concept, the individuals have to be acquainted with the political mechanisms of the EU. The improvement of the understanding of the functioning of the EU would not only encourage political participation but is also likely to foster a genuine interest in the project, and subsequent support.

#### 2.4.2 *Selective effect*

a) The fact that states lead a restrictive naturalisation policy is not as such contrary to EU law. It is accepted in the EU that a selection is operated to some extent on the basis of resources and skills. For example, in order to acquire the status of long term resident, a third country national has to prove stable resource.<sup>225</sup> The blue card directive facilitates the entry of highly skilled migrants.<sup>226</sup> The economic requirements are more salient at the phase of entry on the territory and acquisition of permanent residence permits. However, they are still relevant once citizenship is acquired. Some authors have denounced the fact that the concept of European citizenship has always been primarily subordinated to the economic dimension of the EU.<sup>227</sup> According to the directive on the right to free movement of the citizens of the EU, the right to move and reside in a member state of which the individual is not national is not submitted to any condition, up to three months. However, after this period, the stay of the European citizen on the territory of the other member state can be refused on the grounds of the individual and his family's insufficient resources and economic inactivity.<sup>228</sup>

b) In order to respect EU law, the naturalisation measures should be proportionate and non-discriminatory. The importance of procedural elements for the avoidance of a discriminatory effect has been discussed above. However, some authors claim that the test is in itself discriminatory. For Carrera and Wiesbrock, any integration test fails to pass the test of proportionality. These authors affirm that testing knowledge for the

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<sup>225</sup> European Council directive 2003/109/EC, 2004.

<sup>226</sup> European Council Directive 2009/50/EC, 2009.

<sup>227</sup> Martiniello, p. 352 in Aleinikoff & Klusmeyer (eds.), 2000.

<sup>228</sup> Parliament and Council directive 2004/38/EC 2004.



acquisition of a status<sup>229</sup> fails to meet the conditions of suitability, necessity and proportionality required for a measure to be acknowledged proportionate.<sup>230</sup>

c) As the previous section has highlighted, some countries exempt the categories of individuals deemed sufficiently integrated from taking the tests. EU citizens ‘cannot be subject to any civic integration tests or measures as a condition for exercising their freedom to move and reside in another member state of the Union’.<sup>231</sup> However, Union citizens have to pass the naturalisation test in order to acquire citizenship. A European citizen is not considered as a sufficient quality to be considered integrated enough and exempted a-priori from knowledge of the society.

#### 2.4.3 *European identity and liberal values*

a) The treaties recognise that EU shall respect national identities of the member states (Article 4(2) TEU).<sup>232</sup> A communitarian test, albeit referring to symbols constitutive of the identity, is not necessarily contrary to the notion of European construction. National history for example may be presented in the wider European context, emphasising a shared past. However a test that is based on national identity necessarily emphasises national specificities.<sup>233</sup> When taking part in the EU project, member states have joined a process destined at lessening the significance of national borders.<sup>234</sup> The EU policies have an impact on all member states’ territory and citizens. Therefore European countries are in my view expected to foster what they have in common instead of highlighting only national specificities, if they are to build support for this common project. The notion of European citizenship has been built above national

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<sup>229</sup> The article is more specifically targeted at integration tests.

<sup>230</sup> Carrera & Wiesbrock, 2009, pp. 31-36.

<sup>231</sup> Ibid. p. 35.

<sup>232</sup> The measures taken in the name of national identity are also submitted to the control of proportionality (see C-473/93, *Commission v. Grand Duchy of Luxembourg*, 1996, paras. 32-35).

<sup>233</sup> Smith, 1992.

<sup>234</sup> The Schengen agreement is a major achievement in that direction. (European Council Decision 1999/435/EC, 2000, pp. 13-19).

particularisms. In that sense, European identity is inherently pluralistic.<sup>235</sup> For Lehning, EU citizenship is the notion that is more able than national citizenship to overcome differences based on ‘ethnic and cultural traits and cope with pluralism’.<sup>236</sup> Ethnic and cultural diversity is an increasing feature of national societies. Therefore, reference to the European identity is suitable with the national contexts.

b) A communitarian perspective on the EU would rely on the elements of identification existing at the European level. Similarly to what exists at the national level, the EU possesses an anthem, a flag, a European ‘day’. The EU also has its own history and its important figures. A test that would emphasise these symbols of the EU construction could foster the individual’s sense of European identity.

c) However, for many authors, postnational citizenship should be based on a notion of membership in which active participation and allegiance are no longer the definitional elements, but it is instead the adhesion to shared values that matters.<sup>237</sup> The idea of an EU based on values is claimed especially since the seventies, when the idea of an EU citizenship erupted.<sup>238</sup> It has been lately consecrated in the Charter of Fundamental Rights.<sup>239</sup> Habermas supports the idea of a liberal constitutional patriotism, in which ethnicity or history have no relevance. Individuals join a political project and become citizens because they intellectually adhere to what Habermas calls ‘Constitution’: the fundamental rights and values at the heart of the society. This set of dispositions upon which the population freely agrees would be, according to this theory, the basis for social cohesion.<sup>240</sup> Constitutional patriotism has the potential to create a sense of belonging beyond national boundaries, or at least beyond nationalism,<sup>241</sup> because membership is detached from ethnic or cultural elements. In the end of the nineties,

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<sup>235</sup> For Kadelbach ‘Cultural diversity might be in constant conflict with nationality but it is constitutive for Union citizenship’ (Kadelbach, 2003, p. 49).

<sup>236</sup> Dell’Olio, 2005, p. 12.

<sup>237</sup> Stradling, 2009, p. 17.

<sup>238</sup> Martiniello traces the idea of a ‘citizens’ Europe’ back to the summit of the head of states and governments of 1974, concomitant with the delivery of the 1973 report on European identity and the 1975 Tindemans report on the EU (Martiniello, p. 346 in Aleinikoff & Klusmeyer, 2000).

<sup>239</sup> Charter of Fundamental Rights of the European Union, 2000, Preamble, para. 2.

<sup>240</sup> For Müller constitutional patriotism cannot achieve a deep sense of solidarity (2008, p. 2).

<sup>241</sup> Müller, 2008, pp. 22-23.

Bassam Tibi pleaded for a European ‘Leitkultur’, composed of the liberal values shared by European states.<sup>242</sup> The thesis argues that such a notion could be the source of the understanding of European membership. The Council of Europe considers this shared values-based approach as a solution to reconcile multiple cultural affiliations with a European citizenship.<sup>243</sup> It involves a shift of the emphasis ‘from national rights to universal human rights’.<sup>244</sup>

d) European governments share the adherence to common liberal values. Mouritsen warns against the instrumentalisation of ‘nationalised’ liberal and civic values,<sup>245</sup> used in a chauvinistic way implicitly excluding the ‘others’. Anchoring liberal values in a national context illustrates what Joppke calls the ‘paradox of universalism’, in which national governments put forward in integration tests particularisms that they elsewhere claim universal.<sup>246</sup> Ruiz Vieytez asserts that human rights could and should be reinterpreted in an inclusive fashion, rather than being identity-based.<sup>247</sup> The creation of citizenship tests could be an occasion to reflect on the content and the meaning of the European identity based on shared liberal values instead of insisting on a misleadingly national conception of it.<sup>248</sup>

e) Authors rightly point at the risk of communitarian tests being exclusionary. If liberal values are comprehended in a test as strictly ‘European’, the tests would suffer from the same shortcomings as a national communitarian test. In order to keep its pluralistic fashion, European identity should avoid falling into ‘European nationalism’. Presenting liberal values or human rights as part of the European culture may not be exclusionary as long as it does not imply that these features are *only* European. Mouritsen deplors the shaping of ‘liberalism as an identity’, targeted against the ‘others’, namely

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<sup>242</sup> Manz, 2004, p. 484.

<sup>243</sup> Council of Europe, European Manifesto for Multiple Cultural affiliation, 2007, p. 3.

<sup>244</sup> Stradling, 2009, p. 17.

<sup>245</sup> Mouritsen, 2009, p. 32.

<sup>246</sup> Joppke, 2008, p. 540.

<sup>247</sup> Ruiz Vieytez, 2008, pp. 96-98.

<sup>248</sup> Cheng interestingly notes that in spite of their different history, same so called ‘national values’ are put forward in the German and the Australian naturalisation tests (2008, p. 62)

Muslims.<sup>249</sup> For Carrera, ‘the task of conceptualising and fostering a normative content of the European identity involved an even greater process of exclusion of what might not be European’.<sup>250</sup> This is confirmed by Parekh who note that the definition of a ‘we’ necessarily implies the existence of ‘they’.<sup>251</sup> This opinion is not shared by all. The authors who support liberal tests maintain that European identity can be inclusionary, when based on liberal values. The same arguments are put forward by both sides as those developed in the previous section about liberal tests. Fokion *et al.* suggest that European identity should make visible the importance of foreign contributions.<sup>252</sup>

#### 2.4.4 Awareness about European citizenship

The 1976 Tindemans report pointed that Europe must be experienced by the citizen in his/her daily life.<sup>253</sup> This would not only serve the individual, as the previous sections have illustrated, but stimulate support for the project, at least among new citizens. The educational role of the integration test could be used as a tool to convey a sense of European belonging to the future citizen, by providing information about the role and functioning of the EU and how the individual can participate and benefit from it. A better understanding can lead to a greater participation, and therefore enhance the legitimacy of the EU as a whole.

## 2.5 Conclusion

This chapter has shown how the practice of naturalisation test, which has existed for more than a decade in some Eastern European countries, has recently spread in Western European countries. Both the contexts in which they have been created and the discourses surrounding their creation suggest that the tests were seen primarily as an instrument to deal with national concerns. While some authors consider that citizenship tests are inherently exclusionary, other support that these tests can reveal beneficial for the individual socio-economic integration, political participation and sense of

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<sup>249</sup> Ibid., p. 33.

<sup>250</sup> Carrera, 2009, p. 447.

<sup>251</sup> Kostakopoulou, 2007, p. 630.

<sup>252</sup> Apostolos et al., 2006, pp. 5-9.

<sup>253</sup> Quoted in Hansen, p. 100 in Gundara & Jacobs (eds.), 2000.

belonging. This part of the thesis has demonstrated that these objectives could be served by the inclusion of references to the EU and the Union citizenship. The literature has pointed out that other factors, not meant to serve the individual applicant's interests, are likely to have influenced the creation and content of citizenship tests. These other concerns are mostly based on national consideration. This chapter has argued that tests based primarily on national concerns are not inherently in opposition with the construction of the EU identity. The national and European identities are not exclusive from each other. Elements of communitarian identification can supplement each other. Furthermore, references to liberal values can even support the feeling of European belonging. Most liberal values present at the national level are also likely to be part of the European values, at the basis of the EU project. If they are presented as such to the applicant, they may foster interest for the status of EU citizen, factor for rights and freedoms. In order for the test to remain in conformity with the tenets of the EU identity, these values should be presented in an inclusionary manner, leaving room for pluralism. However, even if these values are presented in a national fashion, the test may be compatible with the construction of an EU identity as long as they are not presented in an exclusionary manner. The study has also proven that reference to the EU could be beneficial to the EU project, by raising awareness about the EU and therefore interest and maybe even participation. The next chapter will look at the content of the different tests, in order to determine whether such references are present.

### **3 The content of the tests: what you need to know to become a European citizen<sup>254</sup>**

The following chapter presents an empirical analysis of the content of the tests. The aim of this analysis is to find out what an applicant is expected to know about the EU in order to be granted citizenship of a European member state.

#### **3.1 Method**

##### *3.1.1 Aim of the empirical study*

The aim of the study is to assess whether a certain extent of European consciousness emerges from the current naturalisation test practices. The empirical analysis exposed below aims at assessing whether the content of the different tests currently imposed on naturalisation applicants serves the ‘European aims’ developed in the previous chapter. This chapter will analyse whether the current tests serve the political and socio-economical integration of the new citizen as Union citizen. It will look for elements possibly denoting a communitarian vision of European citizen. This chapter will finally check whether a degree of European identity based on liberal values transpires from the content of the different tests.

##### *3.1.2 Hypotheses*

The main hypothesis of the thesis is that the European dimension of Union citizenship, which was absent from the debates on naturalisation tests, is also absent from the content of the test. According to this hypothesis, the questions of the test would not reflect any of the European aims developed above, but only participation at the national level and elements of national identity and values would be put forward.

The second hypothesis to be explored assumes that the questions of the different tests refer to similar so-called European values, while anchoring these values at the national

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<sup>254</sup> Expression borrowed to Perchinig, ‘All you need to know to become an Austrian’, pp.25-50 in Van Oers et al. (eds.), 2010.

level and presenting them as ‘national values’. By doing so, the material would not serve the aim of a European identity based on liberal values.

### *3.1.3 Procedure*

For this research, the content of the preparatory material put at the disposal of the candidate for the test will be assimilated to the content of the test. Indeed, the preparatory material contains what the applicant has to learn before taking the test, because he/she can virtually be tested upon any aspect of the knowledge presented. The information contained in the preparatory material thus represents the knowledge that every new citizen of the country is supposed to have.<sup>255</sup> Only written material will be the basis of the study.<sup>256</sup>

The preparatory material is usually published in the official language of the state. In order to get the necessary information on the content of this material, I sent a questionnaire to specialists in the field of citizenship from the European countries which practices has been exposed in the previous chapter. Respondents were asked to answer the questionnaire on the basis of the preparatory material they had at their disposal and that will be described in the next section.

I received answers from experts from Denmark (Eva Ersbøll, Danish institute for Human Rights), Estonia (Vadim Polestusuk, Legal Information Centre for Human Rights, Tallinn), Hungary (Judit Tóth, University of Szeged), Latvia (Kristine Kruma, Riga graduate School of Law), Lithuania (Egidijus Kūris, Vilnius University), the Netherlands (Ricky van Oers, Radboud University of Nijmegen) and the United Kingdom (UK) (Bernard Ryan, Kent Law School). Some of them answered the

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<sup>255</sup> Due to the logic of the test itself, it is conceivable that this knowledge is forgotten once the test is taken, passed or not. (Ersbøll and Gravesen, Denmark report for Strik et al., 2010, p. 70).

<sup>256</sup> Courses are available for applicants in Denmark, the United Kingdom, however, only the written documents available will be used, because it is not possible to attend such classes and also because they contain a standard knowledge. In the United Kingdom and the Netherlands, the same course has to be followed for the acquisition of a residence permit and naturalisation because the same test is applied. In Germany and Austria, no tests are provided under the pretext of a lack of demand. In Lithuania, the organisers specifically rejected this possibility (Questionnaire). In Latvia and Hungary, courses are organised by the civil society.

questionnaires by themselves or asked one of their students to do so. Others directed me to material available in English so that I could fill the questionnaire in myself.<sup>257</sup>

None of the experts contacted in Germany, Austria and Romania could answer my request. I therefore contacted students that I know on a private basis from these countries and asked them to answer the same questionnaire, on the basis of the preparatory material. Students from Austria (Philipp Klakl, University of Vienna) and Germany (Ferdinand Vögel, Hochschule Furtwangen) were able to answer.

I decided to include these students' answers in the study for several reasons. First it is important that Austria and Germany are represented in the study. According to the 2010 MIPEX study, Austria has the most restrictive policy in terms of access to nationality in Western Europe (score of 22).<sup>258</sup> In addition, a previous analysis on the content of the Austrian test suggested that the Austrian test included references to the European Union.<sup>259</sup> Germany is worth including in this thesis because of its particular experience with integration tests that were created first by the Länder and later unified at the federal level. A second reason to include these students' answers is that tests and preparatory material are dedicated to all individuals applying for naturalisation, with previous knowledge of the issues or not. Therefore, the perception of any citizen of the content of the material is relevant for that study. In addition, as will be developed below, the first part of the questionnaire requires answers that are easy to give. The questions of the second part of the questionnaire may be more open to interpretation.

#### *3.1.4 Material used to answer the questionnaire<sup>260</sup>*

As I mentioned before, the material used to answer the questionnaire is the preparatory material at the disposal of the candidates to prepare the test. The adequate knowledge to be learnt in order to pass the test can be found in different types of material, depending

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<sup>257</sup> See 'Respondents', Annex, p. 99.

<sup>258</sup> [http://beta.mipex.eu/play/map.php?chart\\_type=map&countries=3&objects=180&periods=2010&group\\_by=country](http://beta.mipex.eu/play/map.php?chart_type=map&countries=3&objects=180&periods=2010&group_by=country) (28 June 2011).

<sup>259</sup> Perchinig, pp. 25-50 in Van Oers et al. (eds.), 2010.

<sup>260</sup> See 'Materials and references', Annex, p. 99.



on the country. For the questionnaire, the different materials have been categorised. A bank of question consists of the list of all possible questions asked for a test. A sample test is a selection of questions that could be asked during a test session. A handbook is a preparatory material that is not written in the form of questions. Some tests ask about knowledge of legal texts. Answers based on all these types of materials will be described. However, in the comparison, it is only the ‘comprehensive’ materials that provide a full account of the knowledge required that will be considered. The comparative analysis therefore excludes sample tests.

a) The tests based on ‘knowledge of the constitution’ will be referred to as ‘first generation tests’ in this thesis. In the three Baltic countries, the Constitution is the basis for the naturalisation test questions.<sup>261</sup>

Latvian authorities ask additional basic questions about history.<sup>262</sup> The government prepared a simple history handbook for that matter, as well as a bank of one hundred questions. Kristine Kruma answered the questionnaire on the basis of a sample test available on the website of the Office of Citizenship and Migration Affairs<sup>263</sup>. I used the English translation of the Constitution,<sup>264</sup> of which any article can be the object of a question, in order to have a broader picture of the knowledge expected from the applicant.

In Estonia, the applicant is tested on his/her knowledge of the Constitution and of the Citizenship Act. Estonia has prepared a handbook ‘What you need to know if you are applying for Estonian Citizenship’<sup>265</sup> (translated into English and into Russian);

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<sup>261</sup> In Lithuania, one of the justifications for keeping that format of test is that this material is easily accessible in several languages. Consequently it requires no courses to be organised (see Questionnaire below).

<sup>262</sup> Kruma, p. 252 in van Oers et al. (eds.), 2010.

<sup>263</sup> <http://www.np.gov.lv/index.php?id=503&top=0> (in Latvian) (consulted on 9 July 2011).

<sup>264</sup> Published in English at <http://www.satv.tiesa.gov.lv/?lang=2&mid=8> (consulted on 9 July 2011).

<sup>265</sup> Integration foundation, Tallinn, 2009. Available for free on the website of the national examination and Qualifications centre, [http://www.ekk.edu.ee/vvfiles/0/k2siraamat\\_eng\\_230909.pdf](http://www.ekk.edu.ee/vvfiles/0/k2siraamat_eng_230909.pdf) (consulted on 20 June 2011).

however this handbook contains more information than what is needed for the test.<sup>266</sup> The law clearly states that the test questions will only deal with the Citizenship Act and specific Chapters of the Constitution.<sup>267</sup> Therefore the handbook, while it explains and develops some parts of the constitution for a better understanding of its dispositions,<sup>268</sup> also contains information that is not relevant for passing the test. If the only objective of the candidate is to pass the test, he/she will not bother learning extra information. Any applicant is also entitled to ask for a personal interview in order to get more information about the conditions and the content of the test. During this interview, he/she is probably made aware of this disparity between the preparatory material and the exact content of the test. Consequently, it is not clear how many people are actually aware of the irrelevance of these parts of the handbook for passing the test and how many of them will still learn this extra-information. Since the study is based on what the applicant has to know, but also on what a new citizen knows, in the case of Estonia, both the legal documents and the handbook have been used as a basis for the study. The handbook also contains a sample test that has been used, too. I used the official English translation of these documents to answer the questionnaire.

For the Lithuanian test however, the Constitution is the only learning basis.<sup>269</sup> More precisely, eighty eight topics are pointed at in the law, ‘with reference to the Constitution text’.<sup>270</sup> The basic provisions of the Constitution can be the object of questions according to Edita Simanavičiūtė, Egidijus Kūris’ master student

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<sup>266</sup> Confirmed by e-mail from Vadim Polestsk, Legal information centre for Human Rights, Tallinn, 22 April 2011.

<sup>267</sup> Article 9(1) of the Citizenship act: ‘A person who wishes to acquire Estonian citizenship by naturalisation shall have knowledge of: 1) the general principles of the Estonian public order which is provided for in Chapter I and III of the Constitution of the Republic of Estonia; 2) the fundamental rights, freedoms and duties of every person which are provided for in Chapter II of the Constitution [...]; 3) the competence of the Riigikogu, the President of the Republic, the Government of the Republic and the courts [...]; 4) the conditions and procedure for acquisition, resumption and loss of Estonian citizenship in accordance with the Citizenship act’. Both texts are available at <http://www.legaltext.ee/en/andmebaas/ava.asp?m=022> (consulted on 9 July 2011).

<sup>268</sup> In the official English translation the language is easy.

<sup>269</sup> <http://www3.lrs.lt/home/Konstitucija/Constitution.htm> (consulted on 20 June 2011).

<sup>270</sup> ‘The law provides the topics (88) with reference to the Constitution text’. Simanavičiūtė, Questionnaire.

b) The tests of ‘second generation’ are, for the purpose of this chapter, the tests for which the government prepares a specific selection of knowledge to be learnt.<sup>271</sup> It is based not only on constitutional and legal texts, but also on a selection of facts and other rules the future citizen ought to know. This knowledge is generally presented in preparatory material.

In the UK a handbook, ‘Life in UK: A journey to citizenship’, has been edited. It was initially drafted solely for the naturalisation test,<sup>272</sup> but since 2005 both permanent residence permit and naturalisation require the same test, and therefore the same preparatory material.<sup>273</sup> The handbook has been written by an independent advisory group<sup>274</sup> and revised in 2007.<sup>275</sup> This document is the basis for the test developed by a private company.<sup>276</sup> It is also possible to buy a collection of seventeen sample tests.<sup>277</sup> The website that sells this collection offers a sample test for free.<sup>278</sup> I answered the questionnaire on the basis of the second edition of the handbook,<sup>279</sup> the collection of sample tests and the free practice test.

In Denmark, the government has published a handbook in 2007.<sup>280</sup> It can be downloaded for free. This document was drafted by the Ministry of Integration together with a private consulting company and four experts from different universities.<sup>281</sup> The Ministry of Integration removed in 2008 the full-list that used to be available on its

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<sup>271</sup> The separation is not so clear, for example in Latvia the applicant also has to learn some basics about history. However, the Constitution remains the main instrument on which the test is based.

<sup>272</sup> Van Oers, p. 66 in Van Oers et al. (eds.), 2010.

<sup>273</sup> As explained earlier, taking the ‘Life in the UK’ test is only one of the two routes to citizenship (see supra, note 126).

<sup>274</sup> Van Oers, p. 66 in van Oers et al. (eds.), 2010.

<sup>275</sup> Home Office, *Life in the United Kingdom: A Journey to Citizenship – 2<sup>nd</sup> Edition*, 2007.

<sup>276</sup> Van Oers, p. 67 in van Oers et al. (eds.), 2010.

<sup>277</sup> *Passing the Life in the UK Test: Official Practice Questions and Answers*, 2007, Available at <http://www.tsoshop.co.uk/bookstore.asp?FO=1278112&TRACKID=002353> (consulted on 6 June 2011). This practice book is not supposed to include every possible questions, it is just a collection of sample tests.

<sup>278</sup> ‘Life in the United Kingdom – Official Practice Citizenship Test’, at <http://www.tsoshop.co.uk/bookstore.asp?FO=1278111&TRACKID=002353> (consulted on 6 June 2011).

<sup>279</sup> Provided by e-mail from Bernard Ryan, Kent Law School, 27 April 2011.

<sup>280</sup> *Danmark før og nu – læremateriale om historie, kultur og samfundsforshold til indfødsretsprøve* (Denmark past and present – study material for the citizenship test on history, culture and society) (Ersbøll & Gravesen, Denmark report for Strik et al. (eds.), 2010, p. 60).

<sup>281</sup> Ersbøll, p. 144 in Van Oers et al (eds.), 2010.

website. Since then, only a sample test is available.<sup>282</sup> Eva Ersbøll used the handbook and the test for the session of December 2010 to answer the questionnaire.

In the Netherlands, an advisory committee prepared a curriculum for the test.<sup>283</sup> This curriculum is accessible. It is the only material published by the government. The pretext invoked by the politicians is that one cannot study to be Dutch, one has to ‘feel Dutch’<sup>284</sup>: integration has ‘to grow in practice’.<sup>285</sup> The Minister for Housing, Spatial Planning and the Environment commissioned a ‘report containing material that can be useful for self-study’.<sup>286</sup> Since 2010, a sample test can be found on the website of the Ministry of Education and Culture.<sup>287</sup> Ricky van Oers answered the first part of the questionnaire relying on the curriculum. I also used a translation of the sample test in order to find examples of questions.<sup>288</sup>

The content of the Hungarian test is not uniform at the national level. The main topics were issued by the Ministry of Interior,<sup>289</sup> as well as a handbook with examples. However the exact questions and conditions are defined by the county administration offices, in charge of naturalisations. Some offices publish the totality of their questions, others do not. The practice may differ greatly from county to county, regarding the content of the test, the number of questions to be answered correctly and other practicalities.<sup>290</sup> Judit Tóth has relied on the handbook to answer the questionnaire.

In Austria, a list of questions has been established at the federal level. In each test, twelve questions are taken from the federal list, and six additional questions are specific

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<sup>282</sup> On the website <http://www.nyidanmark.dk/>

<sup>283</sup> Strik et al., Netherlands report for Strik et al. (eds.), 2010, p. 44.

<sup>284</sup> Joppke, 2007(b), p. 45.

<sup>285</sup> Strik et al, report Netherlands report for Strik et al. (eds.), p. 65.

<sup>286</sup> Ricky Van Oers, Questionnaire.

<sup>287</sup> [www.inburgeren.nl](http://www.inburgeren.nl)

<sup>288</sup> English translation provided by Tineke De Moor, Ghent University.

<sup>289</sup> Government decree 125 of 1993, recently modified by decree 224 on 4 August 2010 (Tóth, questionnaire).

<sup>290</sup> These divergences in practice are well known and it has been noticed that some applicants change residence in order to get an easier regime (Tóth, Hungary report for Strik et al. (eds.), 2010, p. 14). It is a smaller instance of naturalisation tourism described in the first chapter.

to the province of residence of the applicant.<sup>291</sup> The questions were drafted by the Ministry of Interior and the staff of the provincial departments without consultation of experts.<sup>292</sup> The list of federal questions used to be available on the website of the Ministry of Interior. It is no longer the case since spring 2010.<sup>293</sup> Philipp Klakl used the ‘practical questions file’ for the region of Vienna, found in the official handbook ‘Staatsbürgerschaftstest’ that can be bought on the internet.<sup>294</sup>

Germany is the only country where the exhaustive list of possible questions is still accessible, on the website of the federal government.<sup>295</sup> The bank contains three hundred federal questions and ten specific questions per Land. The questions have been drafted by the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge) and the Länder governments.<sup>296</sup> The basis for this research is the list of questions of the Land of Baden Württemberg.

The choice of the region of Vienna, rather liberal compared to other Austrian provinces,<sup>297</sup> and Baden Württemberg, renowned for its restrictive integration policy, is not deliberate. These are the regions of origin of the German and Austrian respondents. I assume that this particularity is not likely to influence greatly the German results. Indeed, Land-specific questions represent only around three percent of the material. The case of Austria is different. Around one third of the questions in the material –as well as in each test- are drafted by the province. Although these province-specific questions are supposed, according to the law, to cover ‘basic knowledge of the history of the relevant province’,<sup>298</sup> Perchinig has demonstrated that the nature of the questions vary among the

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<sup>291</sup> ‘The examination consists of 18 questions, six in each area’. These areas are: ‘basic knowledge of the democratic order of the Austrian Republic, basic knowledge of the history of Austria and basic knowledge of the history of the respective province’ (Perchinig, Austria report for Strik et al. (eds.), 2010, p. 48).

<sup>292</sup> Ibid.

<sup>293</sup> Ibid. p.47.

<sup>294</sup> <http://www.staatsbuergerschaftstest.com/> (20 June 2011)

<sup>295</sup> <http://oet.bamf.de/pls/oetut/f?p=514:1:1104285304738384>

<sup>296</sup> Seveker & Walter, Germany report for Strik et al. (eds.), 2010, p. 49.

<sup>297</sup> In 2005 the government of the city of Vienna was opposed to the creation of the naturalisation test (Perchinig, Austria report for Strik et al. (eds.), 2010, p. 52).

<sup>298</sup> Ibid. p.16.

provinces.<sup>299</sup> Perchinig's study has shown that the particular situation of Vienna on the international level has had influence on the content of its provincial questions. These particularities, that will be discussed in the 'Results' section below, are likely to affect the results of the questionnaire.

### 3.1.5 *Observations on the material*

a) The preparatory materials provide slightly different perspectives on the knowledge tested. A handbook presents what the applicant will learn. Whether or not everything will be asked in the test, this is what the applicant knows he/she has to *learn* before taking the test. The actual content of the questions and their formulation may differ.

A bank of all possible questions presents what the applicant actually has to *know* in order to pass. The formulation of the questions is interesting in order to interpret what the drafters expect the applicant to do with the knowledge (to know it, to use it, to internalise it). These two types of material expose the totality of the knowledge the applicant has to know.

A sample test provides an idea of the logic of the test, or at least, how the government wants the applicant to approach the preparation of the test. It indicates what can be the repartition of different topics in a test and the formulation of the questions. However a sample test only offers a selection of some possible questions. It can happen that these questions refer only to some topics, leaving aside issues that can be treated in other tests and therefore have to be known by the candidate.

b) A material that is published reflects what the candidate is expected to learn, and has to learn in order to pass the test. When the knowledge is accessible, the individuals can learn it beforehand. Because taking the test is mandatory for all future citizens –letting aside the exempted categories-, most newly acknowledged citizens are likely to have come across the published material.

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<sup>299</sup> Ibid. pp. 39-43.

On the other hand, when the content of the test is not published, applicants cannot prepare. The applicants do not have to learn, but to know. Unpublished material therefore represents the knowledge that the drafters assume that an applicant for citizenship should have. It is based on assumptions and expectations of the drafters, but there is no certainty as to whether new citizens in fact have all the knowledge contained in the material. An applicant, even if he/she passed, may not know all of it.

All the materials used in this study are accessible for candidates. They differ in that some documents are available for free and others have to be bought. The former category is probably the most widely consulted.

### **3.2 The questionnaire<sup>300</sup>**

The questionnaire is divided into two parts. The respondent is asked to effectuate two consecutive screenings of the content of the material, looking for different items. Throughout the questionnaire, the word item is used in order to cope with both types of material. When the material is presented in the form of questions, an item is one question. When the material is a handbook, an item refers to a mention, in a paragraph or a 'bullet point'.<sup>301</sup> The same item may refer to several issues.

#### *3.2.1 First part of the questionnaire*

The first part of the questionnaire is looking for items that refer explicitly to the EU. The aim of this first screening is to determine whether the test mentions elements that could serve the applicant's awareness or knowledge about the EU.

A1- If no item refers to the EU, the first hypothesis is thus confirmed: the European dimension of the access to national citizenship is absent from the test.

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<sup>300</sup> Available at <http://www.surveymonkey.com/s/citizenshiptest>

<sup>301</sup> This terminology is borrowed from the article of Ines Michalowski, 2009.

A2- If items related to the EU are found, the respondent is asked to evaluate the proportion of items dedicated to these issues. The result of this evaluation permits to estimate the importance given to EU elements over elements of national relevance.

In order to have a good account of the representation of the EU issues in the material, it would be interesting to assess what proportion of the items is dedicated to other issues. However, this questionnaire is limited to the EU issues.

A3- If mention of EU-related topics is found, the questionnaire looks at what aspects of the EU are put forward. Different categories have been singled out: symbols, history, institutions, rights, the relations between the country and the EU and 'other issues'. The respondent is asked whether and how often these issues are mentioned in the material, and to give examples if possible. These issues are drawn from the traditional conceptions of citizenship. The aim is to assess whether the mention that is made of the EU and EU citizenship can be analysed as a reflection of a certain conception of the European citizenship, or related to one of the 'European aims'.

A4- Finally, the respondent is asked to tell whether the fact that access to national citizenship gives access to EU citizenship is clear in the test or not.<sup>302</sup> The answer to this question determines to what extent the applicant, once he/she has learnt the necessary knowledge, has been made aware of his/her future quality as European citizen.

### *3.2.2 Second part of the questionnaire*

The second part of the questionnaire is dedicated to the items that relate to 'rules and values'. This expression is to be understood in a broad sense. The items in which values are underlying are also comprised in this category, as well as the items referring, directly or indirectly, to rights and duties. A list of twenty-six European 'rules and values' is proposed.<sup>303</sup> This list is based on the several documents. Article 2 paragraph 1 of TEU exposes the fundamental values of the EU. The Charter of Fundamental Rights

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<sup>302</sup> On a scale from one to five, one meaning 'not clear at all' and five meaning 'very clear'.

<sup>303</sup> See 'List of rules and values', Annex, p. 118.



lists individual rights to which all EU member states adhere and are bound.<sup>304</sup> The Charter declares itself based on states' resolution to share 'common values'.<sup>305</sup> The list is completed with the results of some sociological studies that give a more subjective account of 'European values'.<sup>306</sup>

B1- The respondent is asked whether the rules and values listed are mentioned in the material. If the different materials refer to the same values, the second hypothesis is thus partly corroborated: an individual who acquires citizenship in different member states has to be familiar with similar European rules and values. Although scholars have claimed that similar values are tested in several countries, I have not found an empirical analysis demonstrating it. It is interesting to study what rules and values are the most widespread in the tests, to see what the 'rules and values pool' of new European citizens in different member states is composed of.

B2- When a value is present in the material, the respondent is asked to tell whether this rule or value is presented in a national or supra-national fashion. A rule or value is presented as national when there is a mention of the national law or when the item presents the rule or value as country-specific. A rule or value is presented as supra-national when it is made clear that it is not a specific feature of the country. It is presented as shared with other countries or universal. The respondent is also asked whether the rules and values items refer to national or international and European law. The aim of this question is to assess whether European rules and values presented in the test are presented as purely national or whether their supranational nature is reflected.

This question may be subject to interpretation. For that reason, the answers have to be taken cautiously and the thesis will avoid drawing too general conclusions.

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<sup>304</sup> Article 6 para. 1, TEU.

<sup>305</sup> Charter of Fundamental Rights, 2000, Preamble.

<sup>306</sup> Atlas of European values, 2005; European Values Network 2008 & 2010.

### 3.3 Results of the first part of the questionnaire

#### 3.3.1 Answers per country<sup>307</sup>

##### AUSTRIA (VIENNA)

A previous study concerning the content of the Austrian citizenship test estimated that fourteen percent of the federal questions deal with international relations or the EU.<sup>308</sup> According to this study, the chapter about ‘the democratic order’ exposes basic features of the EU. It is therefore expectable that the EU-related items would deal with institutions or voting rights. The only province-specific questions that mention international relations or the EU are Vienna and the Tyrol.<sup>309</sup> According to the respondent of the questionnaire, out of the one hundred and fifty items in the list of questions (federal and province-specific), six concern the EU. One refers to its history,<sup>310</sup> three to its institutions, one to the EU rights (free movement of people) and one to the relation of the country with the EU.

##### DENMARK

In the handbook, the European Union issues occupy ‘around 7%’. The history<sup>311</sup> (together with symbols<sup>312</sup>), the description of the institutions<sup>313</sup> (29%) and the relations of the country with the EU<sup>314</sup> (25%) each represent around one quarter of these EU related issues. The handbook stresses the issues of Danish sovereignty related to the EU. A ‘small proportion’<sup>315</sup> of the handbook is dedicated to EU rights.<sup>316</sup> Although it is

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<sup>307</sup> See ‘First part of the questionnaire’, Annex, pp. 101-118.

<sup>308</sup> Perchinig, pp. 39-43 in van Oers et al. (eds.), 2010.

<sup>309</sup> For the author, one explanation may be that some offices of international organisations can be found in Vienna, while Tyrol is part of a Euro-Region (Ibid., p. 41)

<sup>310</sup> ‘When was the EU founded?’

<sup>311</sup> ‘The development of the EU is described going back to the Second World War, mentioning all the different treaties, the cooperation, the enlargements, the years the different member states joined the EU, the referenda etc.’

<sup>312</sup> ‘Small proportion’, ‘There is a photo of the flag and the euro is mentioned’.

<sup>313</sup> ‘The four main institutions and the decision making processes are described, the EU legislation, member states, veto, majority decisions, the European Council, the summits, the council, the commission, the Parliament and the Court. Photos of head of states and the institutions are included.’

<sup>314</sup> ‘Danish membership, questions of sovereignty - provisions in constitution, attitude of population - division, referenda, opts out, cooperation procedures, influence on common European issues, EU and the Danish Parliament’.

<sup>315</sup> Ersbøll, Questionnaire.

specified that voting for the European Parliament is a right of EU citizens, EU citizenship is ‘not presented as a right for Danish citizens’.<sup>317</sup> The respondent estimates that the fact that Danish citizenship gives access to EU citizenship is ‘not clear at all’. The handbook wrongly suggests that the Danish opt-out excludes Denmark from the EU cooperation regarding Union citizenship.<sup>318</sup> The handbook also mentions other issues under the headline ‘the EU of today’, comprising cooperation in environmental protection, social relationship or legislation.

In the test of December 2010, one question refers to the EU, namely to the date of the entry of Denmark into the European Community.

## ESTONIA

In the Handbook, the EU topics cover five percent of the items. Three out of eighteen items deal with history of the EU, in relation with Estonia accession. There is an allusion to the Euro, more as an economic element than as a symbol of the EU. One third of the EU-related items are about institutions, explaining their role and functioning. One section is dedicated to the Council, the Parliament and the Commission and another one to the ‘European Court of Justice’. The EU rights represent one third of the EU-related items. One section of the handbook is dedicated to the European citizenship, describing the notion and the rights of EU citizens (voting rights, free movement of people, diplomatic protection, and right to address the EU institutions in Estonian). The fact that Estonian citizenship gives access to European citizenship is very clear. The relationships between the country and the EU are described, including economic issues and issues of sovereignty (and geography).

None of texts that are actually part of the test, the Constitution and the citizenship act, mention EU-related issues. Therefore, no questions of the tests are likely to contain EU questions.

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<sup>316</sup> ‘The introduction of the union citizenship and the Danish opt out from it is mentioned - it is not mentioned as an ‘EU right’ for Danish citizens. Under the headline of the European Parliament, the voting rights for each citizen in a EU member state to the European Parliament is mentioned’

<sup>317</sup> Ersbøll, Questionnaire.

<sup>318</sup> Comment from Eva Ersbøll, 11 June 2011.

Accordingly the EU-dimension of the Handbook does not transpire in the sample test.<sup>319</sup> Two questions out of twenty-four mention the EU citizens, in their –wrong- proposed answers. This sample test mentions what European citizens from other countries are not entitled to do in Estonia (namely, stand for Parliamentary elections) and rights that are not reserved to them.<sup>320</sup>

#### GERMANY (BADEN-WÜRTTEMBERG)

Around twenty questions out of the three hundred and ten questions of the bank that are accessible for the applicants to German citizenship in Baden-Württemberg mention EU-related topics. References cover most of the categories. Three are about history, two about symbols,<sup>321</sup> two deal with the institutions<sup>322</sup> and two with EU rights (Charter of Fundamental Rights and voting rights). ‘Most of the [EU-related questions]’ are about relationship between the country and the EU.<sup>323</sup> However, according to the answers, there is no reference to the EU citizenship.

#### HUNGARY

The EU topics are covered under the chapter ‘International role of Hungary/Hungary on the international stage’, that represent ten percent of the handbook. Symbols,<sup>324</sup> history,<sup>325</sup> institutions,<sup>326</sup> European rights (free movement of people and voting rights) and the relation of the country with the EU<sup>327</sup> each represent 20% of the EU-issues. No mention is made of the acquisition of EU citizenship in the material. Acquisition of EU citizenship through national citizenship is ‘not clear at all’.

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<sup>319</sup> Acquisition of EU citizenship is ‘not clear at all’.

<sup>320</sup> The question asks who is entitled to appeal to Courts in Estonia. It is not reserved for Estonian or European citizens, but open to everyone.

<sup>321</sup> ‘Flag and a picture of Kohl and Mitterrand’

<sup>322</sup> ‘Where does the European Parliament work (Brussels, Luxemburg, Strasbourg) in which town is the seat of the European Parliament’

<sup>323</sup> Vögel, Questionnaire

<sup>324</sup> ‘The symbols of the EU is mentioned as an example of question in the handbook’

<sup>325</sup> ‘short summary of the integration’

<sup>326</sup> ‘functions and names’

<sup>327</sup> ‘history of accession’

The county administration office in charge of the test chooses four questions out of the handbook for each test session. Maximum one question has to be taken from this chapter. Therefore, there may be one question, and only one, dealing with the EU in a test.<sup>328</sup> Civil organisations are currently preparing amendments to the government decree exam topics.<sup>329</sup> It should lead to a better inclusion of the EU issues.<sup>330</sup>

## LATVIA

In the sample test used by the respondent (eighteen questions), no question refers to the EU. Nevertheless it can be the case in other tests because any article of the Constitution can be the object of a question.<sup>331</sup> Two articles of the Constitution mention the relationship of the country with the EU. Both of them describe the existing mechanisms at the national level, in case of substantial change in the terms of the membership of Latvia to the EU (referenda). One article mentions the rights of the citizens of the EU who permanently reside in Latvia to vote for and participate in the work of local governments.<sup>332</sup> Acquisition of the EU citizenship through national citizenship is ‘not clear at all’. The history handbook, not included in this study, may also mention EU-related areas.

## LITHUANIA

In Lithuania, the knowledge test is entirely based on the text of the Constitution.<sup>333</sup> The ‘Constitutional Act of the Republic of Lithuania on the Membership of the Republic of Lithuania in the European Union of 13 July 2004’ is mentioned as a constituent part of the Constitution, in the final provisions.<sup>334</sup> This Constitutional act only refers to the influence of the EU accession on national institutions’ competences and laws.

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<sup>328</sup> The respondent added that an EU related question may also exceptionally be taken out from the chapter of fundamental rights.

<sup>329</sup> Tóth, Questionnaire

<sup>330</sup> Ibid.

<sup>331</sup> <http://www.satv.tiesa.gov.lv/?lang=2&mid=8>

<sup>332</sup> Article 101.

<sup>333</sup> Lithuanian law on citizenship, article 12.1.4. Available at <http://www.coe.int/t/dghl/standardsetting/nationality/National%20legislation/Lithuania-Law%20on%20Citizenship%202003.pdf>. (consulted on 9 July 2011).

<sup>334</sup> See supra, note 269.

As explained in the presentation of the material, the applicant has to know the eighty eight ‘basic provisions’ that are singled out by the law. The Constitutional act of 13 July 2004 does not appear, from the respondent’s answers, to be part of the basic provisions as understood by the law organising the test. Therefore there is no mention of the EU in the material and thus in any test.

## THE NETHERLANDS

In the curriculum, ‘based on norms for successful behaviours’, three items out of two hundred mention the EU. Two of them concern the relations between the EU and the country. The applicant is asked to explain ‘the main tasks and responsibilities of the European governments towards the citizens’ and the ‘current forms of cooperation (EU, NATO)’. The item ‘concerns elections and refers to European elections’.<sup>335</sup> Once again the access to Union citizenship through national citizenship is ‘not clear at all’.

The sample test that can be found on the website for naturalisation contains thirty nine questions.<sup>336</sup> Two of them make reference to the EU, both falling in the category of ‘relationship of the country with the EU’. The first one asks whether the most important task of the government is to ‘tell the provinces what to do, to negotiate with countries of the EU or to make laws and make sure they are used in a good way’. The other question deals with the EU more specifically. It asks why the Netherlands are member of the EU.<sup>337</sup> One of the proposals is accompanied with a flag of the EU. The main illustration of the question shows a picture of a meeting of the Council of Europe.<sup>338</sup>

## THE UNITED KINGDOM

The handbook contains around three hundred paragraphs. Eleven of them concern the EU. The Euro is mentioned twice, although it is not the national currency.<sup>339</sup> One item

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<sup>335</sup> Van Oers, Questionnaire

<sup>336</sup> The examinations contain in reality forty three questions. (Strik et al., Netherlands report for Strik et al. (eds.), 2010, p. 43.

<sup>337</sup> The propositions are as follow ‘because all European armies work together; because it is mandatory; because it is good for Dutch economy’.

<sup>338</sup> It is probably a mistake of the drafters, see *infra*, p. 66.

<sup>339</sup> However, in the parts of Northern Ireland that are neighbouring the Republic of Ireland, Euro circulates, as a matter of fact.

refers to the history of the EU, from its creation (before the UK was member) to its last enlargements. Three items describe the basic functioning of the Council, the Parliament and the Commission. The relationships between the UK and the EU are tackled in three items. They deal with the UK attitude and accession, as well as with issues of sovereignty.<sup>340</sup> One of these three items mentions the judgments of the European Court without specifying its functioning. Four references are made to EU rights (free movement, voting rights, and right to work). It is remarkable that the handbook refers to the rights of the ‘citizens of an EU member state’, and not directly to EU citizens. The UK is presented as an EU country and therefore the granting of these rights to British citizens is implied. However it is not explicitly stated that, by becoming British citizen, one acquires the status of EU citizen. One item refers to the economic aspect of the EU and one mentions the existence of a European driving licence.

Questions about the EU are actually asked in some tests, according to the different samples. In the free sample test of the website –the test that is probably consulted by the biggest amount of candidates- three questions refer to the EU.<sup>341</sup> However, it is not always the case as showed by the answers concerning the collection of samples. Ten samples out of the seventeen of the practice book do not contain any question relating to the EU. Two of them have one EU related questions and five have two EU related questions. Most of the questions concern political organisation of the EU and EU rights.

### 3.3.2 *Comments*

#### a) *Answers to the research questions*<sup>342</sup>

A1 - The results of the first part of the questionnaire show that, apart from the Lithuanian and Estonian Constitutions, all materials make at least one reference to the

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<sup>340</sup> ‘Originally the UK decided not to join this group and only became part of the EU in 1973; the EU is legally binding in the UK and all other member states; [...]it was the Parliament itself that created these obligations’

<sup>341</sup> The places where the European Parliament meets; right to vote for all elections reserved to citizens of the Irish Republic residing in the UK and to citizens of the Commonwealth residing in the UK (and not to citizens of EU states resident in the UK); the name of the governing body of the EU.

<sup>342</sup> See ‘Table 1’ that summarises the countries answers for the first part, Annex, p. 116.

EU. It implies that in these countries, when a candidate arrives to the examination, he/she has at least read or heard about the EU.

A2 – As the thesis mentioned in the description of the questionnaire, it is necessary to have an estimation of the proportion of the material dedicated to other issues in order to assess whether the proportion of items relating to the EU is substantial. However it is possible to highlight the trends. In Denmark, Germany and Hungary, more than five percent of the material is dedicated to EU issues. In the Netherlands and Latvia, the proportion of EU issues is small (2,5% and 3,6%). In any case, in none of the materials the EU-related items occupy more than ten percent of the whole.<sup>343</sup>

A3- In most of the materials that mention the EU, the four categories highlighted (symbols and history,<sup>344</sup> institutions, EU rights and relations between the country and the EU) are present.

It is however not the case in the Netherlands and Latvia, where neither symbols and history nor the institutions are tackled. These materials only refer to EU rights and the relations between the country and the EU.

The category of items that is the most represented in average is the one that deals with the relations between the country and the EU. This category does not reflect any particular approach towards EU citizenship. These pieces of information are still linked to the country. This category serves the applicant's understanding of the national political and legal systems by placing them into their regional context: the EU. Latvia, the UK, Estonia (handbook) and Denmark stress the issues of sovereignty. The three first mentioned highlight the remaining competences of the national government. Denmark mentions opt-outs, referenda and questions of sovereignty. That is a signal of

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<sup>343</sup> In Hungary, the EU items are found *within* a chapter that represents ten percent of the material (Tóth, Questionnaire).

<sup>344</sup> The categories of symbols and history are analysed together because they both refer to a communitarian view on citizenship.



the cautious approach of the country towards the EU, although other categories of EU-related issues cover three-quarter of the Danish handbook.<sup>345</sup>

The items about the institutions are the best represented category in the Austrian, Danish and British tests, where the functioning of the institutions is described in details. It is also shortly described in the Hungarian handbook. This indicates a rather republican view on the future EU citizen, serving the political integration of the applicant.<sup>346</sup>

The Court of Justice of the EU is only described in Denmark, the Estonian handbook and cited in the British handbook. This may be an indication of the cautious attitudes of the other states towards this institution.

Symbols and history are not present in all the materials. They nonetheless represent more than one quarter of the Danish, German, Hungarian and British test. The flag and the euro are the symbols the most commonly found, although the euro is often presented more as an economic issue than a symbolic one. Denmark, Hungary and the UK recall the history of the EU before the accession of their country. The EU is thus presented as having its own history, independent from the country. These materials therefore show to a small extent a communitarian view on the EU.

The materials generally make references to 'EU rights'. Voting rights and freedom of movement are the most frequently cited. They can serve to some extent the republican and socio-economic integration of the applicant.

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<sup>345</sup> See 'table 2' that shows the proportion of EU-related items excluding the category of 'relationships between the country and the EU', Annex, p. 117.

<sup>346</sup> It is not necessarily the case. For example in the German bank, the questions about the institutions, apart from dealing with voting rights, ask about the city in which these institutions operate. This knowledge is not necessary for participation and would rather indicate a communitarian perspective.

A4- It is remarkable that no material, except from the Estonian handbook, seems to highlight the fact that the acquisition of national citizenship gives access to EU citizenship. At least two countries mention the notion of European citizenship in the material (Denmark and Latvia).<sup>347</sup> The British handbook talks about ‘citizens of an EU member state’. In these documents, the EU citizenship is seen as a source of rights but it is not clearly linked to the acquisition of national citizenship.<sup>348</sup> Consequently, no awareness of EU citizenship as a status derives from the preparatory materials for naturalisation tests in Europe, except in Estonia where the handbook gives an extensive list of EU rights.<sup>349</sup>

*b) Observations*

Several explanations can be advanced, to understand these results.

First, it is important to highlight the specificities of the first generation tests. While the content of the material used in ‘second generation tests’ is specifically drafted for the purpose of the test, it is self-evident that it is not the case for the Constitution. The Constitution is more likely to highlight the relations between the country and the EU. It is not realistic to expect that a Constitution would mention elements such as the history of the EU. The Latvian history handbook, that was not included in the study, may mention these issues.

The fact that the Estonian citizenship Act does not show that EU citizenship is considered as something external, which comes on top of the national citizenship.

The absence of mention of the acquisition of EU citizenship, and the scarce mentions of other EU issues in some tests, by the drafters of the second generation materials may have several explanations. The drafters of these documents fall within two categories. In

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<sup>347</sup> The handbook ‘Life in UK’ talks about ‘citizens of EU states’

<sup>348</sup> In countries where state-regulated preparatory courses are available, it is possible that the status and its content are described. Though there are no courses in Latvia or Denmark. (Strik et al., Synthesis report, 2010, pp. 82-84).

<sup>349</sup> The Estonian handbook describes the rights enjoyed both by EU citizens from other countries and for Estonians as EU citizens.

Austria, Hungary and Germany, these materials have been issued by the federal or local governments. In the UK, the Netherlands and Denmark, the governments delegated the task of edition of the material to drafting groups.

A first possible explanation for the absence of reference to EU citizenship is that the drafters deliberately decided not to include this information. The drafters may have thought that EU-related issues are too self-evident to be worth mentioning.<sup>350</sup> The first part has shown that EU-related issues are not self-evident. On the contrary, awareness about the Union citizenship status is not well-developed. Furthermore, ‘self evidence’ does not seem to be the criterion for the knowledge selected in the material. As an example, several countries test the knowledge of the applicant about naturalisation procedures, while the applicant is already involved in the process of naturalisation.

The drafters may have decided not to mention the EU citizenship and the rights attached to it, as well as other EU-related issues, due to their lack of support for these issues. Governments may not be willing to highlight the fact that the new citizen is about to acquire this supra-national status that will enable him/her to move and reside in another country. Governments may also want to keep the control over the content of the naturalisation tests. This strategy enables the government to use the naturalisation test as an instrument that can be used in order to serve national considerations such as the fostering of national identity or the control of naturalisation. This hypothesis is supported by the multiplication of membership criteria in naturalisation procedures, as well as by several declarations according to which naturalisation should be earned.

It is also conceivable that governments have judged EU issues too complex for being included in an integration test. Nevertheless some aspects of EU citizenship such as the right to move and to vote do not need much explanation and they can serve the applicant’s everyday life. That may be the reason why these are the rights that are most

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<sup>350</sup> Some authors affirm that the right to freedom of movement and residence in the EU explain why non-member states nationals are eager to acquire the citizenship of an EU country (Margiotta & Vonk, 2010, p. 1). According to this theory, most applicants are aware of the acquisition of EU citizenship when applying to national citizenship.

often mentioned in the material. Yet, the rights to citizen's initiative and to petition are also important elements for individuals' participation.<sup>351</sup> Moreover the western European countries have recently tightened the conditions and level of the test so as to make it more difficult for the applicant to pass.

The drafters may have underestimated the importance of the EU-related topics. It can be due to their own misunderstanding of the notion of EU citizenship. This possibility is supported by two instances of incorrect items found in the materials. In the Danish handbook, the opt-out is incorrectly presented as excluding Denmark from the cooperation concerning the EU citizenship. In the Dutch sample test, a question about the EU is illustrated by a picture of the Council of Europe. These two examples show that the drafters may have misunderstood some of the EU issues. That leads applicants to learn inaccurate information.

Most materials, if not all, were drafted before the entry into force of the Lisbon Treaty. They can therefore not be accurate on EU issues. Taking an obvious example, the Estonian handbook comprises one section about the 'European Court of Justice', which name changed into 'Court of Justice of the European Union'. These materials do not include the recent changes in European law, like the aforementioned right to citizens' initiative, because they were written before. They were also written before the most recent developments of the case law about Union citizenship, increasing the importance of the notion. While this is a plausible explanation for the absence of some elements in the material, it does not explain why other aspects that already existed at the time of the editing, such as EU-rights or the notion of Union citizenship itself are not included.

### 3.3.3 *Conclusion*

The knowledge an applicant for naturalisation has to learn is mostly national-oriented. Consequently, governments can use it as an instrument of national policy, as a tool for selection or for fostering national identity. Some materials explain to the candidate the

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<sup>351</sup> The right to citizens' initiative is very recent (2011). It did not exist when the materials were drafted and therefore could not be mentioned.

influence of the EU on the national context, which can help his/her understanding and participation at the national level. However this information does not foster the applicant's awareness about the EU as such.

If one 'European aim' is served by the tests, it is the one of political participation. Some materials emphasise the functioning of the EU institutions and the voting rights.

If the test is meant to make the applicant familiar with the society and aware of his/her rights, it is remarkable that no material, except from the Estonian handbook, makes clear to the applicant that he/she is acquiring the European citizenship

The lack of accuracy in the material is problematic. The risk of mistakes and lack of updating of the materials are not limited to EU-related issues. The EU is only one of the areas treated in the test that undergoes frequent changes. This problem highlights one of the drawbacks of the tests in general. Testing the knowledge that is deemed essential for a citizen implies its crystallisation at one moment by some individuals. This knowledge is not static and requires frequent updating, if it exists at all. The drafters have to make an arbitrary choice regarding the content of this mandatory knowledge for new citizens. The imposition of a selected knowledge on applicants is barely reconcilable with the tenets of a liberal society based on the autonomy of the individual.

### **3.4 Results of the second part of the questionnaire**

#### *3.4.1 Answers*

It appears from the results to the second part of the questionnaire that some rules and values are found in all the materials.<sup>352</sup> It is the case of 'freedom of thought, conscience and religion (including the relations between the Church and the State)', 'Democracy', 'Rule of law/separation of powers', 'voting rights, right to petition', 'Justice/procedural

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<sup>352</sup> The Dutch material is not taken into consideration here, because the respondent did not answer this part of the questionnaire.

rights’, ‘non-discrimination’, ‘social security, social assistance and healthcare’ and ‘workers’ rights’.<sup>353</sup> They will be called ‘common rules and values’.

None of the twenty-six rules and values of the list are tested in only one country. Three of these rules and values are tested in less than half of the countries. It is the case of ‘volunteering and civil society’, ‘diplomatic and consular protection’ and ‘innovation and competition’. In average, every rule or value is present in six of the eight materials under scrutiny. It shows that there are similarities between rules and values asked in different tests. Most rules and values are therefore not national specificities, unless these rules and values have a specific meaning in the national context.

According to the answers to the questionnaire, few of the common rules and values have a special meaning in the national context.<sup>354</sup> In Denmark, welfare and workers’ participation may be seen as a national particularity. ‘Non-racism’ can also be seen as a specific feature of Germany. Therefore, in most countries, the common rules and values are not specific.

However, in the material, the items mainly present these rules and values in a national fashion.<sup>355</sup> If one only looks at the eight common rules and values, one observes that all of them are presented as national, except from non-discrimination in Germany and freedom of thought in Lithuania. Social security and healthcare as well as workers’ rights are exclusively presented in a national fashion in all the materials. A few of these rules and values are also partially presented in a supranational fashion. The ‘rule of law and separation of power’ is the rule or value that is the most often presented in a supranational way. ‘Democracy’ and ‘voting rights and right to petition are presented as supranational in three countries.

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<sup>353</sup> See ‘table 3’, Annex, p.119.

<sup>354</sup> See ‘Q15’, Annex, p. 120.

<sup>355</sup> See ‘Q16’, Annex, p. 121.

This tendency to refer to the national level is also reflected by the answers to the questions Q17.<sup>356</sup> Four out of the seven countries<sup>357</sup> ‘never’ refer to international law in the rules and values items. Three of them being ‘first generation’ countries, it is not surprising. The three others do it ‘sometimes’. Three countries ‘always’ refer to national law and three other do it ‘often’.

### 3.4.2 *Comments*

#### *a) Answer to the research question*

B1- The study has confirmed the hypothesis according to which most rules and values are present in several materials. Eight of these rules and values are even mentioned in all the materials, composing the ‘rules and values pool’ of every new citizen in the eight countries under consideration.

B2- These rules and values are mostly presented in a national fashion, in all countries. Yet, a few rules and values are presented as encompassing a supranational element. It is remarkable that the rules and values that are presented partly as supranational generally deal with the political organisation of the country and political participation. The materials refer only, if not always, to national law.

#### *b) Observations*

Once again, it is important to underline the specificity of the first generation tests. It is important to bear in mind that the questionnaire did not look at the rights enacted in the Constitution, but at those on which the applicant will be tested.<sup>358</sup> A country may have ratified international human rights conventions without testing applicants for naturalisation over the rules and values they contain. Furthermore, the Constitution is not likely to mention directly international texts, although it sometimes transposes the content of international law.

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<sup>356</sup> Q17a and Q17b, Annex, p. 122.

<sup>357</sup> The Austrian respondent did not answer that question.

<sup>358</sup> In Lithuania, the respondent has specified that only eighty-eight provisions are included in the test. This list is not available in English. Therefore, the analysis is made on the basis of the Constitution.

Another specificity of the first generation materials is that they are legal materials. Therefore, non-legal values such as ‘volunteering’ or ‘positive attitude towards work’ are not likely to be mentioned<sup>359</sup>.

It was not expected that any material would contain reference to international law more than ‘sometimes’. The aim of the test was to find out whether the material made clear that the applicant enters a country which rules and values are shared with other European countries.

It has been proven in previous studies that rules and values items do not always refer to law but also sometimes to ‘social norms’. This consideration was excluded from the study because it would require a deeper analysis of the formulation of the items.

It is also important to bear in mind that under the same general headings, different rules and values can be covered. For example there can be a different understanding of family life. In the Danish material, the right to gay civil marriage is put forward while the Lithuanian and Latvian materials affirm that marriage concern ‘a man and a woman’.<sup>360</sup> Yet, no matter how it is translated into national law, the liberal notion of ‘freedom of marriage’ is underlying this rule in the material.

Principles of political organisation such as democracy, voting rights and rule of law and separation of power are presented in a supranational way. It may be due to the fact that these principles are not subject to interpretation based on values but merely reflect a basic principle of organisation. The country is merely presented as having adopted democracy and separation of power.

The fact that racism, which can be seen as an element of ‘non-discrimination’, was highlighted by the respondent as specific to the German national context is not opposed to the fact that it is presented in the material as a supranational rule or value. Indeed,

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<sup>359</sup> The ‘positive attitude towards work/innovation’ is present in the Lithuanian Constitution, though (Article 46).

<sup>360</sup> Latvia Article 110, Lithuania Article 38.



while ‘non-discrimination’ may be of specific importance in Germany, it does not have in that country a meaning that differs from the supranational definition of this rule or value.

### *3.4.3 Conclusion and observations*

#### *a) Conclusion of the second part of the questionnaire*

All materials mention some European values. These values could be the basis of European identity. However the materials primarily anchor them at the national level. By doing so, the material creates a sense of national belonging based on supranational rules and values. The applicant is not made aware that he/she will enjoy some rights not only in virtue of national law, but also on the basis of supranational norms. While these shared rules and values could serve to foster a sense of European identity, they are used to foster national belonging. However, as demonstrated in the previous chapter, a test that emphasises national belonging is not inherently destructive to the EU identity. Indeed, as proven in this chapter, national and European ‘rules and values’ overlap. By putting emphasis on these shared values, the test may indirectly foster a sense of European belonging, as long as the test does not convey the deceptive idea that these values are elements of national identity or culture, in opposition to other countries. A nationally exclusionary test would foster nationalism, which is contrary to the EU project, instead of national identity, which is in conformity with the EU identity,<sup>361</sup> although it does not support it actively.

#### *b) The reference to national law in the material*

In spite of this downside, I realised during the research that the anchoring at the national level, although it does not serve European identity building, may actually be beneficial for the applicant.

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<sup>361</sup> Cinpoes, 2008.

First, by requiring only cognitive knowledge of the law, the tests avoid scrutinizing the applicant's 'inner dispositions'.<sup>362</sup> It does not require adherence to abstract universal rules and values, but a mere objective knowledge. Second, references to international law or abstract rules and values that the applicant cannot relate to his/her everyday life may be difficult to grasp, especially for less educated people. Asking knowledge of national laws and procedures make the test more concrete. These issues may reveal useful in situations which the applicant may encounter in his/her everyday life.<sup>363</sup> It may serve the applicant's integration at the national level.

However, as the thesis already noted, the applicant may move after his/her naturalisation and never live in the country where he/she underwent the naturalisation procedure. In this situation, a knowledge strictly anchored at the national level is not useful to the applicant's everyday life. For that reason, de Groot has envisaged that individuals could be submitted to the language and knowledge test of a different member state than the one in which they apply for naturalisation. However, the author rightly observes that this possibility is not likely to happen, because tests must be seen as an instrument meant at fostering national identity.

Knowledge of the national law and procedures is important for the applicant's integration. Yet, many authors wonder whether the applicants should be tested on this knowledge. For Orgad, it is not the role of nationality law to assess and punish the individuals' potential ignorance of the law. The author rightly argues that this role belongs to the tribunals, in the field of criminal law.<sup>364</sup>

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<sup>362</sup> Joppke, 2008, p. 542

<sup>363</sup> The British test is often designated as an example of practically useful test, 'empowering the applicant' (Kiwani, p. 72 in Koenig & Wright (eds.) 2008). Indeed, one chapter of the handbook is even entitled 'everyday needs'. However, though practical, this knowledge may be of no use for the applicant. For example he/she has to know about childcare while he/she may have no child at the moment and may not plan to have one in the future.

<sup>364</sup> Orgad, 2010, pp. 21-23.

### **3.5 Conclusion of the empirical study**

The empirical study has confirmed the two hypotheses exposed at the beginning of this chapter. The tests practiced in different member states do not foster any European aims highlighted in the previous chapter.

As they emphasise national laws and procedures, the materials do not serve the socio-economic integration of the applicant at the European level. Some materials make the applicant aware of his/her freedom of movement and voting rights. Apart from this important right, the applicant is rarely made clearly aware of the rights he/she acquires by becoming a Union citizen or by virtue of European 'rules and values'. Therefore the applicant is made aware of his/her rights mainly at the national level, not at the European level. It does not help the applicant's awareness of the positive aspects of the EU. It does not inform him/her of all rights that he/she simultaneously acquires on a supranational basis and therefore does not stimulate him/her to make use of these rights.

The applicant is made aware in some materials of the functioning of the EU institutions and means of participation at the EU level. The basic principles of the political organisation of the countries such as democracy and separation of powers are presented in a supranational fashion. Therefore, political awareness and participation at the EU level are fostered to a little extent in the material.

The feeling of European identity is not fostered by the material. History and symbols of the EU that could be the basis for a traditional communitarian understanding of citizenship as an identity are not part of the knowledge to be learnt by the applicant. The second basis for European identity in the previous chapter was the reliance on shared liberal values. The research has demonstrated that such common values exist and are tested in different countries. However these shared values are not presented in a way that conveys a sense of European likeness. The liberal values are presented as national specificities rather than elements of a European identity.

## 4 Conclusion

The thesis has demonstrated that the tests practiced in the different member states under scrutiny were not designed for the purpose of developing a European identity. The discourses surrounding the establishment of the tests confirm that national concerns have motivated the creation of citizenship tests. Yet, this study has shown that due to the objectives invoked for the creation of a test, there are possibilities that this policy serves the individual's sense of having a European identity. However, the empirical study has shown that the content of the tests currently practiced does not foster the applicant's sense of EU belonging.

States are autonomous in the shaping of their naturalisation policies, as long as they abide by some basic principles of international and EU law. Therefore, in spite of the increasing significance of the status of European citizenship, states are free to decide whether to introduce a certain degree of convergence in their naturalisation policies. Integration requirements are one of the few areas of nationality law in which member states' policies seem to follow a common trend. Most European countries direct themselves towards the establishment of increasingly restrictive membership requirements. The member states of the EU have set up a framework of discussion and exchange of good practices in the domain of integration, which shows the intention of governments to draw inspiration from each others' experiences in that field.

The thesis has shown that the objectives put forward for the implementation of citizenship tests, though often embedded in national considerations are not incompatible with the project of building a Union citizenship and fostering a sense of European identity. National and European goals may even complement each other. The EU project could benefit from the tests, by making the applicant aware of his/her status and rights as EU citizen. However the empirical study has demonstrated that the current tests do not play this role.

Citizenship, understood in a wide meaning, is composed of three elements. Citizenship as a status encompasses the legal link between the individual and the state, and the rights and duties attached to it. Citizenship as an activity concerns the participation of the individual in the society, mainly through the use of his/her political rights. The identity of the citizen related to the feelings of the individual, as a member of a specific society. One of the objectives invoked for the creation of the tests is to make the citizen aware of his/her rights and facilitate his/her integration in the society. However, the study has shown that none of the tests or preparatory materials (letting aside the specific case of the Estonian handbook) exposes clearly that, by becoming a citizen of the member state, the individual is also becoming a European citizen. Hence, the new citizen is not even made aware of his/her status as a Union citizen. The test consequently does not help solving the problem of lack of awareness undergone by the Union citizenship status. It does not help either the citizen of being aware of the additional rights conferred by the Union citizenship. Citizenship as activity is very much dependent on the awareness of the individual of his/her status. In order to use his/her political rights, the citizen has to be conscious of having these rights. Active citizenship is another reason raised for the establishment of a test. Participation at the EU level is becoming increasingly important as the EU policies are gaining influence, in scope and in volume, over national policies. Yet, few tests mention the political rights granted to the individual by virtue of the European citizenship. As for citizenship as an identity, the Union citizenship is an interesting status. Because it is built above national specificities, the European identity is inherently pluralistic. It therefore has the potential to be more inclusionary than national identity, which may refer to a 'thicker' conception of belonging. The study has shown that all the tests refer to values that are normally considered EU values. Several values are even mentioned in all the tests. Therefore, every new citizen in all these countries has to know these values, which can therefore be considered shared values. Nevertheless, in nearly all the tests these values are presented as purely national. The values are presented as part of the national identity or legal framework. The tests therefore do not serve the individual's sense of a European identity, based on shared values.

The fact that the tests disregard the European dimension of national citizenship may be due to the lack of awareness of the drafters of the tests. This hypothesis, supported by the few mistakes found in the materials, supports the claim that more information should be provided in order to raise citizens' understanding of the EU and the Union citizenship. The role of governments is particularly important in raising awareness of EU citizenship because the introduction of this status was elite driven. It also shows that this information should not be directed only to the new citizens but to the whole population of the member states. After all, the current lack of interest and participation at the EU level is imputable to the individuals who are already EU citizens.

If the drafters deliberately decided not to mention the EU citizenship and rights, it shows that raising the awareness of the applicant about the whole range of rights he/she is acquiring is not the primary objective of the test. If the aim of the policy were to serve the genuine interest of the applicant, the test would contain information that may be relevant for him/her. Information about the rights conferred to the applicant by the EU are certainly more relevant for the applicant's everyday life than, for example, medieval history or traditions. In addition, an EU citizen may not always live in the country of his/her nationality. Although the majority of the Europeans have the nationality of the country where they live, freedom of movement is one of the substantial rights attached to the Union citizenship. Consequently, in order to adapt the real needs of some EU citizens, these individuals should be made aware, at least of their transnational rights, or even allowed to take the test of their host member state. The fact that it is not allowed shows that integration tests is driven by other considerations. In any case, if the main objective of the government were to serve the integration of the future citizen, this policy itself would be inadequate. Indeed, providing information to the newcomer is important because he/she may be unaware of the laws of the country, especially if he/she has not resided there for a long period of time. However, testing this knowledge corresponds to a different logic. The individual has to attain a certain level of knowledge in order to acquire the status of citizen. The proportionality of the practice that consists in granting a legal status on the basis of knowledge remains to be proven.

As some authors rightly note, it is the role of the criminal law, and not nationality policies, to punish the individuals in the event that they violate the law.

If integration is not the primary objective for the creation of tests, the rationale of this policy may be found in other considerations. First, the governments may want to highlight the duties of the new citizen. This idea is supported by the creation in many countries of oaths of allegiance and integration contracts, focusing on what the newcomer owes to the society. European citizenship, consisting only in additional rights, may therefore not be the status that governments want to emphasise. It would be interesting to analyse the proportion of the tests that is respectively dedicated to rights and duties. Second, as was acknowledged by some politicians, it is likely that naturalisation tests are meant to limit the number of naturalisations and even select the 'best qualified' individuals. Governments thus want to keep control over the individuals who are acquiring the nationality, by creating membership requirements, more subjective than the mere residence requirements. Governments use the language of integration, as well as the EU framework in order to legitimise these policies upon which they keep control. Naturalisation tests also give a signal to the electorate and to potential applicants that citizenship has to be earned and that national identity is protected.

The thesis has recalled that the preservation of national identity is not inherently opposed to the creation of a European identity. Citizens may have several co-existing identities, as long as the elements which constitute these identities do not conflict with each other. This multiple identity is acknowledged by the treaty, mentioning that the EU respects national identities. Furthermore, nationality law is an area in which the use of national identity is the most legitimate. However, it is the timing for the introduction of national-identity oriented tests that is meaningful. Twenty years after they initiated the process of a European citizenship, member states feel the need to protect their identity that they imagine threatened by the multiplication of immigration. Instead of relying both on their national and European identity, they only defend their national identity, leaving aside their commitment to a European project, based on common values.

Furthermore, the fact that Union citizens are submitted to the test reinforces the suspicion that the tests are meant to shed light on nationally distinctive elements.

The naturalisation tests are more problematic with regard to the construction of the European identity, if they refer to elements of national identity that are presented in an exclusionary fashion. The European identity is based on the principles of pluralism and liberalism. If a test opposed the national identity to the others, it would go against states' commitment to these principles. It would be the case of a purely communitarian test. Previous studies have proven that tests are including more and more communitarian elements. As already explained, the EU institutions cannot intervene directly into states' naturalisation practices. However, if tests were to become so communitarian that they do not allow for multiple identities, the EU and Union citizenship would have a role to play in providing an environment that is respectful to the reality of multiple affiliations.

To conclude, if states are to maintain naturalisation tests, these policies should be 'justified, as regards integration', as stated in the ECN. The applicant should be made at least aware of what the citizenship he/she is acquiring consists in, in terms of status and rights. Consequently, the test should refer to the EU citizenship and the most significant rights that derive from it. Governments should also make sure that the content of the test is accurate, which is not always the case. The material should be drafted, and frequently reviewed, by experts in adult education in the different areas addressed.



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<http://eudo-citizenship.eu/>

France 24: <http://www.france24.com>

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**- ANNEX -**  
**Answers to the questionnaire**

**1) Respondents:**

|                                    |  |
|------------------------------------|--|
| <b>Austria (Vienna)</b>            | Philipp Klakl  |
| <b>Denmark</b>                     | Eva Ersbøll  |
| <b>Estonia</b>                     | Fanny Le Reste   |
| <b>Germany (Baden-Württemberg)</b> | Ferdinand Vögel  |
| <b>Hungary</b>                     | Judit Tóth   |
| <b>Latvia</b>                      | Kristine Kruma (sample)<br>Fanny Le Reste (Constitution) |
| <b>Lithuania</b>                   | Edita Simanavičiūtė                                      |
| <b>The Netherlands</b>             | Ricky van Oers (curriculum)<br>Fanny Le Reste (sample)   |
| <b>The United Kingdom</b>          | Fanny Le Reste   |

**2) Materials and references:**

|                           |   |
|---------------------------|---|
| <b>Austria</b>            | <b>Bank of questions</b><br><i>'Practical questions file' (Vienna) in the Handbook Staatsbürgerschaftstest</i><br><a href="http://www.staatsbuergerschaftstest.com/">http://www.staatsbuergerschaftstest.com/</a>   |
| <b>Denmark</b>            | <b>Handbook</b><br><i>'Danmark før og nu – læremateriale om historie, kultur og samfundsf forhold til indfødsretsprøve'</i><br><b>Sample test</b><br><a href="http://www.nyidanmark.dk/">http://www.nyidanmark.dk/</a>  |
| <b>Estonia</b>            | <b>Constitution and Citizenship act</b><br><a href="http://www.legaltext.ee/en/andmebaas/ava.asp?m=022">http://www.legaltext.ee/en/andmebaas/ava.asp?m=022</a><br><b>Handbook + Sample</b><br><i>'What you need to know if you are applying for Estonian Citizenship', English version, <a href="http://www.ekk.edu.ee/vvfiles/0/k2siraamat_eng_230909.pdf">http://www.ekk.edu.ee/vvfiles/0/k2siraamat_eng_230909.pdf</a></i>   |
| <b>Germany</b>            | <b>Bank of questions</b><br><a href="http://oet.bamf.de/pls/oetut/f?p=514:1:1104285304738384">http://oet.bamf.de/pls/oetut/f?p=514:1:1104285304738384</a>   |
| <b>Hungary</b>            | <b>Handbook</b><br><i>Drafted by the Ministry of Interior</i>   |
| <b>Latvia</b>             | <b>Constitution</b><br><a href="http://www.satv.tiesa.gov.lv/?lang=2&amp;mid=8">http://www.satv.tiesa.gov.lv/?lang=2&amp;mid=8</a><br><b>Sample test</b><br><a href="http://www.np.gov.lv/index.php?id=503&amp;top=0">http://www.np.gov.lv/index.php?id=503&amp;top=0</a>   |
| <b>Lithuania</b>          | <b>Constitution</b><br><a href="http://www3.lrs.lt/home/Konstitucija/Constitution.htm">http://www3.lrs.lt/home/Konstitucija/Constitution.htm</a>  |
| <b>The Netherlands</b>    | <b>Curriculum</b><br><b>Sample test</b><br><a href="http://www.inburgeren.nl">www.inburgeren.nl</a>   |
| <b>The United Kingdom</b> | <b>Handbook</b><br><i>Life in the United Kingdom: A Journey to Citizenship – 2<sup>nd</sup> Edition</i><br><b>Free sample test</b><br><a href="http://www.tsoshop.co.uk/bookstore.asp?FO=1278111&amp;TRACKID=002353">http://www.tsoshop.co.uk/bookstore.asp?FO=1278111&amp;TRACKID=002353</a><br><b>Collection of sample tests</b><br><a href="http://www.tsoshop.co.uk/bookstore.asp?FO=1278112&amp;TRACKID=002353">http://www.tsoshop.co.uk/bookstore.asp?FO=1278112&amp;TRACKID=002353</a> |

### **Explanations:**

- As explained in the thesis, an '**item**' refers to a question of the test, when a list of questions is available. In a material presented in the form of handbook, an item is a paragraph or even a mention within a paragraph;
- The questionnaire was formulated in a slightly different way, depending on the material used by the respondent, in order to obtain answers that were as precise as possible. For that reason, answers to the same questions are sometimes given in percentages (usually for the handbooks) and in ordinal numbers (usually for the materials in the form of questions);
- The sign '-' means that there was no answer to this question. It can be due either to the fact that this question was skipped, because previous answers rendered it irrelevant, or to the fact that the respondent did not answer it.

## First part of the questionnaire

Answers have been separated between the ‘comprehensive materials’, i.e. handbooks and banks of questions that offer a complete overview of the knowledge the applicant has to learn, and sample tests that are rather used as examples in the study.

## HANDBOOKS AND BANKS OF QUESTIONS (QUESTIONS 1 TO 9)

### Q1/ The material(s) used by the respondent

Q1/ Please indicate the number of items in the bank/handbook (or estimation).

|  |                   |
|--|-------------------|
| Austria                                | 150               |
| Denmark (handbook)                     | 100               |
| Estonia (handbook)                     | 315               |
| Estonia (Constitution/Citizenship act) | 168/38            |
| Germany                                | 310               |
| Hungary                                | 9 topics/chapters |
| Latvia (Constitution)                  | 116               |
| Lithuania                              | 88                |
| The Netherlands (curriculum)           | 200               |
| The Netherlands (sample test)          | 39                |
| The United Kingdom (handbook)          | 300               |

## Q2/ Items that explicitly refer to the EU

### Q2a/ Is there any item in the material that explicitly refers to the EU?

|                               |                   |
|-------------------------------|-------------------|
| Austria                       | Yes               |
| Denmark (handbook)            | Yes               |
| Estonia (handbook)            | Yes               |
| Estonia (Constitution)        | No                |
| Germany                       | Yes               |
| Hungary                       | Yes               |
| Latvia (Constitution)         | Yes               |
| Lithuania                     | No <sup>(a)</sup> |
| The Netherlands (curriculum)  | Yes               |
| The United Kingdom (handbook) | Yes               |

### Q2b/ How many items refer explicitly to the EU?

|                               |   |
|-------------------------------|---|
| Austria                       | 6/150   |
| Denmark (handbook)            | 7%  |
| Estonia (handbook)            | 18/315  |
| Estonia (Constitution)        | -   |
| Germany                       | 'around 20'   |
| Hungary                       | '10% - inside the topic of the international roles of Hungary at the international stage' |
| Latvia (Constitution)         | 3/116   |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | 3/200   |
| The United Kingdom (handbook) | 11/300  |

### Q2c/ Is there, as a rule, always one or more questions referring to the EU in every test?

|                               |                          |
|-------------------------------|--------------------------|
| Austria                       | I don't know             |
| Denmark (handbook)            | Yes                      |
| Estonia (handbook)            | I don't know             |
| Estonia (Constitution)        | I don't know             |
| Germany                       | I don't know             |
| Hungary                       | No <sup>(b)</sup>        |
| Latvia (Constitution)         | No                       |
| Lithuania                     | -                        |
| The Netherlands (curriculum)  | I don't know             |
| The United Kingdom (handbook) | No (from the collection) |

<sup>a</sup> Comment: 'As the test is made of the questions about the Constitution, there is no issue in all tests concerning EU'.

<sup>b</sup> Comment: maximum one question per test for the topic of the 'international role of Hungary at the national stage'. This single question may be about EU.



### Q3/ Symbols of the EU

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#### Q3a/ Do the items refer to the symbols of the EU? (flag, anthem, European day, motto, Euro)

|                               |     |
|-------------------------------|-----|
| Austria                       | No  |
| Denmark (handbook)            | Yes |
| Estonia (handbook)            | Yes |
| Estonia (Constitution)        | -   |
| Germany                       | Yes |
| Hungary                       | Yes |
| Latvia (Constitution)         | No  |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | No  |
| The United Kingdom (handbook) | Yes |

---

#### Q3b/ How many of the EU-related items refer to the symbols of the EU?

|                               |                    |
|-------------------------------|--------------------|
| Austria                       | -                  |
| Denmark (handbook)            | ‘Small proportion’ |
| Estonia (handbook)            | 1/18               |
| Estonia (Constitution)        | -                  |
| Germany                       | 2/20               |
| Hungary                       | 20%                |
| Latvia (Constitution)         | -                  |
| Lithuania                     | -                  |
| The Netherlands (curriculum)  | -                  |
| The United Kingdom (handbook) | 2/11               |

---

#### Q3c/ Examples of items:

|                               |  |
|-------------------------------|--|
| Austria                       | -  |
| Denmark (handbook)            | ‘There is a photo of the flag and the Euro is mentioned’                     |
| Estonia (handbook)            | ‘The Euro, not presented as a symbol but rather as an economic information’  |
| Estonia (Constitution)        | -  |
| Germany                       | ‘flag and a picture of Kohl and Mitterrand’                                  |
| Hungary                       | ‘the symbols of the EU is mentioned as example of question in the handbook’  |
| Latvia (Constitution)         | -  |
| Lithuania                     | -  |
| The Netherlands (curriculum)  | -  |
| The United Kingdom (handbook) | ‘the two items are about the euro, in the chapter ‘money and credit’ (p.39)’ |

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## Q4/ History of the EU

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### Q4a/ Do the items refer to the history of the EU? (key dates, personalities of the EU construction)

|                               |     |
|-------------------------------|-----|
| Austria                       | Yes |
| Denmark (handbook)            | Yes |
| Estonia (handbook)            | No  |
| Estonia (Constitution)        | -   |
| Germany                       | Yes |
| Hungary                       | Yes |
| Latvia (Constitution)         | No  |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | No  |
| The United Kingdom (handbook) | Yes |

---

### Q4b/ How many of the EU-related items refer to the history of the EU?

|                               |      |
|-------------------------------|------|
| Austria                       | 1/6  |
| Denmark (handbook)            | 21%  |
| Estonia (handbook)            | 1/18 |
| Estonia (Constitution)        | -    |
| Germany                       | 3/20 |
| Hungary                       | 20%  |
| Latvia (Constitution)         | -    |
| Lithuania                     | -    |
| The Netherlands (curriculum)  | -    |
| The United Kingdom (handbook) | 1/11 |

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### Q4c/ Examples of items:

|                               |   |
|-------------------------------|---|
| Austria                       | ‘When was the EU founded?’  |
| Denmark (handbook)            | ‘the development of the EU is described going back to the Second World War, mentioning all the different treaties, the cooperation, the enlargement, the years the different member states joined the EU, the referenda etc.’ |
| Estonia (handbook)            | -   |
| Estonia (Constitution)        | -   |
| Germany                       | -   |
| Hungary                       | ‘a short summary of the integration is read in the handbook’  |
| Latvia (Constitution)         | -   |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | -   |
| The United Kingdom (handbook) | ‘description of the history, before (Treaty of Rome and objective to avoid war, UK decision not to join) and after British accession. Aim of the EU and the two last enlargements (p.32)’                                     |

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## Q5/Institutions of the EU

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### Q5a/ Do the items refer to the institutions of the EU? (European parliament, Council, Commission, Court of Justice of the EU)

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|                               |     |
|-------------------------------|-----|
| Austria                       | Yes |
| Denmark (handbook)            | Yes |
| Estonia (handbook)            | Yes |
| Estonia (Constitution)        | -   |
| Germany                       | Yes |
| Hungary                       | Yes |
| Latvia (Constitution)         | No  |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | No  |
| The United Kingdom (handbook) | Yes |

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### Q5b/ How many of the EU-related items refer to the institutions of the EU?

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|                               |      |
|-------------------------------|------|
| Austria                       | 3/6  |
| Denmark (handbook)            | 29%  |
| Estonia (handbook)            | 6/18 |
| Estonia (Constitution)        | -    |
| Germany                       | 2/20 |
| Hungary                       | 20%  |
| Latvia (Constitution)         | -    |
| Lithuania                     | -    |
| The Netherlands (curriculum)  | -    |
| The United Kingdom (handbook) | 3/11 |

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### Q5c/ Examples of items:

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|                        |  |
|------------------------|--|
| Austria                | -  |
| Denmark (handbook)     | ‘the four main institutions and the decision making processes are described, the EU legislation, member states, veto, majority decisions, the European Council, the summits, the council, the commission the parliament and the court. Photos of head of states and the institutions are included’ |
| Estonia (handbook)     | ‘Once section dedicated to it. Describes the functioning of the institutions and their influence on the country. Name of an Estonian Commissioner (p.30). One section about the European Court of Justice, its role and its place (p.43)’  |
| Estonia (Constitution) | -  |
| Germany                | ‘Where does the EU parliament work (Brussels, Luxembourg, Strasbourg); in which town is the seat of the European parliament?’  |
| Hungary                | ‘the handbook also shortly mentioned their functions and names’  |
| Latvia (Constitution)  | -  |
| Lithuania              | -  |

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|                                  |   |
|----------------------------------|---|
| The Netherlands<br>(curriculum)  | -   |
| The United Kingdom<br>(handbook) | <p>‘Elections for the European Parliament are also held every 5 years. There are 78 seats for representatives from the UK in the European Parliament and elected members are called Members of the European Parliament (MEPs). Elections to the European Parliament use a system of proportional representation, whereby seats are allocated to each party in proportion to the total votes it won (p.25)’</p> <p>‘Role of the Council of the European Union, the European Commission and the Parliament. Working place of the Parliament and the Commission, short description of EU law (p.33)’</p> |

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## Q6/ EU-Rights

### Q6a/ Do the items refer to EU rights? (European citizenship, Charter of fundamental rights of the EU, free movement of people, voting rights)

|                               |     |
|-------------------------------|-----|
| Austria                       | Yes |
| Denmark (handbook)            | Yes |
| Estonia (handbook)            | Yes |
| Estonia (Constitution)        | -   |
| Germany                       | Yes |
| Hungary                       | Yes |
| Latvia (Constitution)         | Yes |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | No  |
| The United Kingdom (handbook) | Yes |

### Q6b/ How many of the EU-related items refer to EU-rights?

|                               |                                      |
|-------------------------------|--------------------------------------|
| Austria                       | 1/6                                  |
| Denmark (handbook)            | 'Small proportion'                   |
| Estonia (handbook)            | 6-7/18                               |
| Estonia (Constitution)        | -                                    |
| Germany                       | 2/20                                 |
| Hungary                       | '20% inside the 10% of the totality' |
| Latvia (Constitution)         | 1/3                                  |
| Lithuania                     | -                                    |
| The Netherlands (curriculum)  | -                                    |
| The United Kingdom (handbook) | 4/11                                 |

### Q6c/ To what specific aspect of EU rights do they refer?

- **European citizenship**
- **Charter of fundamental rights of the EU**
- **Free movement of people**
- **Voting rights**
- **Other**

|                        |  |
|------------------------|--|
| Austria                | Free movement of people  |
| Denmark (handbook)     | European citizenship, Voting rights  |
| Estonia (handbook)     | European citizenship, Free movement of people, Voting rights<br>Other: Diplomatic protection, right to address the EU institutions in Estonian |
| Estonia (Constitution) | -  |
| Germany                | Charter of fundamental rights, Voting rights   |
| Hungary                | Free movement of people, Voting rights   |
| Latvia (Constitution)  | Voting rights,<br>Other: right to participate in the work of local governments in Latvia   |

|                                  |  |
|----------------------------------|--|
| Lithuania                        | -  |
| The Netherlands<br>(curriculum)  | -  |
| The United Kingdom<br>(handbook) | Free movement of people, Voting rights<br>Other: right to work |

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#### Q6d/ Examples of items:

|                                  |  |
|----------------------------------|--|
| Austria                          | -  |
| Denmark (handbook)               | ‘the introduction of the union citizenship and the Danish opt-out from it is mentioned – it is not mentioned as an ‘EU right’ for Danish citizens. Under the headline of the European parliament, the voting rights for each citizen in a EU member state to the European parliament is mentioned’   |
| Estonia (handbook)               | ‘A section is dedicated to European citizenship. It explains the concept and describes the rights of Estonian citizens as European citizens: ‘Estonian citizens are also citizens of the European Union. European citizenship comes in addition to national citizenship: it does not replace it. This means that European Union citizenship is not a form of citizenship in its own right, but an adjunct of citizenship of a specific member state. It is not possible to be a citizen of the EU alone’, right to free movement and protection(p.62);<br>‘Estonian is also an official language of the European Union. Everyone therefore has the right to use Estonian in their dealings with European institutions’ (p.19)’ |
| Estonia (Constitution)           | -  |
| Germany                          | ‘period of the European elections’   |
| Hungary                          | -  |
| Latvia (Constitution)            | ‘Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia. Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments’ (Article 101)   |
| Lithuania                        | -  |
| The Netherlands<br>(curriculum)  | -  |
| The United Kingdom<br>(handbook) | - ‘Citizens of the EU states who are resident in the UK can vote in all elections except parliamentary (general) elections (p.30)<br>- right to travel and work with a valid passport for citizens of an EU member state; restrictions to right to free movement for public order and some new countries (p.32)<br>- right to work in any country member of the EEA, same employment right as the citizens of the country (p.60)   |

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## Q7/ Relationships between the country and the EU

| <b>Q7a/ Do the items refer to the relationships between the country and the EU?</b> |     |
|---|-----|
| Austria   | Yes |
| Denmark (handbook)  | Yes |
| Estonia (handbook)  | Yes |
| Estonia (Constitution)  | -   |
| Germany   | Yes |
| Hungary   | Yes |
| Latvia (Constitution)   | Yes |
| Lithuania   | -   |
| The Netherlands (curriculum)  | Yes |
| The United Kingdom (handbook)   | Yes |

| <b>Q7b/ How many of the EU-related items refer to the relationships between the country and the EU?</b> |                |
|---|----------------|
| Austria   | 1/6            |
| Denmark (handbook)  | 25%            |
| Estonia (handbook)  | 5/18           |
| Estonia (Constitution)  | -              |
| Germany   | 'most of them' |
| Hungary   | 20%            |
| Latvia (Constitution)   | 2/3            |
| Lithuania   | -              |
| The Netherlands (curriculum)  | 2/3            |
| The United Kingdom (handbook)   | 2/11           |

| <b>Q7c/ Examples of items:</b> |  |
|--------------------------------|--|
| Austria                        | -  |
| Denmark (handbook)             | 'Danish membership, questions of sovereignty – provisions in constitution, attitude of population – division, referenda, opt outs, cooperation procedures, influence on common European issues, EU and the Danish parliament.' |
| Estonia (handbook)             | 'referendum, accession (p.14 and 29), Estonian commissioner (p.30), relation between national law and European legislation and issues of sovereignty (pp.29-30), export/import (p.21)'   |
| Estonia (Constitution)         | -  |
| Germany                        | -  |
| Hungary                        | 'the history of accession is written shortly'  |

|                               |   |
|-------------------------------|---|
| Latvia (Constitution)         | ‘Membership of Latvia in the European Union shall be decided by a national referendum, which is proposed by the Saeima. Substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such referendum is requested by at least one half of the members of the Saeima (Article 68); Similar description of procedure for law regarding membership and substantial changes (Article 79)’ |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | ‘the indicators are formulated as follows:<br>The candidate explains the main tasks and responsibilities of the European government towards the citizen<br>The candidate explains current forms of cooperation (NATO, EU)’  |
| The United Kingdom (handbook) | ‘Originally the UK decided not to join this group and only became part of the EU in 1973 (p.32)<br>Some people argue that the power of Parliament is lessened because of the obligation of the UK to accept the rules of the EU and the judgments of the European Court, but it was the Parliament itself that created these obligations (p.24)<br>EU law is legally binding in the UK and all other member states (p.33)’                                      |



## Q8/ Other EU related issues

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### Q8a/Do the items refer to other aspects of the EU?

|                               |     |
|-------------------------------|-----|
| Austria                       | No  |
| Denmark (handbook)            | Yes |
| Estonia (handbook)            | Yes |
| Estonia (Constitution)        | -   |
| Germany                       | Yes |
| Hungary                       | No  |
| Latvia (Constitution)         | No  |
| Lithuania                     | -   |
| The Netherlands (curriculum)  | Yes |
| The United Kingdom (handbook) | Yes |

---

### Q8b/ What are these other aspects of the EU?

|                               |  |
|-------------------------------|--|
| Austria                       | -  |
| Denmark (handbook)            | 'The EU of today'  |
| Estonia (handbook)            | 'description of the organisation as unique in the world (p.29), economical aspects (p.21), geography (compares the size of the country with other member states) (p.20)' |
| Estonia (Constitution)        | -  |
| Germany                       | 'currency European Economic Community'   |
| Hungary                       | -  |
| Latvia (Constitution)         | -  |
| Lithuania                     | -  |
| The Netherlands (curriculum)  | One item 'concerns elections and refers to European elections'   |
| The United Kingdom (handbook) | Economy/single market, European driving licence (p.51)   |

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### Q8c/ Examples of items

|                        |  |
|------------------------|--|
| Austria                | -  |
| Denmark (handbook)     | 'Cooperation in the environmental protection, employment, social relationship, labour market, education, foreign affairs, regional development, principle of subsidiarity, legality etc. The supranational cooperation, direct applicability etc.' |
| Estonia (handbook)     | -  |
| Estonia (Constitution) | -  |
| Germany                | -  |
| Hungary                | -  |
| Latvia (Constitution)  | -  |
| Lithuania              | -  |

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|                               |  |
|-------------------------------|--|
| The Netherlands (curriculum)  | ‘The indicator is formulated as follows: the test candidate explains situations in which a vote can be cast (municipal, provincial, parliamentary, European, water board district elections, referenda)’ |
| The United Kingdom (handbook) | ‘One of the main aims of the EU today is for member states to function as a single market (p.32)<br>If your driving licence is from a country in the EU [...] you can drive in the UK [...] (p.51)’      |

## Q9/ Access to European citizenship

**Q9/ Would you say that the fact that access to national citizenship gives access to the European citizenship appears clearly from the material?**

Scale from 1 (not clear at all) to 5 (very clear)

|                                 |   |
|---------------------------------|---|
| Austria                         | 2 |
| Denmark (handbook) <sup>°</sup> | 1 |
| Estonia (handbook)              | 5 |
| Estonia (Constitution)          | 1 |
| Germany                         | 2 |
| Hungary                         | 1 |
| Latvia (Constitution)           | 1 |
| Lithuania                       | 1 |
| The Netherlands (curriculum)    | 1 |
| The United Kingdom (handbook)   | 2 |

<sup>°</sup> Comment : ‘It is remarkable that the fact that the access to national citizenship gives access to the EU citizenship is not mentioned at all – and that no union citizenship rights are mentioned as such’

## SAMPLE TESTS (QUESTIONS 10 to 13)

### Q10/ The material(s) used by the respondent

#### Q10/ Please indicate the number of questions in the sample

|                                 |                            |
|---------------------------------|----------------------------|
| Denmark (sample)                | 40                         |
| Estonia (sample)                | 24                         |
| Latvia (sample)                 | 18                         |
| The Netherlands (sample)        | 39                         |
| The United Kingdom (sample)     | 24                         |
| The United Kingdom (collection) | 17 samples of 24 questions |

### Q11/ Items that explicitly refer to the EU

#### Q11a/ Is there any question in the sample that explicitly refers to the EU?

|                                 |                              |
|---------------------------------|------------------------------|
| Denmark (sample)                | Yes                          |
| Estonia (sample)                | Yes                          |
| Latvia (sample)                 | No                           |
| The Netherlands (sample)        | Yes                          |
| The United Kingdom (sample)     | Yes                          |
| The United Kingdom (collection) | Yes: 7 tests<br>No: 10 tests |

#### Q11b/ How many questions explicitly refer to the EU?

|                                 |   |
|---------------------------------|---|
| Denmark (sample)                | 1/40  |
| Estonia (sample)                | 2/24  |
| Latvia (sample)                 | -   |
| The Netherlands (sample)        | 2/39  |
| The United Kingdom (sample)     | 3   |
| The United Kingdom (collection) | 1 EU related question in 2/17 tests (both voting rights)<br>2 EU related questions in 5/17 tests (voting rights, relations EU/country, EU rights, institutions)<br>No EU related questions in 10/17 tests |

#### Q11c/ Do you consider the proportion of EU-related questions substantial compared to the other issues addressed in the sample?

|                                 |                          |
|---------------------------------|--------------------------|
| Denmark (sample)                | No                       |
| Estonia (sample)                | No                       |
| Latvia (sample)                 | -                        |
| The Netherlands (sample)        | No                       |
| The United Kingdom (sample)     | Yes                      |
| The United Kingdom (collection) | Varies from test to test |

## Q12/ EU-related subjects

| Q12a/ To what subject(s) do(es) the question(s) refer? |   |
|--|---|
| Denmark (sample)                                       | Relationship between the country and the EU                                 |
| Estonia (sample)                                       | Other aspects of the EU: What is not a right for European citizens          |
| Latvia (sample)  | -   |
| The Netherlands (sample)                               | ‘Both questions are about the relationships between the country and the EU’ |
| The United Kingdom (sample)                            | Institutions and EU rights  |
| The United Kingdom (collection)                        | See question 13a  |

| Q12b/ Examples of questions |   |
|-----------------------------|---|
| Denmark (sample)            | ‘the only EU question in the latest test, December 2010, asked about the year when Denmark became a member state of the EU/EC – 1973. Other tests may have more questions related to the EU’  |
| Estonia (sample)            | <p>‘Q4. Who can stand for the parliament?’</p> <ul style="list-style-type: none"> <li>- Only Estonian citizens (good answer)</li> <li>- Citizens of Estonia and other member states of the EU</li> <li>- All citizens of Estonia’</li> </ul> <p>‘Q6. Who can appeal to the courts in Estonia if their rights are infringed?’</p> <ul style="list-style-type: none"> <li>- Generally only Estonian citizens</li> <li>- Generally only citizens of Estonia and other member states of the EU</li> <li>- Everyone (good answer)’</li> </ul>              |
| Latvia (sample)             | -   |
| The Netherlands (sample)    | <p>‘Why are the Netherlands member of the EU(the flag is next to the question)?’</p> <ul style="list-style-type: none"> <li>- Because all the armies work together</li> <li>- Because it is mandatory</li> <li>- Because it is good for Dutch economy ’<sup>(d)</sup></li> </ul> <p>‘What is the government’s most important task?’</p> <ul style="list-style-type: none"> <li>- Tell the provinces what they have to do</li> <li>- Negotiate with the countries of the EU</li> <li>- Make laws and make sure they are used in a good way’</li> </ul> |

<sup>d</sup> Comment: The question is illustrated by a picture of the Council of Europe.

|                                 |   |
|---------------------------------|---|
| The United Kingdom (sample)     | - 'the places where the European parliament meets<br>- Right to vote for all elections reserved for citizens of the Irish Republic residing in the UK and to citizens of the Commonwealth residing in the UK (and not to citizens of EU states resident in the UK)<br>- The governing body of the EU' |
| The United Kingdom (collection) | -   |

### Q13/ Access to European citizenship

**Q13/ Would you say that the fact that access to national citizenship gives access to the European citizenship appears clearly from the material?**

**Scale from 1 (not clear at all) to 5 (very clear)**

|                                 |                          |
|---------------------------------|--------------------------|
| Denmark (sample)                | 1                        |
| Estonia (sample)                | 1                        |
| Latvia (sample)                 | 1                        |
| The Netherlands (sample)        | 1                        |
| The United Kingdom (sample)     | 2                        |
| The United Kingdom (collection) | Varies from test to test |

## Summary table of the first part of the questionnaire (Table 1)

This summary table only includes comprehensive materials i.e. handbooks and banks of questions, not the sample tests.

\* Estimation from the author, on the basis of the answers

| Research question | Category of items  | Austria | Denmark            | Estonia <sup>(e)</sup> | Estonia <sup>(e)</sup> (Handbook) | Germany  | Hungary | Latvia | Lithuania | Netherlands | United Kingdom | Average <sup>(e)</sup> |
|-------------------|--|---------|--------------------|------------------------|-----------------------------------|----------|---------|--------|-----------|-------------|----------------|------------------------|
| A 1               | Proportion of EU-related items in the material   | 4%      | 7%                 | 0                      | 5,7%                              | 6,4%     | <10%    | 2,6%   | 0         | 1,5%        | 3,6%           | 3,9%                   |
| A 2               | Proportion of EU-related items about Symbols and History   | 16%     | 29%<br>*           | -                      | 5,5%                              | 25%      | 40%     | 0      | -         | 0           | 27%            | 15,2 %                 |
|                   | Proportion of EU-related items about Institutions  | 50%     | 29%                | -                      | 33%                               | 10%      | 20%     | 0      | -         | 0           | 27%            | 15,1 %                 |
|                   | Proportion of EU-related items about EU-Rights   | 16%     | 10%<br>*           | -                      | 33%                               | 10%      | 20%     | 33%    | -         | 33%<br>(f)  | 27%            | 16,5 %                 |
|                   | Proportion of EU-related items about the relations between the country and the EU                | 16%     | 25%                | -                      | 27%                               | 40%<br>* | 20%     | 66%    | -         | 66%         | 18%            | 27,8 %                 |
|                   | Other EU-related issues  | 0       | EU of today<br>(g) | 0                      | Economy                           | Economy  | 0       | 0      | -         | 0<br>(f)    | Economy        | 0                      |
| A 3               | Is access to EU citizenship clear in the material?<br><br>1 (not clear at all) to 5 (very clear) | 1       | 1                  | 1                      | 5                                 | 2        | 1       | 1      | 1         | 1           | 2              | -                      |

<sup>e</sup> The Average takes into consideration the Constitution of Estonia that represents the real content of the test, not the Estonian handbook. The results for the Estonian handbook are only indicative.

<sup>f</sup> The respondent classified the question about elections as 'Other EU-related issue' (see Q8b). It is here re-classified by the author as an EU-right.

<sup>g</sup> See Q8c

**Summary table of the first part of the questionnaire, excluding items referring to the relationships between the country and the EU (Table 2)**

|  | <b>Austria</b> | <b>Denmark</b> | <b>Estonia<sup>(d)</sup></b> | <b>Estonia<sup>(d)</sup><br/>(Handbook)</b> | <b>Germany</b> | <b>Hungary</b> | <b>Latvia</b> | <b>Lithuania</b> | <b>Netherlands</b> | <b>United Kingdom</b> | <b>Average<sup>(d)</sup></b> |
|--|----------------|----------------|------------------------------|---|----------------|----------------|---------------|------------------|--------------------|-----------------------|------------------------------|
| <b>Proportion of EU-related items in the whole material</b>  | 4%             | 7%             | 0                            | 5,7%  | 6,4%           | <10 %          | 2,6%          | 0                | 1,5%               | 3,6%                  | 3,9%                         |
| <b>Proportion of items about the relations between the country and the EU</b>  | 16%            | 25%            | -                            | 27%   | 40%<br>*       | 20%            | 66%           | -                | 66%                | 18%                   | 27,8%                        |
| <b>Proportion of the EU-related items not related to the relationship between the country and the EU in the whole material</b> | 3,4 %          | 5,25 %         | -                            | 4,2%  | 3,8%           | <8%            | 0,9%          | -                | 0,5%               | 3%                    | 2,8%                         |

## Second part of the questionnaire

### List of rules and values

| Name  | Reference  |
|---|--|
| Right to life (death penalty, abortion, honour crimes)  | Charter Art.1                                    |
| Prohibition of slavery, forced labour, inhumane or degrading treatment; Individual liberty and autonomy | Charter Art.6                                    |
| Right to private and family life (including sexual orientation), right to marry and found a family      | Charter Art.7 & 9                                |
| Freedom of thought, conscience and religion (including the relation between the Church and the State)   | Charter Art.10                                   |
| Freedom of expression and information   | Charter Art.11                                   |
| Freedom of assembly and association   | Charter Art.12                                   |
| Democracy   | Art.2 TEU para.1; Charter Preamble               |
| Rule of Law/Separation of powers  | Art.2 TEU para.1                                 |
| Voting rights, right to petition  | Charter Art.39-40 & 44 <sup>(h)</sup>            |
| Right to good administration, access to official documents  | Charter Art.41-42                                |
| Justice, procedural rights  | Art.2 TEU para.2; Charter Art.47-50              |
| Equality between men and women  | Art.2 TEU para.2; Charter Art.23                 |
| Non-discrimination  | Art.2 TEU para.2; Charter Art.21                 |
| Right to education, school attendance   | Charter Art.14                                   |
| Social security, social assistance, healthcare  | Charter Art.34-35                                |
| Right to property, right to engage in work and business   | Charter Art.15-17                                |
| Workers' rights   | Charter Art.27-32                                |
| Positive attitude towards work  | AEV <sup>(i)</sup>                               |
| Volunteering, civil society   | EVN <sup>(j)</sup> ; AEV                         |
| Innovation, competition   | EVN mission statement <sup>(k)</sup>             |
| Diplomatic and consular protection  | Charter Art.46                                   |
| Cultural, religious and linguistic diversity  | Charter Art.22; Article 2 TEU para.2 (pluralism) |
| Culture, art and food   | Not a European value <sup>(l)</sup>              |
| Traditions  | Not a European value <sup>(l)</sup>              |
| Protection of the environment   | Charter Art.37                                   |

<sup>h</sup> The rights to vote, to petition and to move described in the Charter concern the Union citizen's right. The questionnaire asks also about these rights at the national level.

<sup>i</sup> Atlas of European values, 2005.

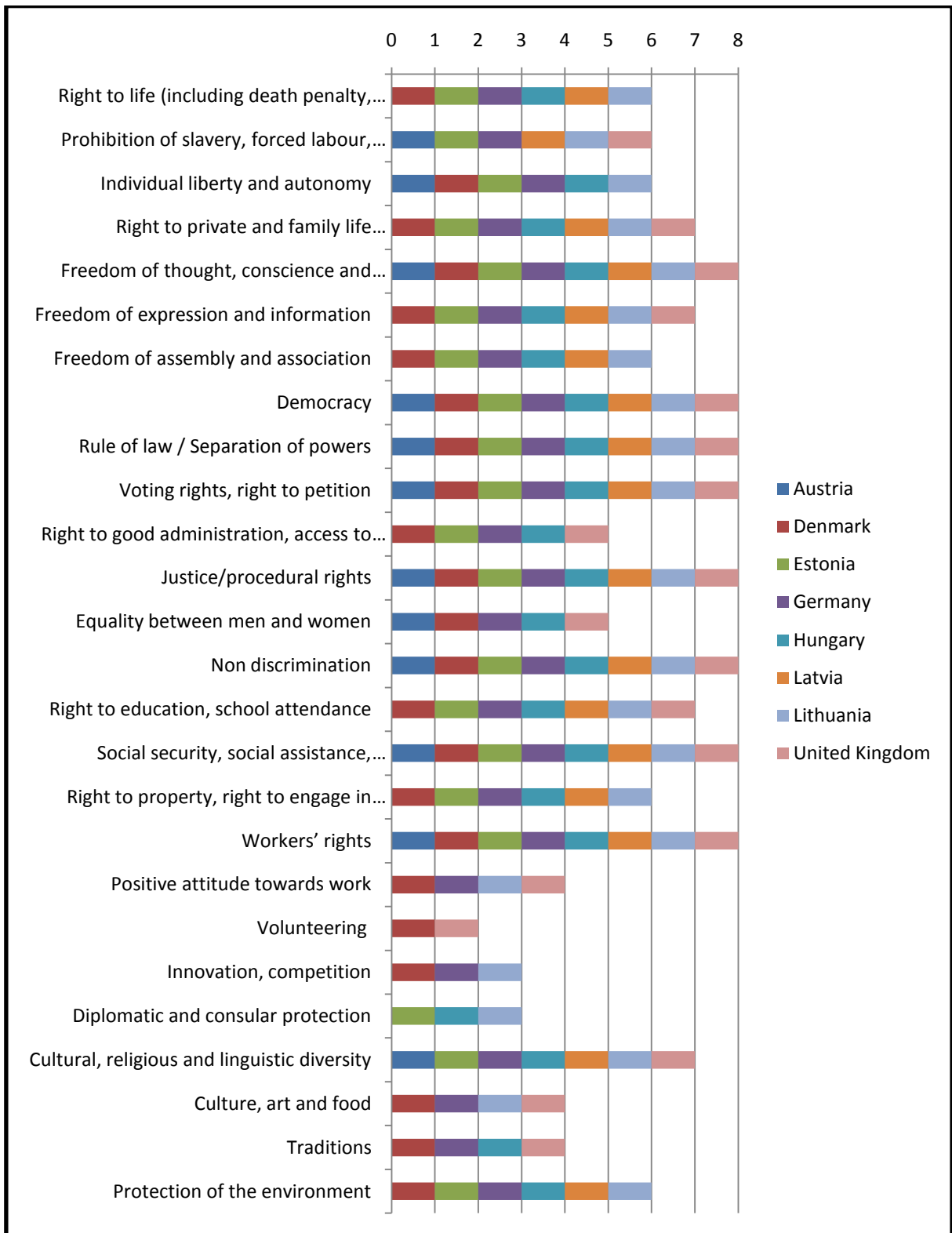
<sup>j</sup> European Values Network, 'Europe freer, safer, stronger – Policy papers', 2008, p. 97.

<sup>k</sup> European Values Network, Mission statement, 2010.

<sup>l</sup> Michalowski, 2005, pp.9&18.



**Q14/ Are the following rules and values present in the material? (Table 3)**



AVERAGE = 6

## Q15/ National specificities

**Q15/ Would you agree with the assertion that some of these values have a specific meaning in the country where the test is practiced (due to history or national specificity)? If yes, which one(s) and why?**

|                    |  |
|--------------------|--|
| Austria            | Yes, ' <u>Democracy and freedom as a common ground</u> after World War 2.'   |
| Denmark            | Yes, ' <u>the Danish welfare and labour market system</u> , and to some extent some <u>participatory elements</u> '<br><br>Examples or comments: 'free education, social assistance and health care for all, labour market negotiations of salary etc., high degree of union members and high degree of participation - about 90 percent are member of an organisation and about 70 percent have participated actively - about 40 percent voluntariness work through an organisation.'   |
| Estonia            | Yes, ' <u>self-determination</u> '   |
| Germany            | Yes, ' <u>non-nationalism and non-racism</u> '   |
| Hungary            | Yes, ' <u>Hungarian citizenship</u> – its preservation and accession for Diaspora, <u>kin-minority</u> across the borders due to changing borders in the 20th century and high emigration in the 19-20th century'<br><br>Examples or comments: 'good neighbourhood and solidarity of kin-state is part of the constitutional goals - what do you know on it?'  |
| Latvia             | Yes, 'This is complexity with questionnaire and understanding of values. In Latvia it was very important that new citizens accept our history. This was especially so because candidates in most cases are Soviet era immigrants. Therefore, history part is based on values which are not strictly normative but considered as important values and part of 'contract'. For instance, 'why Latvian-Russian peace treaty of 1920 is important' (because it recognized Latvian independence for the first time) or 'what happened in June 1940' (Latvia was occupied), or 'how industrialization was implemented during Soviet era' (by bringing to Latvia workforce from other parts of Soviet Union)' |
| Lithuania          | Yes, 'Lithuania has been occupied by Soviet Union so logically in the Constitution the <u>freedom of the country</u> is very important issue. An example : CONSTITUTION OF THE REPUBLIC OF LITHUANIA (Adopted by citizens of the Republic of Lithuania in the Referendum of 25 October 1992) FINAL PROVISIONS Article 150 The constituent part of the Constitution of the Republic of Lithuania shall be: The Constitutional Act of the Republic of Lithuania on the Non-Alignment of the Republic of Lithuania to Post-Soviet Eastern Alliances of 8 June 1992;'  |
| The United Kingdom | Yes, ' <u>cultural diversity</u> ?'  |

## Q16/ National or supranational

A supranational rule or value in the questionnaire is a rule or value that the question presents as not existing only in the country where the test is practiced. It may be presented as a European, Western value for example. It can also be presented as universal, existing in any place. Examples of question: 'Is death penalty practiced in the countries of the EU?'; 'What is the function of elections in a democratic state?' Here, 'democratic state' implies that it also exists in other countries.

A national rule or value for the purpose of the questionnaire is a rule or a value that is presented as specific to the country.

Example of question: 'In country X, state law is above religious and traditional law.'

Note : In the whole questionnaire, examples are personally drafted, though inspired by the examples found in Michaloswki, I., 'citizenship Tests in Five Countries - An expression of Political Liberalism?', in WZB Discussion Paper. Berlin: Wissenschaftszentrum Berlin für Sozialforschung, October 2009.

This table only shows the answers to this question with relation to the eight rules and values found in all the materials.

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### Q16/ Are the following rules and values referred to as national or supranational in the material?

(N for national; S for supranational; S/N for both)

|                  | Freedom of thought (...) | Democracy | Rule of law / Separation of powers | Voting rights, right to nation | Justice and procedural rights | Non-discrimination | Social security, social assistance | Workers' rights |
|------------------|--------------------------|-----------|------------------------------------|--------------------------------|-------------------------------|--------------------|------------------------------------|-----------------|
| <b>Austria</b>   | N                        | N         | S/N                                | N                              | S/N                           | N                  | N                                  | N               |
| <b>Denmark</b>   | S/N                      | S/N       | S/N                                | S/N                            | N                             | S/N                | N                                  | N               |
| <b>Estonia</b>   | N                        | S/N       | S/N                                | S/N                            | N                             | N                  | N                                  | N               |
| <b>Germany</b>   | N                        | N         | N                                  | N                              | N                             | S                  | N                                  | N               |
| <b>Hungary</b>   | S/N                      | S/N       | S/N                                | S/N                            | N                             | N                  | N                                  | N               |
| <b>Latvia</b>    | N                        | N         | N                                  | N                              | N                             | N                  | N                                  | N               |
| <b>Lithuania</b> | S                        | N         | N                                  | N                              | N                             | N                  | N                                  | N               |
| <b>UK</b>        | N                        | N         | N                                  | N                              | N                             | N                  | N                                  | N               |

## Q17/ Reference to international/national law

**Q17a/ Do the questions refer to European or international law? (example : ‘According to the European treaties, the citizens of country X can vote for municipal elections in other member States’, ‘The candidate knows that the universal declaration on human rights recognizes all human beings are equal in dignity and rights’)**

|  |           |
|--|-----------|
| Austria  | -         |
| Denmark  | Sometimes |
| Examples or comments: ‘The handbook includes specific parts on the rights in the UN, COE, NATO, international cooperation etc. However, as to the majority of rights they refer to the Danish constitution and the Danish legislation’ |           |
| Estonia  | Never     |
| Germany  | Never     |
| Hungary  | Sometimes |
| Latvia   | Never     |
| Lithuania  | Never     |
| United Kingdom   | Sometimes |
| Examples or comments: ‘Mention of several UN Declarations and the ECHR’  |           |

**Q17b/ Do the items refer to national law? (example: 'The candidate knows that honour killings are forbidden and subject to prosecution in country X.')**

|   |           |
|---|-----------|
| Austria   | -         |
| Denmark   | Often     |
| Examples or comments: ‘The handbook includes specific parts on the rights in the UN, COE, NATO, international cooperation etc. However, as to the majority of rights they refer to the Danish constitution and the Danish legislation’                                    |           |
| Estonia   | Always    |
| Germany   | Often     |
| Hungary   | Always    |
| Examples or comments: ‘rule of law, legislative power is described as a national characteristic – regardless the social requirements and international standards in the handbook. In this way the questions are simplified with reference rather on the national context’ |           |
| Latvia  | Sometimes |
| Examples or comments: ‘Questions do not refer to Constitution but questions are about rules included in the Constitution’   |           |
| Lithuania   | Always    |
| United Kingdom  | Often     |
| Examples or comments: ‘Very factual’  |           |

