A Comprehensive Federal Constitution for Europe, including an Explanatory Memorandum

By the
Federal Alliance of European Federalists
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CONTENT

PREFACE

The Federal Alliance of European Federalists (FAEF) is pleased to present its democratic federal Constitution for the Citizens of Europe. It is meant to replace the treaty-based system of the European Union. In the evolution of European state systems since 1500, the stage of a federal Europe is now beginning.

For six months - from October 2021 to the end of March 2022 - FAEF's Citizens' Convention improved a ten-article draft of this Constitution. The result of this peer review is a comprehensive structure of the constitutive and institutional elements of a centripetal federation, based on a federal Constitution and led by applied sciences. A federation, built from the bottom up, for the Citizens of sovereign European states, that want to create a centre that looks after their common European interests, while preserving each country's sovereignty, culture and traditions.

The members of our Convention who did this remarkable work are listed in https://www.faef.eu/en_gb/group-55/.

The Board shall present the Constitution to the Citizens of Europe, inform them of its significance and organize the process of its ratification by the Citizens.

Board of the Federalist Alliance of European Federalists (FAEF),
Leo Klinkers, President
Mauro Casarotto, Secretary General
Peter Hovens, Treasurer
Martina Scaccabarozzi, Executive Member Communications
Javier Giner, Executive Member Politics

The Hague, April 2022

THE PREAMBLE AND THE ARTICLES I – X

The Preamble

We, the Citizens of Europe, moved by the need and the will to form a more perfect and durable union, with the objective and duty of taking care of the common European good, protect and ensure the greatest degree of liberty and well-being for its peoples, establish the Federated States of Europe - hereafter the Federation - by ratifying this Constitution,

I. Laying down the principle that it should support our quest for happiness, based
(a) on working relentlessly to preserve the diversity of all life forms on Earth and to protect and care for the natural environment for next generations,
(b) on securing freedom to live one's life without impeding the freedom of others,
(c) on elimination of all forms of discrimination on the basis of respect for the diversity of cultures, languages, ethnicities, beliefs, and sciences of the Citizens within the Federation, as well as on the protection of their fundamental rights and freedoms,
(d) on encouraging trust and solidarity among all countries and regions, in Europe as well outside Europe,
(e) on human compassion, respect and support to achieve happiness for Citizens from outside the Federation who want to live within the Federation in accordance with its laws and the articles of this Constitution,
(f) on expecting that in carrying it out, it should bear witness to wisdom and knowledge, human dignity and justice, and integrity, in the full awareness that it derives its powers from the people, that all people on Earth are born equal with regard to dignity and rights, and that no one is above the law.

II. Considering further:
(a) that the Federation is an integral part of a highly interdependent natural and social system. The ability to realize, preserve and promote its values depends on the global condition of international relationships among countries and on the health of the natural environment;
(b) that the Federation repudiates war and violence as an instrument of offence to the liberty of other peoples and as means of settling international conflicts; the Federation favours transnational cooperation and federal structures to ensure peace, justice and prosperity among nations;
(c) that this federal Constitution is based on the cultural, religious, and humanist inheritance of Europe, including the considerations and desires of European philosophers to unite Europe in a federation after centuries of conflicts and wars;
(d) that the federal system is based on a vertical separation of powers between the Member States and the Federal Entity through which they share sovereignty;

(e) that the horizontal separation of the legislative, judicial, and executive branches both at the level of the Federal Entity and at that of the Member States is guaranteed by a solid system of checks and balances.

III. Whereas, all Citizens shall have the right to resist any person, organization, institute or authority seeking to abolish this Constitutional order if no other remedy is available,

IV. Adopt the following ten articles as the Constitution of the Federation,

Article I – The Federation, the Rights, and World Federation

1. The Federation is a democratic State, founded on the Rule of Law. It consists of sovereign Citizens, democratic constitutional Member States, and a Federal Authority.
2. The Federation shall respect the equality of Citizens and Member States before the Constitution as well as their identities, inherent in their fundamental constitutional and political structures, inclusive of regional and local self-government.
3. The powers not entrusted to the Federation by the Constitution, nor prohibited to the States by this Constitution, are recognised powers of the Citizens and entrusted powers of the Member States, in order to protect the autonomous initiatives of Citizens and Member States, relating to activities of personal or general interest.
4. The Federation sees in the natural needs of every living human being an important source from which agreed rights can be derived. These rights are those as formulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in the Charter of Fundamental Rights of the Federation, whose rights shall have the same legal value as the Constitution.
5. Every Citizen has a right of access to information and documents of the Federation, States, and local Governments and the right to follow the proceedings of the courts and democratically elected bodies. Limitations to this right may be prescribed by law to protect the privacy of any Citizen, or else only for extraordinary reasons.
6. Membership of the Federation after the Federation has entered into force requires ratification of this Federal Constitution by the respective national parliament of the State applying for membership.
7. The Federation will promote a higher degree of World transnational cooperation and may, on conditions of equality with other countries and regions and on the basis of the values expressed in the Preamble to this

Constitution, accede and adhere to a World Federation, based on a democratic Earth Constitution.

Article II – The Legislative Branch

Section 1- The European Congress

1. The Legislative Branch of the Federation lies with the European Congress. It consists of two Houses: the House of the Citizens and the House of the States.
2. The European Congress and its two separate Houses take residence in Brussels unless the Houses agree on a different residence within the territory of the Federation.

Section 2 – The House of the Citizens

1. The House of the Citizens is composed of the delegates of the Citizens of the Federation. Each delegate has one vote. The delegates of this House are elected for a term of five years by the Citizens of the Federation who are qualified to vote, united in one constituency, being the constituency of the Federation. They can be re-elected once in succession. The election of the delegates of the House of the Citizens always takes place in the month of May, and for the first time in the year 20XX. They enter office at the latest on June 1st of the election year. Federal elections, their organization and operation, take place based on federal law.
2. The size of the House of Citizens will follow the political and demographic development of the Federation. If the population of the Federation does not exceed four hundred million, the House of the Citizens will consist of four hundred delegates. Should the population exceed 400 million, the number of delegates will be increased by 20 for every additional 25 millions of population. In any case, the total number of delegates of the House of Citizens will not exceed six hundred.
3. Eligible to the House of Citizens are those who have reached the age of eighteen years on June 1st of the election year and are registered as Citizen of one or more States of the Federation during at least seven years. On behalf of the Citizens of the Federation, the House of the Citizens establishes laws on requirements of competence and suitability for the office of delegate. The law regulating the requirements of competence and suitability also regulates the responsibility of transnational political parties in applying and acquiring the requirements by prospective delegates, as well as the role of Citizens in that process.
4. The House of the Citizens shall organize once a year a multi-day meeting with panels of Citizens to gather information on how to improve the realization of the Common European Interests as envisaged in Article III. The law shall determine how the Citizens' panels are composed and how they shall operate,

considering that Citizens from each Member State will participate in these panels and that the outcome of these meetings will improve and strengthen the policies on the Common European Interests.

5. The delegates of the House of the Citizens have an individual and non-binding mandate. They carry out this office without a binding mandate, in the general interest of the Federation. This mandate is incompatible with any other public function and any kind of multiple mandates, nor with a position or such a relationship with European or global enterprises or other organizations as to influence the Federation's decision making.
6. The right to vote in elections for the House of the Citizens belongs to anybody who reaches the age of eighteen years in the month of May of the election year and is registered as a Citizen in one of the Member States of the Federation, regardless of the number of years of that registration. Citizens of a Member State of the Federation who are legally resident in another State of the Federation can vote for the House of Citizens in their State of residence.
7. The House of the Citizens chooses its Presidency, consisting of three delegates of the House, with the right to vote. The House appoints its own personnel. No secret vote is permitted in the House of Citizens; every vote must be recorded.

Section 3 – The House of the States

1. The House of the States is composed of nine delegates per State. Each delegate has one vote. They are appointed for a term of five years by their State's parliament among its members. They can be re-appointed once in succession. The first appointment of the full House of the States takes place within the first five months of the year 20XX. They enter their office at the latest on June 1st of the year of their appointment.
2. Eligible to the House of the States are those who reached the age of twenty-five years in the year of taking office and who have been registered for a period of at least seven years as a Citizen of a Member State of the Federation. On behalf of the States of the Federation, the House of the States establishes laws on requirements of competence and suitability for the office of delegate.
3. The House of the States shall organize once a year a multi-day meeting with panels of delegates of the parliaments of the Member States to gather information on how to improve the realization of the Common European Interests as envisaged in Article III. The law shall determine how these panels are composed and how they shall operate, considering that delegates from each parliament of the Member State will participate in these panels and that the outcome of these meetings will improve and strengthen the Common European Interests.
4. The delegates of the House of the States have an individual and non-binding mandate that is exercised in the general interest of the Federation. This mandate is incompatible with any other public function, including an

incompatible membership of the parliament that appointed them as delegates of the House of the States and any kind of multiple mandates, nor with a position or such a relationship with European or global enterprises or other organizations as to influence the Federation's decision making.

5. The House of the States chooses its Presidency, consisting of three delegates of the House, with the right to vote. The House appoints its own personnel.
6. The House of the States holds the exclusive power to preside over impeachments. In case the President of the Federation, the Vice Presidents of the Federation or a delegate of Congress is impeached the House of the States will be chaired by the Chief Justice of the Federal Supreme Court of Justice. In case a delegate of that Court is impeached the Chairperson of the House of the States will chair the House of the States. No one shall be convicted without a two third majority vote of the delegates present.
7. Conviction in cases of impeachment shall not extend further than the removal from office and disqualification from holding any office of honor, trust, or salaried office within the Federation. The convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.
8. No secret vote is permitted in the House of States; every vote must be recorded.

Section 4 – The gathering of both Houses

1. The European Congress is the gathering of the House of the Citizens and the House of the States in joint session and is presided over by the Chair of the House of the Citizens.
2. The time, place, and manner of electing the delegates of the House of the Citizens and of appointing the delegates of the House of the States are determined by the European Congress.
3. The European Congress convenes at least once per year. This meeting will begin on the third day of January, unless Congress determines a different day by law.
4. The European Congress settles Rules of Proceedings for its manner of operating.

Section 5 – Rules of Proceedings of both Houses

1. Each House settles Rules of Proceedings, by majority of its delegates, as to their specific fields of competence. They regulate what subjects require the presence of a quorum, which quorums are applied, the majority requested save is otherwise provided in the constitution, how the presence of delegates can be enforced, what sanctions can be imposed in case of systematic absence, what powers the Chairperson has in order to restore order and how the proceedings of meetings and counted votes are recorded.

2. The Rules of Proceedings regulate punishment of delegates of the House in the case of disorderly behavior, including the power of the House to expel the delegate permanently by a two third majority.
3. During meetings of the European Congress no House may adjourn for more than three days without the consent of the other House, nor may it move its seat.

Section 6 – Compensation and immunity of delegates *of Congress*
1. The delegates of both Houses receive a salary for their work, determined by law, to be paid by the Treasury of the Federation.
2. The rules on the immunities of both Houses are determined at the level of the Federation. The delegates of both Houses are in all cases, except treason, felony, and disturbance of the public order, exempted from arrest during their attendance at sessions of their respective House and in going to and returning from that House. For any speech or debate in either House they are not to be questioned in any other location.

Section 7 – The Federal Supreme Court of Justice, the Federal Central Bank, and the Federal Court of Auditors
The European Congress establishes by law The Federal Supreme Court of Justice, the Federal Central Bank, the Federal Court of Auditors, the Federal Ombudsman Office, and regulates their powers.

Article III – The Powers and tasks of the Legislative Branch

Section 1 – The legislative procedure
1. Both Houses have the power to initiate laws and to make all necessary regulations with respect to the territory or other possessions belonging to the Federation. They may appoint bicameral commissions with the task to prepare joint proposal of laws or to solve conflicts between the Houses.
2. The laws of both Houses must adhere to principles of inclusiveness, deliberative decision-making, representativeness in the sense of respecting and protecting minority positions within majority decisions, avoiding oligarchic decision-making processes and preserving the value of diversity.
3. The House of the Citizens has the power to initiate legislation affecting the federal budget of the Federation. The House of the States has the power - as is the case with other legislative proposals by the House of the Citizens - to propose amendments in order to adjust legislation affecting the federal budget.
4. Each draft law is sent to the other House. If the other House approves the draft, it becomes law. In the event that the other House does not approve the draft law, a bicameral commission is formed - or an already existing bicameral

commission is appointed - to mediate a solution. If this conciliation produces an agreement or a proposal of law, this is subject to a majority vote of both Houses.

5. Any order or resolution, other than a draft law, requiring the consent of both Houses – except for decisions with respect to adjournment – are presented to the Praesidium and need its approval before they will gain legal effect. If the Praesidium disapproves, this matter will nevertheless have legal effect if two third of both Houses approve.

Section 2 – The Common European Interests

1. The European Congress is responsible for taking care of the following Common European Interests:
   (a) The viability of the Federation, by regulating policies against existential threats to the safety of the Federation, its States and Territories and its Citizens, be they natural, technological, economic or of another nature or concerning the societal peace.
   (b) The financial stability of the Federation, by regulating policies to secure and safeguard the financial system of the Federation.
   (c) The internal and external security of the Federation, by regulating policies on defence, intelligence and policing of the Federation.
   (d) The economy of the Federation, by regulating policies on the prosperity and welfare of the Federation.
   (e) The science and education of the Federation, by regulating policies on the level of wisdom and knowledge of the Federation.
   (f) The social and cultural ties of the Federation, by regulating policies on preserving established social and cultural foundations of Europe.
   (g) The immigration, including refugees, to and the emigration out of the Federation, by regulating immigration policies on access, safety, housing, work and social security, and emigration policies on leaving the Federation.
   (h) The foreign affairs of the Federation, by regulating policies on promoting the values and norms of the Federation outside the Federation itself.
2. Appendix III A, being an integral part of this Constitution but not subject to the constitutional amendment procedure, regulates the way in which the Member States decide which powers to entrust to the federal body. It also regulates the contribution of the Citizens on that process.

Section 3 – Constraints on the Member States

1. No State will introduce state-level policies or actions that can threaten the safety of its own Citizens, or of Citizens of other Member States.
2. No taxes, imposts or excises will be levied on transnational services and goods between the States of the Federation.

3. No preference will be given through any regulation to commerce or to tax in the seaports, airports or spaceports of the States of the Federation; nor will vessels or aircraft bound to or from one State be obliged to enter, clear, or pay duties in another State.
4. No State is allowed to pass a retroactive law or restore capital punishment. Nor pass a law impairing contractual obligations or judicial verdicts of whatever court.
5. No State will issue its own currency.
6. No State will, without the consent of the European Congress, impose any tax, impost or excise on the import or export of services and goods, except for what may be necessary for executing inspections of import and export. The net yield of all taxes, imposts, or excises, imposed by any State on import and export, will be for the use of the Treasury of the Federation; all related regulations will be subject to the revision and control by the European Congress.
7. No State will have military capabilities under its control, enter any security agreement or covenant with another State of the Federation or with a foreign State, and can only employ military capabilities based on self-defense against external violence when an imminent threat requires this, and only for the duration that the Federation cannot fulfill this obligation. The military capabilities that are used in the above-mentioned situation are capabilities that are stationed on the State's territory as part of the federal defence force.

Section 4 – Constraints on the Federation

1. No money shall be drawn from the Treasury but for use as determined by federal law; a statement on the finances of the Federation will be published yearly.
2. No title of nobility will be granted by the Federation. No person who under the Federation holds a public or a trust office accepts without the consent of the European Congress any present, emolument, office, or title of any kind whatsoever from any King, Prince or foreign State.
3. No personnel, whether paid or unpaid, of the government, government contractors or entities receiving direct or indirect funding from the government shall set foot on foreign soil for the purpose of hostilities or actions in preparation for hostilities, except as permitted by a declaration of war by the European Congress.
4. The income and spending capacity of political parties and of any candidate standing for elections is regulated by the European Congress with a law on the financing of elections.
5. No person or entity that has directly or indirectly received funds, favors, or contracts from the government during the last five years may contribute to an election campaign under the sanctions described in clause 6. In addition, any

entity seeking to circumvent this limitation shall be fined a sum equal to five years' turnover, payable on conviction.

6. Any contribution, whether direct or indirect, in cash, goods, services or labour, whether paid or unpaid, made to a person seeking elected office must be made public within forty-eight hours of receipt. The contribution from each entity must bear the name of the person or persons responsible for managing the entity. An entity seeking to circumvent this limitation shall be fined a sum equal to five years' turnover, payable on conviction.
7. No government employee may accept a position in a private entity that has accepted government funding, favors or contracts for a period of ten years after leaving the government office during the last five years.
8. Every institution and agency of government, and every entity or person that has directly or indirectly received government funding, favors or contracts, will be subject to an independent audit every four years, and the results of these forensic audits will be made public on the date of their issue. Any entity attempting to circumvent or avoid this requirement will be fined a sum equal to five years' turnover, payable in the event of a conviction. Any person seeking to circumvent or avoid this requirement must serve a minimum term of imprisonment of five years.

Article IV - The Executive Branch

Section 1 - The Federal Government

1. The executive branch is formed by the Federal Government and consists of a President, two Vice Presidents and a Cabinet of Ministers. The President is Head of State and Head of Government, who, together with a first and a second Vice President, forms a Praesidium.
2. The President and the two Vice Presidents are simultaneously elected by Citizens of the Federation on the basis of universal suffrage in which the entire territory of the Federation forms one constituency.
3. The members of the Cabinet of Ministers are appointed by the President in consensus with the Vice Presidents. The members represent the diversity of the Federation. Each federal Minister heads a Ministry.
4. The members of the Praesidium and the Federal Ministers are of high and cultural integrity.
5. The decisions of the Federal Government are taken collectively by consensus. In the absence of consensus, the Ministers vote by simple majority. In the event of an equality of votes, the President shall decide after consulting with both Vice Presidents.
6. The Praesidium shall ensure that the Federal Government and its institutions implement policies that are in the interest of the Federation as a whole and shall avoid extreme political deviations and the influence of unelected power

groups and lobbies that may jeopardize democracy or promote oligarchic or partisan decision-making.

7. The Praesidium shall safeguard the integrity of the civil service, by preventing the application of any form of spoils system and party-politically motivated dismissals of personnel of administrative and governmental agencies and bodies.

Section 2 – The election of the President and the Vice Presidents

1. The President and the Vice Presidents of the Federation are elected for a term of four years. Their election will be held on the third Friday in the month of October; the first election is to take place in the year 20XX. If one of the candidates for the presidency or vice presidency achieves an absolute majority, she/he is elected President or Vice President. If none of the candidates obtain a majority, a second election between the two candidates who obtained the most votes shall take place within a month. The candidate who receives the most votes in this second round becomes President or Vice President.
2. To bridge the period between ratification of the Constitution of the Federation and the first election of its President and Vice Presidents the European Congress appoints from its midst an Acting President and two Acting Vice Presidents. They are not electable as President, or as Vice Presidents, in the first Presidential election of the Federation.
3. Electable as President or Vice President is any person who at the time of her/his candidacy, to be set by federal law, has reached the age of thirty-five years, and has been registered as a Citizen of the Federation for at least twelve years.
4. The President and the Vice Presidents receive a salary for these positions, set by the European Congress. The salary shall not be increased nor decreased during the term of her/his presidency/vice presidency, and they do not receive any other compensation of any kind from the Federation, nor from any individual State of the Federation, nor from any other public institution within or outside of the Federation, nor from any private institution or person.
5. Before the President and the Vice Presidents enter office, they will pledge, in front of the Chief Justice of the Federal Supreme Court of Justice, in the month of January in which their terms begin~~s~~, the following oath or affirmation: *"I, [name], solemnly swear/promise that in exercising the powers of the Presidency/(Vice Presidency of the Federation I will fulfill these duties to the best of my abilities: To observe and protect the Constitution of the Federation and the Rule of Law; to protect the sovereignty, security and integrity of the Federation; and to faithfully serve the people of the Federation."*

Section 3 – The vacancy and end of the term of the Presidency and Vice-Presidencies

1. The President and the Vice Presidents will be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors. In case of removal of the President from office, her/his death or resignation, the First Vice President becomes president while the Second Vice President remains the only Vice President until the next elections.
2. If the office of one of the Vice Presidents is vacated, the other Vice President remains or becomes first Vice President. The President will then nominate a Second Vice President who will take office upon confirmation by a majority in both Houses of the European Congress.
3. Whenever the President declares, in writing, to both Houses of the European Congress her/his inability to execute the duties of office, the First Vice President becomes President while the Second Vice President remains the only Vice President until the next election.
4. The Vice Presidents, together with a majority of the Ministers of the Federal Government, can in writing to the Houses of the European Congress declare the President unfit to serve, after which the First Vice President becomes President while the Second Vice President remains the only Vice President until the next election.
5. If the President has declared unfit to serve, she/he can, within five days and in writing, protest and state before the Houses of the European Congress that she/he is fit for office. If so, the Vice Presidents can, together with a majority of the Ministers of the Federal Government, within five days, reiterate their assessment that the President is unfit for office. If the Houses of the European Congress, within twenty-one days after receipt of the latter written declaration, determines by two-third majority in both Houses that the President is unable to serve, the First Vice President will become President. Otherwise, the President will resume the powers and duties of the office.
6. The terms of the President and the Vice Presidents end at Noon on the 20th day of January, four years after they have entered office. At the same time the terms of their successors will begin.
7. If, at the time fixed for the beginning of the term of the President, the President Elect has died, the First Vice President Elect shall become President, who then appoints a Deputy Vice President. If a President Elect is unable to pledge the oath or affirmation for beginning his office, or if the President Elect has failed to qualify, the First Vice President Elect shall act as President until a President qualifies; and the Congress may by law provide for the case wherein neither a President Elect nor a Vice President Elect qualifies, declaring who shall then act as President or Vice President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President qualifies.

Section 4 – Independent oversight of the executive branch: the Ombudsman Office

1. The European Congress establishes by law the Institute of the Federal Ombudsman Office, charged with monitoring the functioning of the executive branch in relation to the well-being of Citizens.
2. The House of the Citizens will elect candidates from the civil society – based on professional achievements and personal qualities – to serve as Ombudsman in relation to one specific ministry of the Federal Government. The length of service in the Ombudsman Office shall be that of the legislative term.
3. The Ombudsman Office will operate independently of any other institution.
4. The law defines the powers of the Ombudsman Office, including the power to advise the Praesidium to adjust the policies of the executive branch and to make good the damage caused by the executive branch to the well-being of Citizens. A rejection of the Ombudsman's advice by the Praesidium gives the Ombudsman Office the power to refer the matter to Oversight Committees of both Houses of the European Congress for a decision to be taken by the Houses. A rejection of the Ombudsman's advice by a House requires a two-third majority.
5. The Ombudsman Office is authorised to monitor the implementation by the executive branch of the reparation of damage caused to the well-being of Citizens and to assess its quality. If it is insufficient, the Ombudsman Office may bring the matter to the attention of the European Congress and/or the Federal Supreme Court of Justice once again.

Article V – The powers and tasks of the Executive Branch

Section 1 – The President's and Praesidium's powers

1. The Praesidium ensures that the policies of the Executive Branch adhere to principles of inclusiveness, deliberative decision-making, and representativeness in the sense of respecting and protecting minority positions within majority decisions, with resolute wisdom to avoid oligarchic decision-making processes.
2. The President is Commander-in-Chief of the armed forces and security agencies of the Federation. A Federal emergency law determines the President's powers in matters of emergency.
3. The Praesidium appoints Ministers, Ambassadors, other Envoys, Consuls, and all public officials of the Executive Branch of the Federation whose appointment is not regulated otherwise in this Constitution and whose offices are based on a law. It removes from office all public officials of the Federation after their conviction of treason, bribery or other high crimes and misdemeanors.
4. The Praesidium may seek the opinion, in writing, of the principal officer in each of the executive ministries on any subject relating to the duties of their respective offices.

5. The Praesidium has the power to grant amnesty and grace for offenses against the Federation, except in cases of impeachment.
6. The Praesidium has the power to make treaties, by and with the advice and consent of the House of the States, provided that two third-of delegates of the House of the States concur.
7. Whenever a World Federation invites the Federation to become a member, the Praesidium will organize a decisive referendum on the accession of the Federation to that World Federation.
8. The Praesidium organizes once a year a consultative referendum among all Citizen Electors of the Federation in order to obtain the opinion of the European people concerning the execution of the federal policy domains.

Section 2 – The President's and Praesidium's tasks

1. In a joint session of the European Congress, the President professes once a year the State of the Union, prepared by the Praesidium, and recommends measures that she/he deems necessary.
2. The President may**,** in extraordinary circumstances convene both Houses of the European Congress or either of them.
3. The Praesidium receives Ambassadors and other foreign Envoys.
4. The Praesidium shall ensure the proper functioning of the Federation as a democratic federation, based on the Rule of Law. The Praesidium sees to it that the laws of the Union are faithfully executed.
5. The Praesidium commissions the responsibilities of all government officials of Federation.

Article VI – The Judicial Branch

Section 1 – The Courts and the Judges

1. The judicial power of the Federation is vested in the Federal Supreme Court of Justice. The European Congress may decide to install lower federal courts – Constitutional Courts - in Member States of the Federation. The judges of the Federal Supreme Court of Justice as well as those of the Constitutional Courts, remain in their office as long as their conduct is proper, and until they reach the age of 75. For their services they receive a salary which during their time in office cannot be reduced.
2. Judges, both of the Federal Supreme Court of Justice and of Constitutional Courts, are appointed by a Praesidium of Judges. A law by the European Congress shall lay down criteria of the judges' competence and suitability, and proper representation from all Member States. In no case may the Legislative or Executive Branches influence the appointment of federal judges. A law by the European Congress shall lay down criteria for judges to recuse themselves from cases where impartiality might reasonably be questioned.

3. Justice is administered in the name of the Federation.
4. No offence is punishable unless by virtue of a preceding statutory provision.
5. Any interference in the investigation and prosecution of cases before the courts, either Federal courts or courts of the Member States, shall be prohibited.

Section 2 – Powers of the Federal Judicial Branch

1. The federal judicial branch has the power:
   (a) to test laws and executive measures - either from the Federal Government or from Member States - against the federal Constitution;
   (b) to invalidate requests and attempts to amend the Constitution which weaken the values of the Preamble and the objectives of Article I, and their safeguards, which restrict the freedoms and rights of Citizens, or which corrupt the statutory coherence of this Constitution, especially as regards the separation of the three powers of the state;
   (c) to judge in all conflicts arising under this Constitution with respect to all laws of the Federation;
   (d) to test treaties made, or that shall be made under the authority of the Federation, against the federal Constitution;
   (e) to judge all cases of a maritime, space and outer space nature;
   (f) to judge all cases in which the Federation is a party;
   (g) to judge controversies between two or more Member States, between a Member State and Citizens of another Member State, between Citizens of several Member States, between Citizens of the same Member State in matters of property in another Member State and between a Member State or Citizens of that State and foreign States or Citizens thereof.
2. The Federal Supreme Court of Justice has the exclusive power in all cases in which Member States, Ministers, Ambassadors and Consuls of the Federation are party. In all other cases, as mentioned in Clause 1, the Federal Supreme Court of Justice is the court of appeal, unless the European Congress decides otherwise by law.
3. Except in cases of impeachment, the trial of crimes, as determined by law, will be by jury. These trials will be held in the Member State where the crime has been committed. If they have not been committed within any Member State, the trial will be held at such place or places as determined by law through the European Congress.

Section 3 – Powers of the Federal Supreme Court of Justice

1. The Federal Supreme Court of Justice shall have jurisdiction to give preliminary rulings concerning:
   (a) the interpretation of the Constitution;
   (b) the validity and interpretation of acts of the institutions.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Federal Supreme Court of Justice to give a ruling thereon.
Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under Member State law, that court or tribunal shall bring the matter before the Federal Supreme Court of Justice.
The Federal Supreme Court of Justice shall refer a preliminary question to a Constitutional Court if there are doubts concerning the interpretation of the national identity of a Member State.
If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Federal Supreme Court of Justice shall act with the minimum of delay.

2. The Federal Supreme Court of Justice shall review the legality of legislative acts, of acts of the institutions, and of acts of the institutions, offices or agencies intended to produce legal effects vis-à-vis third parties. It shall for this purpose have jurisdiction in actions brought by a Member State, the powers on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Constitution or of any rule of law relating to their application, or misuse of powers.
3. Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

Section 4 – High Treason and Death Penalty

1. High treason against the Federation shall only consist of levying war against the Federation, or of adhering to its enemies by giving them aid and comfort. No person shall be convicted of high treason without the testimony of at least two witnesses to the crime, or on confession in open court.
2. The European Congress has the power to declare the punishment for high treason, but in no way a verdict of high treason shall lead to attainder or confiscation for the offspring of the convicted person.
3. The Federation does not implement and repudiates death penalty.

Article VII – The Citizens, the States, and the Federation

Section 1- The Citizens

1. Citizens of the Federation shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have, inter alia:

(a) the right to move and reside freely within the territories of the Member States;
(b) the right to vote and to stand as candidates in elections to the House of the Citizens;
(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
(d) the right to petition the House of the Citizens, to apply to the Federal European Ombudsman, to address the institutions and the advisory bodies of the Federation in any of the Federation languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Constitution and by the measures adopted thereunder.

2. The Citizens of each State of the Federation also possess the Citizenship of the Union with all the associated political and other rights. They receive a single passport, issued by one's own Member State, stating Citizenship of the Federation. The Citizens of a member State are also entitled to all rights and favors of the Citizens of any other State of the Federation.
3. According to Article II, Section 1, Clause 3 all Citizens of the Federation over the age of eighteen, unless they lack capacity due to mental illness or mental incapacity, may participate in elections to the House of the Citizens. They may launch or support popular initiatives on federal affairs. They may be elected delegates of the House of the Citizens, provided they meet the requirements of Article III on competence and suitability.
   (a) The way in which scientific institutes, political parties, associations, societal movements, and other organizations may contribute to the forming of public opinion is regulated by a law of the European Congress for the verification and control of possible conflicts of interest that may exist between them and the media.
   (b) Access to transparent and objective information will be ensured through the creation of Citizens' Panels by a law of the European Congress. These Citizen's Panels should serve as a space for debate and the creation of a well-balanced public opinion, working as a link between different sources of information and citizens.
   (c) Transparency shall be ensured by a law of the European Congress with respect to the ownership structures of the media, as well as their relationship with parties, companies or positions that may influence or shape public opinion. These media will be encouraged to participate in the Citizens' Panels by meeting certain requirements.

4. Citizens of the Federation have the right to present a legislative proposal to the European Congress, in the form of a draft law. If a minimum of 1% of the Citizens of the Federation support this draft law, this will be laid down as a People's Initiative at the Registry of the House of Citizens. A People's initiative can have the form of an amendment to the Federal Constitution. Any People's Initiative shall meet the requirements of consistency of form and content and shall not infringe mandatory provisions of international law. If these requirements are not met, the Federal Court of Justice of the Federation will declare it invalid, in whole or in part.
5. Within half a year of its registration, both Houses of Congress make a final decision regarding the People's Initiative. In case the presented draft law is accepted, by a simple majority by both Houses, it will become federal law. The European Congress may submit a counterproposal to the People's Initiative. In this case, or if the People's initiative is approved by only one of the Houses, the Praesidium will organize a referendum. The House that did not approve the People's initiative may submit a counterproposal.
6. The Citizens vote on the initiative and the possible counterproposal at the same time. The Citizens may vote in favour of both proposals. They may indicate the proposal that they prefer if both are accepted. The proposal that comes into force is that which achieves the higher sum of the percentage of votes of the Citizens.
7. In case of a People's Initiative in the form of an amendment to the Constitution, the ratification must follow the same procedure of Article VIII.
8. The following must be put to a referendum:
   (a) a decision on ratification of an international treaty and on accession of the Federation to collective security organizations, supranational communities or international organizations;
   (b) federal emergency laws which are not based on a provision of the Constitution and whose term of validity exceeds one year; such federal laws must be put to a vote within a year of being approved by the European Congress.
9. The following may be put to a referendum:
   (a) federal laws;
   (b) federal executive measures required by the Constitution or a law.
10. All referendums must, within three months, be preceded by Citizens' Panels organized by the House of the Citizens with the aim of preparing European Citizens for the vote by providing information on the proposals. On the basis of the outcome of the Citizens' Panels, the European Congress may submit a counterproposal. An act of the European Congress shall lay down the methods for voting on the proposal of the Citizens and on the proposal of the European Congress.

Section 2 – The States

1. Full faith and credit will be given in each Member State to the public acts, records, and judicial proceedings of all other States. The European Congress may prescribe by general law the manner in which such acts, records and proceedings will be proved, and the effects thereof.
2. The Member States of the Federation have the exclusive power to regulate matters of national Citizenship. A State's Citizenship is valid in any other State of the Federation.
3. States may join the Federation with the consent of a simple majority of the Citizens of the Federation and of a two-third majority of each House of the European Congress, in this order. The European Congress shall lay down by law the requirements to be met by States acceding to the Federation
4. Member States may leave the Federation by the same route as indicated in Clause 3. By law of the European Congress, the financial obligations of such Member States are determined.
5. All debts entered, and engagements contracted by States acceding to the Federation at the time of its entry into force will remain valid within the Federation. States acceding to the Federation after the Federation having come into force retain their debts and are bound to the laws of the Federation as of the moment of their accession.
6. Any change in the number of Member States of the Federation will be subjected to the consent of a majority of the Citizens of the concerned Member States, a two-third majority of the Legislative Branches of all Member States and a two-third majority of each House of the European Congress, in that order.
7. A person convicted in any State of the Federation for high treason, felony, or other crimes, fleeing from justice and found in a different member State, will at the request of the executive authority of the State from which he/she fled, be surrendered to the State with jurisdiction relating to that crime.
8. Slavery or any form of compulsory servitude, except in case of a temporary punishment for a crime for which the said person has been lawfully convicted, will be ruled out in the Federation and in any territory under federal jurisdiction.

Section 3 – The Federation

1. The Federation shall ensure that democracy, rule of law, justice, solidarity, diversity of national and regional cultures, and respect for minorities are preserved and guaranteed in every Member State. It will protect them against invasions and attacks, at the request of the Legislative Branch, or that of the Executive Branch in case the Legislative Branch cannot convene, against unlawful violence within the Federation.

2. The Federation will not interfere with the internal organization of the States of the Federation, but still demands that those states as democratic states will be governed by the rule of law.

Article VIII – Amending the Constitution

The European Congress is authorized to propose amendments to this Constitution, each time a two third majority in both Houses consider this necessary. If the legislative branches of two-third of the Member States, consider it necessary the European Congress will hold a Convention with the assignment of proposing amendments to the Constitution. In both cases the amendments will be a valid part of the Constitution following ratification by three quarters of the Citizens of the Federation, three quarters of the legislative branches of the Member States and three quarters of each House of the European Congress, in this order.

Article IX – Federal Loyalty

1. This Constitution and the laws of the Federation that will be made in connection with the Constitution, and all treaties, made or to be made under the authority of the Federation, are the Supreme Laws of the Federation. The judges in every Member State will be bound hereby, notwithstanding any other regulation or law of any Member State.
2. The delegates of the European Congress, the members of the legislative branches of the Member States and all executive and judicial officers, both of the Federation and of the Member States, will be bound by an oath or affirmation to support this Constitution. No religious test shall ever be required as a qualification for any office or public trust under the Federation.

Article X – Ratification of the Constitution

1. The Federal Constitution for the Federation is submitted for ratification to the Citizens of Europe. Those who are eligible to vote may do so. The vote is secret and not susceptible to fraud.
2. If a simple majority of the electorate of all participating states vote to ratify the Constitution, followed by ratification by their national parliaments, it will enter into force and the Federation will be established, subject to relevant provisions in the national Constitutions of the acceding States.
3. If the electorate of nine countries or regions ratify the constitution by a simple majority, the Federation will be established in accordance with Article 20 of the Treaty on the European Union and joins as an enhanced form of cooperation the European Union with the aim, among other things, of encouraging the other Member States of the European Union to join the Federation.

THE MEMORANDUM OF EXPLANATION

General Considerations

Why this federal Constitution for Europe?

In 1787, the Philadelphia Convention of fifty-five people made an unprecedented breakthrough in constitutional law. Based on centuries-old ideas of political philosophers about democracy and sovereignty they drafted the world's first federal constitution with seven-articles. It successfully united the thirteen former British colonies that - as small independent states - had come into conflict with each other under a confederal treaty. The federal concept proved to be the recipe for the growth to the current fifty US-member states.

In the course of the 19th and 20th centuries, twenty-six other federal states followed. Together they now house just over 42% of the world's population. But not that of Europe, although there are some federations within Europe: Germany, Belgium, Austria, and Switzerland. Based on a Constitution.

The fact that the existing 27 federations have a constitutional foundation - and not a treaty basis - is the reason for designing this federal Constitution for Europe: a federation should be based on a democratic constitution of, by and for the people. No treaty is appropriate in this context. On the contrary.

However, attempts so far to establish a federal Europe on the basis of a constitution have failed for over two hundred years. The main cause was getting bogged down in attempts to cooperate intergovernmentally, based on treaties. The fact that this can never lead to a federal Europe is explained in this Explanatory Memorandum, with reference to underlying literature.

Attempts to federalise Europe: from 1787 to 1945 and from 1946 to the present day [1]

The Peace of Westphalia in 1648 gave birth to nation states. Thus, the European state system of the time evolved from nobility entities (counties and duchies), which were regularly at in conflict with each other, to a system of states with

[1] For a comprehensive and detailed history of many of the approaches to the federalisation of Europe, see Professor Dr. Andrea Bosco, Director of the Lothian Foundation. He has been Jean Monnet 'ad personam' Chairholder on the History and Theory of European Integration at the University of Florence, and South Bank University, London. He has published extensively on the history and theory of federalism and European unification, and on British Imperial and foreign policy in the Twentieth century, with a number of books to his credit, including: *The Federal Idea; A Constitution for Europe*; *Chatham House and British Foreign Policy 1919-1945; Lord Lothian and the Creation of the Atlantic System*; *Towards a Substantial European Union: The Euro and the Struggle for the Creation of a New Global Currency*; *June 1940. Great Britain and the First Attempt to Create a European Union*; *The Round Table Movement and the Fall of the 'Second' British Empire;* and *Democracy, Federalism, the European Revolution and Global Governance*, among others.

borders and citizens. Westphalia's mission was: no more conflicts and multi-years wars. The reality was: continuous wars, up to and including WWII. Nobility-anarchy was thus followed by nationstate- anarchy. Anarchy in the sense of the absence of a system that connects administrative entities in such a way that they recognise their common interests and make provision for them together. And thus grant each other peace, tranquility, and prosperity.

The success of federal America (despite one internal war from 1861 to 1865) continuously elicited societal initiatives in the 19th century to realise the same in Europe. Only Switzerland, around 1850, put an end to its years of internal bloody wars under a confederal treaty by establishing a federal state. Elsewhere in Europe, violent conflicts, especially between France and Germany, continued.

The League of Nations, founded after WWI and intended to end wars on the European continent, failed. Its treaty-based approach was too weak to compensate for the errors in the Treaty of Versailles of 1919. Thus, that treaty became the prelude to WWII.

It was Philip Kerr (Lord Lothian) who, as former private secretary to Prime Minister David Lloyd George between 1916 and 1921, was involved in the draft of that Treaty of Versailles. He soon realised that the harsh demands made on Germany could lead to new hostilities and decided to act. Together with like-minded federalists, he founded the Round Table Movement and the Federal Union to advocate on a hitherto unprecedented societal scale the establishment of a federal Europe on the basis of a federal constitution. A European federation, even linked to that of the United States of America. But this movement, too, ran aground in political unwillingness to federalise Europe. Kerr resigned in 1939 to become British ambassador to Washington. WWII broke out soon after.

Meanwhile, there was also action on the European continent. The French and German Foreign Ministers, Aristide Briand and Gustav Stresemann, stimulated by Richard Coudenhove-Kalergi, tried to establish a common economic policy during the Interwar period. Like Philip Kerr's motives, their aim was to prevent another world war. They called their initiative 'federalisation'. But treaty-based cooperation is not federalisation. Their intergovernmental endeavors also collapsed in the course of the 1930s.

However, the fire under the usefulness and necessity of making Europe a federal state continued to burn. As an exile of Benito Mussolini, Altiero Spinelli drafted the famous Ventotene Manifesto on the island of Ventotene between 1941 and 1944. It was an appeal to finally put an end to half-hearted treaty attempts to establish a federal Europe after the end of WWII. In order to realise this process, Spinelli

opted in principle for the way of thinking and working of the Philadelphia Convention of 1787: the making of a Constitution of, by and for the people of Europe.

As a result of his Manifesto, between 1945 and 1950 Europe was bursting with plans and conferences on federal issues. But already in 1946, Spinelli's proposal to base a federal Europe on a federal Constitution was abandoned and all meetings focused on federalisation by means of a treaty. This vision was formalized in the Schuman Declaration of 1950. Schuman - French Foreign Minister - summarized the political thinking of the time by calling for Europe to become a federation but placed its construction in the hands of government leaders with the task of achieving this through a treaty. Government leaders prefer to work with treaties. Then they have little or nothing to do with parliaments to whom they are accountable.

Treaty cooperation is an excellent instrument when a very limited number of states wish to pursue one common interest. For example, the treaty by which the Netherlands and Belgium want to ensure the navigability of the Western Scheldt, so that Antwerp can also be reached by large ships. But trying to promote a number of interests with a number of states, and then steering those states with binding directives – without a democratic constitutional foundation - is a serious system error that ultimately causes the operating system to implode.

However, this knowledge did not correspond to the political reality of the time. Between 1945 and 1950 the emphasis was not on law but on economics. This already started in the Interbellum, the period between WWI and WWII. Aristide Briand and Gustav Stresemann (Ministers of Foreign Affairs of France and Germany) then tried to activate financial-economic cooperation between the two countries by means of a treaty. This failed. The numerous federalisation discussions in Europe between 1945 and 1950 had economics as their primary focus, with treaty-cooperation as the instrument for achieving a new monetary order[2]. This culminated in the Schuman Declaration, which underpinned the then self-evident importance of a federal Europe with the same self-evident need to implement it through treaties. After seventy years, it is clear that the choice for this treaty-based, intergovernmental European integration has become the source of what may now be called the treaty-based anarchy. We see this with Brexit, for example, but also in the way countries like Hungary and Poland are challenging the supremacy of the European Court of Justice.

[2] See Jorrit Steehouder, *'Constructing Europe. Blueprints for a New Economic Order 1919-1950'*, PhD Thesis at the University of Utrecht, 14 January 2022.

Thus, was born after WWII what is now the European Union. A new European state system, organized by treaties, just like the United Nations. As a result, Spinelli never succeeded in realizing his idea of a federal Europe on the basis of a federal Constitution in the manner of the Philadelphia Convention. He did, however, become a European Commissioner from 1970 to 1976 and a Member of the European Parliament from 1976 to 1986.

After the advent of the treaty-based European Coal and Steel Community in 1951, being the first product of the Schuman Declaration, new treaties followed until the advent of the Lisbon Treaty in 2009. In the meantime, it has become clear that the nobility- anarchy before 1648, followed by the nationstate-anarchy from1648 until 1945, has since 1951 followed by treaty-anarchy: Member States of the European Union ignore the obligations of the treaties when it suits them. Growing internal conflicts - coupled with a weak geopolitical position - have led the European Union to a serious identity crisis: it consumes more energy than it stores; the final stage before the collapse of any living system.

The Ukraine war – begun in February 2022 - made this painfully clear. It heralded a predicted[3] comprehensive political, military, and economic systemic crisis. Not only in Europe. Two hundred years of political failure to federalise Europe was the cause[4] of this new war on the European continent.

The Federal Alliance of European Federalists took its responsibility

Piepers' analysis, mentioned in footnote 3, shows that such a systemic crisis is the basis for an evolution towards a new European system of states. After a system of kingdoms, duchies, counties, and cities fighting each other (until 1648), followed by a system of nation states fighting each other (until 1945), then followed by the EU system of conflictual – antagonistic - cooperation based on treaties (until today),

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[3] That prediction was made by Dr. Ingo Piepers (former Commander of the Dutch part of the United Nations Rapid Reaction Force to end the war in Bosnia (1992-1995) in his book *'De Onvermijdelijkheid van een nieuwe Wereldoorlog' (The inevitability of a new world war),* Prometheus Publishers Amsterdam 2020. This book is a continuation of Piepers' PhD thesis *'Dynamics and development of the international system: a complexity perspective' (2006), 'Warning. Patterns in War Dynamics Reveal Disturbing Developments' (2016)* and from his study *'On the Thermodynamics of War and Social Evolution' (2019).* For a detailed analysis of the same development within Europe's post war intergovernmental system, see Chapter 2 of FAEF's *'Constitutional and Institutional Toolkit for Establishing the Federal United States of Europe'*: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.

[4] See Dr. Leo Klinkers, President of the Federal Alliance of European Federalists*: 'What caused EU's geopolitical irrelevance in the Ukraine drama?'* https://www.europe-today.eu/2022/02/27/what-caused-eus-geopolitical-irrelevance-in-the-ukrainian-drama/.

we are now on the eve of a European state system of a federal nature, based on a democratic Constitution.

While in 2021-2022, the European Union made another attempt to settle its identity crisis by means of a Conference on the Future of the Union - again motivated by the desire to adapt the treaty-based EU system - the Federal Alliance of European Federalists (www.faef.eu) has taken on the responsibility to do what has been neglected for over two hundred years: to draft a bottom-up democratic federal constitution for a federal Europe. There have certainly been previous attempts of this kind, but FAEF's specific - primarily scientifically driven - approach has never been done before.

FAEF has chosen as a matter of principle to base the composition of the federal Constitution as much as possible on aspects of political philosophy, constitutional law, systems and organization theory, psychoanalysis, sociology, cybernetics, and argumentation theory as these are recognizable - partly avant la lettre - in the working method of the Philadelphia Convention of 1787. Their Constitution - despite its later discovered shortcomings - turned out to be a brilliant breakthrough in the history of lawmaking: a federal constitution appears to be the best guarantee for peace, tranquility, and prosperity. Provided it is built according to standards. Where standards are used lightly or ignored, federations fail. Europe, Africa, and Asia have examples[5] of this that we will not go into here.

The systemic crisis in which Europe finds itself - of which the identity crisis of the European Union is only a part - presents Europe with a sense of urgency. The danger of an administrative vacuum looms. In that vacuum, autocrats will try to make their move. By presenting a federal Constitution for Europe, it is possible to mitigate – or even eliminate - that threat.

To counterbalance the treaty-based approach of the just mentioned EU Conference on the Future of the European Union, FAEF launched its own Citizens' Convention in October 2021. Task:

- Design a federal Constitution with a Preamble, no more than ten Articles and a Memorandum of Explanation. The requirement to limit the number of articles to ten forces the Citizens' Convention to be extremely focused on core aspects of European interests and prevents the Constitution from suffering the same fate as the intergovernmental Treaty of Lisbon: an accumulation of several hundred articles intended to accommodate the interests of the Member States, thus failing to identify, specify and promote European common interests, getting

[5] See Robert L. Birmingham, Indiana University School of Law: '*Why Federations Fail: An Inquiry into the Requisites for Successful Federalism*', https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2697&context=facpub.

lost in conflicting articles and - worst of all - very many exceptions to general rules, making the Lisbon Treaty the worst legal document in the history of Europe.
- Use as a basis the centripetal draft of such a federal constitution, written in 2012-2013 by Leo Klinkers and Herbert Tombeur in their European Federalist Papers. Improve that draft in terms of constitutional text and explanatory memorandum.
- Work as much as possible in the same way as the Philadelphia Convention of 1787. So, come up with proposals for improvement, discuss the best ones and record it.
- Understand that we are working on a historic upheaval, a change of values such as has only been seen three times before in five centuries.
- And concentrate - at all costs - on an applied science-based approach.

This Citizens' Convention, a six-months peer review by a group of seventy people, strongly involved in the future of Europe, completed its task at the end of March 2022. Its result, a federal Constitution, will be presented to the people of Europe for ratification.

Now follows the explanation of the Preamble and the Articles of this Federal Constitution for Europe.

Explanation of the Preamble

The Preamble distinguishes three groups of values. The first group deals with the view that government exists to help citizens pursue their happiness. Therein come together other values, such as preserving the diversity of all life forms on Earth; respecting the diversity of sciences, cultures, ethnicities, and religions; compassion for the less fortunate; and that wisdom, knowledge, humanity, justice, and integrity make it clear that the Federation derives its powers from the people, that all people on Earth are equal and that no one is above the law.

The second group of values is indebted to the ideas of European political philosophers to whom we owe the standards of federal organization. An important value is the observation that the federal system is based on a vertical separation of powers. The Federal Authority is only competent in a small list of matters of Common European Interests. All other powers rest with the Member States and their Citizens. That is shared sovereignty.

Finally, this group of values enshrines the trias politica and the checks and balances that go with it at both federal and member state level. This third group of values establishes that the Citizens have not only the right to change, through elections, the composition of governments, but also the inalienable right to depose the federal authorities if they violate the values of the two previous groups.

The naming of the federal Europe was a topic of discussion. From the various proposals, we chose the name the 'Federated States of Europe'.

About the name 'The Federate States of Europe'
We chose this name in the light of the crisis that, like a many-headed dragon, is not only ravaging the European Union but is branching out into a chain of crises around the world that the treaty-based European Union and the treaty-based United Nations cannot deal with. This is how we picture that global crisis:

While,

- we are facing a global climate crisis that is forcing us to stop using fossil raw materials and, as a result, an unavoidable energy crisis with the need for unprecedented measures to protect common interests and with unprecedented negative financial and economic effects, while the banking/economic crisis of 2008 has still not been overcome in all member states;
- the fight against the global Covid pandemic demonstrates the weakness of treaty-based government and health institutions, the cost of which is driving up inflationary effects on the European and world economy;

- the war in Ukraine, in addition to the horrific massacres, demonstrates that an autocrat, served by an extremely flawed federal constitution, can commit war crimes and will not stop threatening the countries in the east of the European Union, knowing that the rest of the world cannot afford a world war and that the UN will not expel him under the UN Charter because he has the right of veto;
- the global sanctions against Russia will inevitably have negative financial and economic counter-effects, adding to the already existing financial and economic weakening and thereby reduce the trust of citizens in governments and put national governments increasingly under pressure from anti-government groups;
- the EU is increasingly weakened internally by conflicts (a) between groups of member states (north versus south, east versus west) on matters of migration and financing, (b) between individual member states (Hungary, Poland and Slovenia) and the EU center on matters of democracy and the rule of law, (c) between constitutional courts (Germany, Hungary and Poland) versus the European Court of Justice on 'who is the boss?';
- the EU's identity crisis is compounded by the fact that it is less than ever an autonomous geopolitical partner and has to conform to the wishes of America and NATO;
- not only the EU but many parts of the world are facing crises such as rising neo-fascism and autocracy, decay of democratic institutions, the global refugee and migration problem, the crisis in the Middle East, China's oppression of Tibet and the Uighurs and its threat towards Taiwan, the crises in Sudan and Yemen, the oppression of peoples such as the Rohingya, the Kurds, the Moluccas and of other peoples without their own state, not represented in the United Nations;
- all of this under a torrent of conspiracy theories, fake news, disinformation and worldwide hacks of IT systems;
- altogether, world threats that the United Nations was created in 1945 to prevent, an institution that violates its own rules with impunity, does not apply its own rules to violations by states and, as a result, cannot take a stand against the violation of human rights by key players of the Security Council and, for that reason, is also experiencing an identity crisis,

Must it be clear,

- that the isolated crises are interlinking to form a chain with the name 'global systemic crisis', a crisis of the institutions and functioning of the world system;
- that we are dealing with an effect that shows itself in an unstoppable acceleration, broadening and fusion of separate crises into one global crisis;
- that we as Europe are in the midst of a comprehensive, global crisis of values, a crisis that leads to a total reappraisal of what makes life valuable and what we have to do to make it so;
- that no treaty-based form of government can withstand this upheaval, as witnessed by the impotence of the EU and the UN;
- that it would be a culpable and unforgivable error if the European Union, in its vision on the future of Europe were content merely to adapt and perpetuate its treaty foundation;

- that only a democratic federal form of government - supported by a federal constitution of the people and not by executive treaties - can cope with the crises European and global systemic crises;
- that the Federal Alliance of European Federalists (FAEF) foresaw[6] these developments, making efforts to respond to this historic moment of a world crisis with an equally historic moment of a democratic federal constitution, designed by FAEF's Citizens' Convention; an example of civic participation that goes beyond airing vain opinions and wishes, and that translates concrete, well-considered knowledge and insights into a legal framework that has not been produced before in the last two hundred years.
- that this deserves a name that does justice to the unprecedented determination and energy required to address the European crises within the global crisis;
- a name that commands respect in the light of the constitutional and institutional innovations FAEF's federal Constitution is formulating in the areas of democratic accountability, representation of the people and states, citizen participation and effective decision-making.
- a name that inspires confidence that this Federation – based on a democratic federal Constitution - is the only correct response to the vast complex of crises that afflict Europe and the World: the Federated States of Europe.

The phrase 'We, the Citizens who establish the Federated States of Europe by ratifying this Constitution' shows that this Constitution is ratified by the Citizens themselves. Thus of, by and for Citizens of States of Europe, in accordance with the adage 'All sovereignty rests with the people'. The fact that Citizens of Europe are ratifying this constitution is the most basic form of direct democracy. The names of the States which hereby become members of the Federation shall be added to this Constitution as an addendum after the establishment of the Federation.

When discussing a Preamble, the following questions always come up:
- Why should there be a Preamble?
- Is the Preamble about values or about interests?
- Should it be a minimalist or an extensive Preamble?
- Should the Preamble be formulated abstractly to avoid difficult discussions - and perhaps hostile protests - or should it take a clear position on values, whatever the consequences?

Here are the answers to those questions.

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[6] See Chapters 2 and 4.2 of FAEF's *'Constitutional and Institutional Toolkit for Establishing the Federal United States of Europe'*: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.

Why a Preamble? The basis of all legislation is its motivation. In Latin: its 'considerans'. That is the Soul of the legislation. Without a consideration, there is no foundation of a Constitution. Without a Preamble it is not clear why a Constitution is being drafted. Judges who have to assess laws against the Constitution cannot carry out their teleological interpretation without a clear Preamble.

Values or interests? A Preamble to a federal Constitution is about values. The values - explicitly formulated in the Preamble - are the objectives to be achieved through the deployment of Articles I to X. These articles contain the norms - read means - by which the values - read objectives - must be realised. The composition of a Constitution is thus a balanced relationship between values and norms or – in other words - between ends and means. Interests on the other hand - better the Common Interests of Europe, to be taken care of by the Federal Authority - are part of the norms and thus fall under the articles of the Constitution, not in the Preamble. Moreover, interests are part of a second ends - means relationship. Interests are cared for and secured through policy making. So, the Constitution has two important ends - means relationships: values are ensured by norms and interests by policies. The second relationship is addressed by Article III of the Constitution.

Minimalist or extensive? The Constitution does not opt for a minimalist Preamble. Although we limit ourselves to the extent of it, we want to make clear why, after two hundred years, the ever conflictuous Europe urgently needs a federal Constitution. Because only few people know what a federal Constitution is, nor its 'raison d'être', we have opted for a Preamble that recognises what is going on – better: what is going wrong - in Europe by clearly stating what should be guarded and protected by the federal Constitution. A minimalist Preamble is evasive to prevent opposition. Such a Preamble does not take a stand. We reject such an attitude. Those who share our point of view and are prepared to fight with us for the values we explicitly mention in the Preamble, we consider to be co-founders of this Constitution.

Abstract or clear? Because Europe is at a turning point of its political life cycle, ready for a new system of European states in the form of a federal Europe, we favour clear words. Words matter. Words that guide the course that a federal Europe wants to take. We reject evasive and cosmetic language to please people. After the nobility-anarchy of the Middle Ages, the nation state-anarchy between 1648 and 1945, the treaty-anarchy since 1951 the time has come for a new system of European states, a federal one, with the quiet possession of a Preamble that clearly states the purpose of the federal Constitution.

The Federation consists of the Citizens, the Member States, and the Federal Authority. Citizens have 'freedom', which is 'free' in many different respects. For instance, free to live anywhere in the Federation, free to develop themselves, free to hold religious beliefs and cultural traditions, free from racism, discrimination, oppression, and slavery, free to attain property and to enjoy economic-financial prosperity. Member States guarantee equality in dignity and rights to the Citizens in achieving social-cultural wellbeing. The Federal Authority guarantees mutual human compassion between Citizens in achieving legal-moral wellness within the Member States.

It is a Constitution, not a Treaty. A 'Constitutional Treaty' (the basis of the present Treaty of Lisbon) is like a 'pregnant man': a non-existing and thus deceiving phenomenon. When countries or regions want to live together in peace and have to cooperate through historically determined borders, but nevertheless want to retain their autonomy and sovereignty, preserving peace, a well-built federation is the best[7] form of state that can guarantee this. This is not possible with a treaty. A treaty is an instrument for administrators to cooperate in policy areas without regular democratic accountability for the decisions they make.

The fact that this Constitution is ratified by the Citizens - in accordance with the elementary aspects of federalism formulated by Johannes Althusius in his Political Method around 1603 - it is established from the bottom up and not imposed from above. Thus, it is a so-called 'centripetal' federation whereby the parts create a center. The opposite, that is a top-down approach, are 'centrifugal' (or 'devolved') federations where an already existing center creates the parts. The problem with such federations is the fact that there are always central, unitary, aspects at the top that actually belong at the base. For example: the federal constitution of India provides that the President appoints the Governors of the Member States. In this way, top-down influence persists in a place that actually belongs to the base.

The Federation is both symmetrical and asymmetrical; symmetrical in the sense that all Member States constitutionally have the same powers in relation within the

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[7] In 1961 Cameroon became a federal state. Partly French-, partly English-speaking. On 20 May 1972 the federation fell apart. This resulted in bloody conflicts between the two populations. Until today. In November 2021 a coalition of activists, with a federalist conviction to end the armed conflict, have created a platform called, Coalition of Cameroon Federalist Groups & Activists. Its spokesman, Dr. Munzu declared: *"By nature, Federalism is the highest level of decentralized governance. It is the point at which tolerance, mutual respect, fair play, solidarity, and cohesion in our society meet. Federalism offers the best prospect of instituting in Cameroon a form of democratic governance suitable for overcoming our nation's governance, institutional, socio-political, and economic development challenges."* Cameroon News Agency, 25 November 2021.

federal realm; but it is asymmetrical in the sense that internally, i.e. within the Member State's realm, they each have their own constitutional statute and institutional order; some are decentralized or centralized unitary states, others are already federal states themselves, still others have the statute of a constitutional monarchy; that remains as it is and so our federal Europe is asymmetrical in that sense.

This federal Constitution guarantees the Common European Interests of the Citizens of the Federation and leaves it to the Citizens of the Member States, and to the Member States themselves, to serve their own interests. That is why this federal Constitution consists of a limited number of rules of a general binding nature. There are no exceptions - opt-outs, driven by national interests - to these generally binding rules. This is one of the most important improvements compared to the European Union which, with the Treaty of Lisbon, provides legally unreasonable exemptions for Member States. And thus lays the foundation for ~~its~~ treaty-anarchy.

Explanation of Consideration Ia
'Happiness' consists of the personal development of prosperity, wellbeing, and wellness. That Citizens can pursue their happiness and that governments should help them to do so is an important element in political philosophy, traces of which can also be found in the English Magna Carta (1215), the Dutch Placcard of Abandonment (1581) and the French Revolution (1789). It plays a central role in the American Declaration of Independence of 1776, by the words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty and the Pursuit of Happiness."

It contrasts the reality of countries whose governments oppress, persecute, deceive, or otherwise deny their Citizens' happiness. This Constitution wants to leave no doubt that the comprehensive meaning of the Preamble is to contribute to the aspiration of Citizens to be happy in a humanly dignified life by giving the responsible authorities - referred to in the Constitution - the constitutional means and mandate to help their Citizens do so.

The federal state recognises a European cultural identity with respect for the diversity of languages within the Federation and of cultural identities within Member States. It recognises and supports the right of all countries, regions and territories that are part of the Federation to preserve their language and cultural identity.

Explanation of Consideration Ib

In the first place, this consideration gives the Federation the task of working relentlessly to preserve the diversity of all life forms on Earth. Unsuccessful preservation of the diversity of all forms of life threatens human life on Earth. This task requires maximum cooperation, expertise, and reliability within the Federation's authorities. It gives reason to quote Greta Thunberg:

> "We deserve a safe future. And we demand a safe future. Is that really too much to ask?" (Global Climate Strike, New York, 20 September 2019).

Secondly, the Federation has maximum respect for diversity in social life. Wherever it disappears, monocracies are created, condemning parts of society to inbreeding. Diversity of cultures, languages, ethnicities, beliefs, and sciences also creates new sciences, cultures, ethnicities, and religions. This Constitution therefore rejects any agitation aimed at protecting the so-called 'own people or own country first' and will use all legal means to combat such agitation.

The Federation shares its place on Earth with all other peoples and does not lock itself up behind the walls of a 'Fortress Europe'. Closing the external borders for the purpose of protectionism of one's own people is not listed in the list of crimes against humanity, but nevertheless has a serious penalty: the eventual disappearance of what one wishes to preserve. In other words: open external borders, not closed borders. That creates obligations:

- to strengthen the demographic and geopolitical position and capacity of Europe;
- to design and implement plans such as the Marshall Plan (1948-1952) to support poor countries in their economic development in order to eliminate the need to flee to Europe;
- with immediate effect, to promote, by seeking the collaboration of the international community, a humane existence for the approximately millions of refugees that are wondering on Earth;
- considering the implementation of this as one of the common interests of the Federation.

This Constitution is therefore a task and an opportunity for fundamental political renewal now that European post-war democracies have come to the end of a seventy-five- year political life cycle and have led to the exclusion of Citizens in favour of treaty-based, governance which, by its very nature, has become increasingly oligarchic and protectionist. Thus, politically, economically, and defensively vulnerable as the 2022 Ukraine war showed: the treaty-based EU's geopolitical position is squashed between America and Russia.

As an aside, in the Preamble under Ib we have changed the words 'all men' to 'all people'. An overly literal interpretation of the word 'men' might suggest that 51% of the population, women, would be excluded.

Explanation of Consideration Ic

The foreseeable end of the political life cycle of post-war democracies, as just mentioned, places those countries that seek to protect democracy on a 'tour de force', comparable to the revolution of the Enlightenment. Democracy and the representation of the people must be reinvented on the basis of the principle of 'All sovereignty rests with the people'. Let us add that all sovereignty rests with 'The primal will to good, beauty & truth' from which every single human being is a unique expression to be treated and respected as such; starting with our children as consequences of 'life's longing to itself'.

The Treaty of Lisbon as the present basis of the European Union, should be replaced by a Constitution that takes representation of the Citizens as its starting point. This implies, among other things,

(a) the abolition of the European Council of Heads of Government and State, a legal monstrosity, far removed from the essence of democracy;
(b) the creation of a House of the Citizens, based on popular vote, proportional representation within one constituency - the territory of the Federation;
(c) the creation of a House of the States, whose members are appointed by the Member State's parliaments;
(d) an executive government led by a President (supported by two Vice Presidents) elected by the Citizens. Thus, equipped with a democratic mandate;
(e) a politically independent Federal Supreme Court of Justice, whose members are appointed after careful consideration of criteria for appointment in a system of checks and balances.

The reason is explained by Thomas Jefferson[8]: "Leave no authority existing not responsible to the people." That can only succeed with wisdom & knowledge, humanity & justice, and integrity. With only two certainties: if it succeeds, it is a crucial revolution for the preservation of Europe. If it fails, by the end of this century, after the last treaty-anarchy driven conflict in Europe, someone will turn off the light in Europe.

Democracies cannot prevent elections from leading to groups within democratic institutions that wish to use their power against democracy. Autocratic tendencies are always present. This Constitution enables the institutions of democracy as

[8] See '*The writings of Thomas Jefferson: Being his Autobiography, Correspondence, Reports, Messages, Addresses and Other Writing, Official and Private*', p. 32, Cambridge University Press.

much as possible to deal with abuses of democratic procedures by building in defence mechanisms.

The task is therefore a fundamental reorientation of the concept of democracy in 21st century Europe. With a task for transnational political parties[9] to consider their own responsibility to devise instruments to defend democracy against parties that abuse the procedures of democracy in order to destroy that democracy. Criteria of organization should be formulated in order to qualify for the nomination as a democratic transnational political party. Probably more than any other organization within a democratic system, political parties will have to reflect on wisdom, knowledge, humanity, justice, and integrity in order to ensure the viability of a federally united Europe.

Explanation of Consideration IIa
This consideration makes it clear that the Federation is not inward-looking but realizes that it is part of the greater whole of the Earth. The whole in all its aspects. The Federation therefore maintains relations - as an open system - with all those other parts of the world. As a result, it always stores more energy than it consumes. The Federation rejects the slogan 'Europe first'.

Explanation of Consideration IIb
Federalism is about peace. Many of the world's current 27 federal states were founded to settle wars, violence and conflicts between countries and regions by means of federal state organization. The Federal Constitution should therefore be seen explicitly as a means of achieving peace.

Explanation of Consideration IIc
The 'building blocks' of federalism as a state institution originate from the Political Method of Johannes Althusius (1603). The 'cement' to inextricably connect these 'building blocks' was supplied in the writings of European political philosophers such as Aristotle, Montesquieu, Rousseau, and Locke with their views on popular sovereignty and the doctrine of the trias politica. The American federal Constitution is based on these writings, while Europe condemned itself to waging wars for centuries.

As mentioned before, not only philosophers provided the 'cement' for the building blocks of federalism. Also, political, and social leaders - in the Interbellum period, for example the already stated British Philip Kerr, better known as Lord Lothian - and after the Second World War the Italian Altiero Spinelli who, with his Ventotene Manifesto (1941-1944), laid the foundation for the post-war pursuit of

[9] See Chapter 11 of the *'Constitutional and Institutional Toolkit of Establishing the Federal United States of Europe*': https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf .

federalism, based on a democratic Constitution. Between 1945 and 1950 this aspiration was led by a large number of conferences and plans led by statesmen, scientists, cultural figures, and civil movements. But in 1950 it radically ceased with the 'Schuman Declaration'. Although the Declaration fully demanded the creation of a federal Europe, it placed its elaboration in the hands of government leaders, charged with creating a federal Europe on the basis of treaties. In this way - unintentionally, but through guilty ignorance of how to make a federation - the treaty-based intergovernmentalism - that is taking the European Union to the end of its current political life cycle - was created.

This seems a good place for a quote from Thomas Jefferson in a letter to Roger C. Weightman on 24 June 1826: "May it be to the world, what I believe it will be, (to some parts sooner, to others later, but finally to all,) the signal of arousing men to burst the chains under which monkish ignorance and superstition had persuaded them to bind themselves, and to assume the blessings and security of self-government." Which means in our perspective that 'self-government' will have to be organized in a collective mind space, the dimensions whereof will have to be sharply defined.

Explanation of Consideration IId

The thirteen former American colonies in late 18thcentury solved the dilemma of 'never again a ruler versus the need to represent the people'. They applied the system of shared sovereignty devised by Althusius by inventing the vertical separation of powers between sovereign States and a Federal entity. Without sacrificing the integral member state sovereignty, they asked a Federal Authority to take care - with the powers of the Member States - of a limitative number of Common Interests.

Contrary to the assertion that, in a Federation, Member States transfer all or part of their sovereignty in the sense of 'giving it away and thus losing it', this is not the case. Member States entrust some of their powers to a federal body for taking care of a limited array of common interests. A well-built Federation is not a superstate that destroys the sovereignty of the Member States.

The vertical separation of powers, leading to shared sovereignty between the Federal Authority (operating for the whole) and the Member States, also solves another problem. Namely the principle of subsidiarity**.** Which means first and foremost: to the Citizens be left what they can do better for themselves in any pursuit to their prosperity, to the Member States is left what they can do better for their Citizens in any pursuit to the wellbeing of their Citizens, and to the Federation is left what it can do better for the Citizens in the Member States in any pursuit to their wellness.

This principle in the Lisbon Treaty states: 'The authorities of the European Union should leave to the Member States what the Member States can do better themselves'. Because Article 352 of the Treaty allows the European Council to take any decision that, in the Council's view, serves the Union's objectives, the Council can ignore the principle of subsidiarity. In federal statehood, this legal pitfall is absent. In a federation the subsidiarity principle coincides with the vertical separation of powers and therefore does not need to be mentioned as such in the articles of the Constitution.

A final aspect of this Consideration IIb implies that - because of the restrictive set of powers of the federal body - all other powers remain with the Citizens and the Member States. This implies, inter alia, that the Member States retain their own Constitution, parliament, judiciary, and executive body, and, including their own areas of policy, in so far as these are not defined by the vertical separation of powers in the exhaustive list of interests that the federal body is required to represent on behalf of the member states. Any monarchies will also be maintained.

Explanation on Consideration IIe
As for a horizontal separation, the order should be: legislative, judicial, and executive. The legislative power is a strategic power (answering moral 'why'-questions), advised by the judicial power - a tactical power (answering cultural 'how'-questions) - that controls the executive power, which is an operational power (answering financial 'what'-questions). These three powers/branches are transcendent as 'sovereignty' is a transcendent power.

All former considered: the 'horizontal separation' should be an 'equally balanced qualified separation' of authorities. These three powers are equal and interdependent in a triarch structure, balanced by a system of checks and balances. Seeing these powers forming three intersecting circles, then in the centre 'happiness through wisdom' may be found. This Constitution will elaborate on this in Article I.

The horizontal separation of the three powers - the legislative, the judiciary and the executive - is not a specific feature of just a federal state form but serves as an adage for any state that wants to prevent domination by one power. Within a federation, however, there are two peculiarities.

Firstly, from the first federal state - that of the Federated States of America - the trias politica must be established both at the level of the Federal Authority and at the level of the individual Member States. Secondly, in addition to the invention of the vertical separation of powers mentioned above, the federal Constitution of the

Federated States of America has introduced a second innovation: the checks and balances. Saying that a self-respecting state must consider the trias politica high is merely expressing a value. But values can only be guarded and preserved by means of norms. That is why the American Constitution - and also this European Federal Constitution contains articles that prevent the inevitable action of the three powers in the field of another power from slipping into the supremacy of one power over the other.

To that end, there are the checks and balances. They are the indispensable countervailing powers to curb the ever-present 'desire' for the three powers to expand their complex of powers at the expense of the powers of the others. Checks and balances are about the integration of three separate 'mind spaces' with their own definitions of their sets of moral values and ethical norms. It is to be preferred not to envision the three powers/branches in a linear way, but to envision them in a circular way, each of them with their own center of definition of administrative integrity. One cannot do without any of the other two. For any of them are different sets of 'why'-, 'how'- and 'what'-questions valid, which have to be defined for each of them in relation to the others.

Explanation of Consideration III
Citizens derive from the English Magna Carta of 1215, the Dutch Placard of Abandonment of 1581, the American Declaration of Independence of 1776, and the French Revolution of 1789 the inalienable right to depose governments from the federal entity if they violate the provisions under I and/or II.

In accordance with the adage 'All sovereignty rests with the people', the Citizens of the Federation are the federation's alpha and omega. Alpha in the sense of: they ratify the federal Constitution and thus establish a system of representation of the people, of executive governance based on political decision- making by the representative body and jurisdiction to settle disputes. Omega in the sense of the inalienable right to dismiss those who unexpectedly abuse the federal system, for example by (attempts to) establish autocracy of a leader who wants to operate above the rule of law.

Explanation of Article I - The Federation, the Rights, and the World Federation

Explanation of Clause 1 – the formal basis

From a formal point of view, the sequence of establishing this Constitution is as follows. Citizens of European Union and of other European states - vested with the right to vote - ratify this Constitution by simple majority per state. It is up to the respective parliaments of those states to decide whether to follow the will of their Citizens. The states that follow the will of their Citizens – based on rules of their own constitution allowing the state to enter international cooperation - thus establish the Federation. This Federation has two possibilities of existence. Either alongside the intergovernmental European Union, or as a Federation within that European Union. After all, federal Germany, Austria, and Belgium are already members of the EU.

Explanation of Clause 1 and 2 – the philosophical basis

The Federation is all about the sovereignty of the Citizens, the Member States, and the Federation itself. Sovereignty means the right and obligation to 'reign'; not to 'govern'. This means:

- For Citizens to reign their households based on socio-economic principles to attain prosperity through financial liberty.
- For Member States to reign their households based on socio-cultural principles to attain wellbeing through cultural equality.
- For the Federation to reign its household based on judicial principles to attain prosperity and wellbeing through morality and the rule of law.

The fact that no place is given in the Constitution to monarchy or other nobility and that the Federation is built on democratic institutions implies that it is a Republic. The fact that no place is given to God or religions also implies that the Federation is a secular Republic. The fact that the Constitution states in several places that the federal body has no power to influence the internal order of the Member States means that those Member States remain within the Federation as they are. So, monarchies remain monarchies, but the Federation itself is - as one nation - a secular Republic for all its Citizens.

The mutual relationship between the Citizens, the Member States and the Federation form an idiosyncratic trias politica: independent reigning spaces under the principle of subsidiarity, precisely defined, lest deliberations will produce unintelligible cacophonic noise. If not, Citizens' and Member States' thoughts will be quelled by hierarchical power play. Each of the three entities of that idiosyncratic trias politica should have and mind its own business for the sake of subsidiarity. The Federation must protect itself against any (group of) Citizens or

Member States with egoistic financial, cultural, or political impulses breaking the complex of values of the Preamble.

There are views that deny or minimise Citizens' own independent and sovereign space for thought and action. However, history has repeatedly proven that Citizens do have their own space, and that the constitution (or documents of the same value) must reflect this. Think of the English Magna Carta of 1215 in which the vassals of King John Lackland made it clear that with his signature he had to respect the inalienable rights of his people, otherwise they would depose him. The Netherlands, with the Placcard of Abandonment of 1581, declared the Spanish King no longer to be their sovereign and were prepared for an 80-year war to win this battle. The French Revolution of 1789 and the Declaration of Independence with which the thirteen British colonies declared their independence in 1776 are also examples of the inalienable right of citizens to free themselves from autocratic rule. After WWII, the Dutch, Portuguese, French, Belgian, German, and British colonies did the same. Most of them by force.

Thus, our federal constitution guarantees the free space of Citizens in various places. First, by placing the ratification of the Federal Constitution primarily in the hands of the Citizens of Europe: the ultimate form of direct democracy. This makes it a Constitution of, by and for the Citizens. It is then up to the respective parliaments to decide whether to follow the will of the people. States that do not follow the will of their people therefore do not enter the Federation. States that follow the vote of the Citizens become co-owners of the Federation. Subsequently, this own space of the Citizens is laid down in Section III of the Preamble, which reads:

> III. Whereas, finally, without prejudice to our right to adjust the political composition of the federal body in elections, we have the inalienable right to depose the federation's authorities if, in our view, they violate the provisions of points I and II.

Finally, the free space of the Citizens is reflected in the Articles II, III and VII of this Constitution, articles that use different methods to ensure that Citizens are principally involved in decision-making and deliberative processes.

Other views grant no or little free space to the Member States of the Federation. They see the States’ position as 'only' representing the people. So, limited to an administrative role. In other words, they see the space of the Citizens and of the States as coinciding, as it were, and only see a clear distinction between the space of the States and that of the Federal Authority. The Constitution does not follow this line of thinking. Although the Member States are the representation of their people, they are responsible for their own decision-making space for the

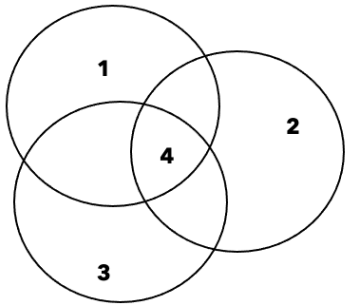
democratic and functional order of the State. This is confirmed by Article VII, Section 3, Clause 2, reading:

> "The Federation will not interfere with the internal organization of the Member States of the Federation, but still demands that those states as democratic states will be governed by the rule of law.

This is a reinforcement of Clause 2 of Article I, reading:

> "The Federation shall respect the equality of Citizens and Member States before the Constitution as well as their identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government."

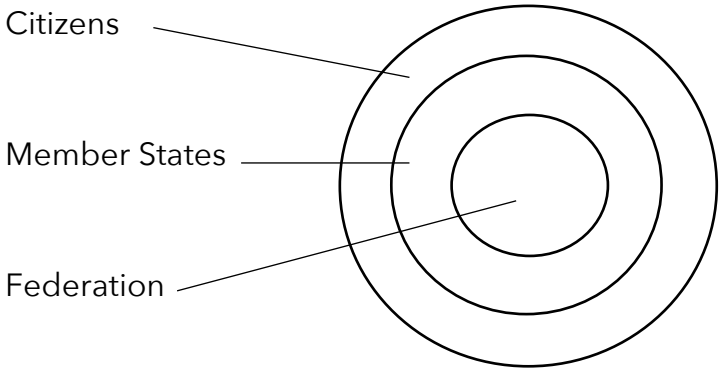
The relationship of these three independent - subsidiary - worlds of thought between the Citizens, the Member States and the Federation can perhaps be better understood by visualizing it with a figure of intersecting circles.



Circle 1 is the world of the reign of the Citizens, Circle 2 of the Member States and Circle 3 of the Federation. In the middle - at number 4 - lies the outcome of their combined reigning, expressed in the maximum protection of the complex of values of the Preamble: the 'holy grail' so to speak, untraceable but nevertheless obliging to an eternal search by the three entities involved. A 'holy grail' once expressed by Confucius, reading:

> "When the sabers are rusted and the shovels glisten, when the steps of the temples are worn out by the feet of the faithful and grass grows in the courtyard of the courts, when the prisons are empty and the granaries are full, when the doctors walk and the bakers drive, then the empire is well governed."

Further understanding of this relationship is complemented by a figure of three concentric circles.



The outer circle is that of the Citizens and includes the circle of the Member States. The circle of the Member States contains the central part, the Federation. This symbolizes that there is no world of Member States outside the world of Citizens. And that there is no world of the Federation without the world of the Member States. All in all, this second group of circles symbolizes the centripetal character of the federal Constitution: the building of the Federation from the bottom up, from the Citizens of Europe, in combination with those Member States that follow the will of the Citizens and thus are together the co-owners of the Federation.

Explanation of Clause 1 and 2 – the content

The text of the first Clause defines the specific nature of a republican federation: it consists not only of States, but also and especially of their Citizens; a federation is of the Citizens and of the Member States. They are the co-owners of the Federation. For all those who fear that the Federation, as a purported superstate, would absorb the sovereignty of the participating Member States, it should now be clear that within the Federation the Member States remain as they are: France remains France, Estonia remains Estonia, Spain remains Spain, et cetera. Their constitutional and institutional order remains unaffected. So, they retain their constitutional identity (republic, monarchy), their democratic form of government (representative democracy) and their organizational identity (centralized unitary state, decentralized unitary state, federation and any entities based on nobility, such as Luxembourg). In other words, the federal constitution radically breaks the EU treaty system, which intervenes in the internal order of the Member States with binding directives and thus forces them to become more and more alike through compulsory assimilation. And thus, a threat to one of the most important values of the Preamble: the preservation of the cultural identity of the Member States and their regions.

There is more: by explicitly naming the Citizens as co-owners of the Federation, there is a constitutional mandate to consult them on proposed changes to the territory of the Federation. A right that the European Citizens have not yet received under the Lisbon Treaty. We address this right as a form of direct democracy – as

well as deliberative democracy - in various places in the Constitution and especially in Article VII.

The Member States are represented alongside the Citizens at the federal level of government. Their representatives have an individual mandate. They do not act in the name and on behalf of the political institutions of their State. This important principle in the functioning of the Federation is addressed in the organization of the European Congress consisting of two Houses. Other relevant federal experiences are those of the so-called multi-national federalisms, such as the Canadian, Swiss, and Indian ones, which show how federalism can be a response to the need to keep different cultures and languages together without undermining the identities of states. In this we have looked at the wording of Article 4(2) of the Treaty on the European Union (TEU).

Explanation of Clause 3

Clause 3 of Article I makes it clear that the Federation has a non-hierarchical vertical division of powers. This creates 'shared sovereignty' between the Member States and the Federal entity: the Member States entrust the Federation with the use of some of their powers to look after Common European Interests. These are interests that the Member States themselves cannot look after (anymore). For instance, a common European foreign policy and a common European defence. Entrusting the federal authority with some powers of Member States does not give it any hierarchical power, let alone enable it to intervene in the internal order of the States.[10]

Both the Federal and Member State authorities are sovereign in those matters assigned by the Constitution to both levels of government. In the sense that the Federation is assigned powers for several limited policy areas, no others. For lovers of historical best practice from the end of the 18th century, this principle of the vertical separation of powers (not to be confused with hierarchic powers) was already laid down in the first ten days of the Philadelphia Convention and further elaborated in a draft Constitution a few weeks later. It constitutionally establishes that the Federal Authority cannot exercise hierarchical power over the States whenever it would suit the Federal Authority.

Those familiar with the Treaty of Lisbon, and more specifically with the partial treaty under the name 'Treaty on European Union', may ask 'What's new'? After all, that Treaty on European Union stipulates in Article 4(1): 'In accordance with Article 5, powers not conferred on the Union in the Treaties shall be conferred on the Member States'. This looks like two drops of water on our Article I, Clause 3.

[10] See Chapter 5 of the '*Constitutional and Institutional Toolkit of Establishing the Federal United States of Europe*': https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf .

But appearances can be deceptive. The subsequent Article 5 of that Treaty of Lisbon states that the delimitation of the Union's competences is governed by the principle of conferral. This is what should NOT be done; the principle of conferral leaves far too many competence issues indeterminate.
Whether the European Union has power to act is determined by the principles of subsidiarity and proportionality; that is to say, in short, the Union may act decisively in cases which the Member States themselves (or their component parts) could not (better) take care of; in other words, the principle of subsidiarity (leave to the States what the States themselves can best do) is not absolute, but relative.

> This is a good place to comment on the concept of 'proportionality'. It is an important issue within the current intergovernmental system of the EU. Put simply, it is a question of the extent to which the EU authority on the one hand, and the authority of a national EU member state on the other hand, may exercise the same power. This concept is directly related to the fact that the EU treaties provide for so-called 'shared powers'. This means that one and the same power may be exercised both by the EU authority and by an EU Member State. This raises the question: how far may one and the other go in the exercise of this shared power? In practice, this has proved unworkable. Because the principle of proportionality in its application is measured against the principle of subsidiarity: leave to the States what the States themselves can do best. Thus, the hierarchical decision-making of the European Council has robbed the already severely leaking subsidiarity of its meaning, leading to insoluble problems of interpretation. A federal system does not have this problem at all. In a federation, the concept of 'shared powers' is unthinkable, because of the vertical division of powers, which is the essence of a federal organization.

Let us continue on indeterminate competence issues. In one of the two component parts of the Lisbon Treaty - namely the 'Treaty on the Functioning of the European Union' - there are some articles that give a concrete list of the competences of the Union. But those articles are partly hierarchical in character, especially in the group of shared powers/competences - these are powers/competences allocated to both levels of government, but where the Union, when acting, obliges the Member States to conform to them. This does not exist in a well-built federation.

As if all this were not enough, there are also subsidiary competences available to the European Union, granted in Article 352 of the same 'Treaty on the Functioning of the EU'. This means that the Union can act if this is necessary to achieve an objective in the Treaties and if no other provision in the Treaty provides for measures to achieve it. This is called 'the flexible legal basis'. This is a manipulative and arbitrary key that fits every lock. Apparently, the European Union cannot to this

day abandon the technique of invoking the goal of 'ever-increasing integration' in order to seize power when it suits it.

Why does this not even remotely resemble federalization? Let us discuss it again. Practice has shown for years that the principle of subsidiarity leaks badly. The Protocol preventing the European Union from arbitrarily taking decisions outside the realm of its expressly granted competences, including the watchdog role of national parliaments in ensuring compliance with that Protocol, was already working very badly before the advent of the Lisbon Treaty. It has not worked at all since the entry into force of that Treaty in 2009, because from then on, the European Council took over principled decision-making. And nobody can stop that machine. Why is that? Answer: because of the hierarchy we mentioned above: something once decided by the European Council means the obligation for the Member States to implement it uniformly in their own country: this is the source of compulsory assimilating integration. Not only is this alien to a centripetal built federal system, but it is also unclear who is exclusively competent in what matters. It does say a few times that this or that authority has exclusive competence, but Articles 1 to 15 of the 'Treaty on the Functioning of the European Union' contain too many vague additions that there is no clarity.

So, the Federation does not provide that the Federal Authority can overrule the Member States when it suits that Authority. It confers on the Federal Authority an exhaustively enumerated set of powers and that is all. There is no hierarchy towards the Member States, nor any division of powers. Just like in the Swiss and US Constitution.

This raises the question of whether a Member State is the same as a Nation State. This question is motivated by fear of the way in which European nation states, since the Treaty of Westphalia of 1648, have continued waging wars with their nation-state anarchy until 1945 and, within the intergovernmental state system that has developed since then, use treaty-law anarchy to evade the obligations of the EU treaties if they feel that those obligations threaten their interests. But the way in which the vertical separation of powers - see Article III - takes place determines which Common European Interests become the concern of the Federal Authority and which powers are entrusted to that authority by the Member States to correct any deviations from the norms of those Common European Interests. Thus, the Member States of the Federation are not nation-states in the sense of the Westphalian nation-states.

This is the essence of federalism: a true federation has shared sovereignty but not shared powers: each, the Federal Authority, and the Member States, has its own powers. This is the result of the first two weeks of debates in the Philadelphia

Convention that began in late May 1787. The 'Virginia Plan', which James Madison had put on the table as the federalist opening piece, contained a Clause giving the federal authority the power to overrule 'improper laws' of states. There was an objection to this, made explicit in the 'New Jersey Plan', produced immediately afterwards. The parties subsequently resolved this dispute in the 'Great Compromise' by opting for a vertical separation of powers, expressed in a series of limitable powers of the federal authority: no hierarchy. Thus, no intervention from above if a member state performs its legislative or executive functions 'improperly'. Nevertheless, the Constitution does protect the Citizens of the Member States against possible infringements of their representative democracy and the rule of law.

That's how it should be: in a federal system, the Member States are and remain sovereign in their own circles. The Constitution therefore does not mention the principle of subsidiarity at all, for the simple reason that the exhaustive enumeration (more on this later) of federal competences establishes subsidiarity in an absolute sense. The Federal Authority has no discretionary powers - let alone arbitrary powers - to determine for itself what Member States would not be able to regulate or achieve by themselves.

Explanation of Clause 4

Immediately after the American Constitution came into force, the need for a Bill of Rights became apparent. This came in the form of ten amendments to the seven-article Constitution. That Bill of Rights subsequently formed an annex to the Constitution. The ten-article federal Constitution of the Federation does not contain a Bill of Rights either. It refers to rights that apply by reference to other documents. It is as follows.

Clause 4 of Article I sees the rights of European Citizens as deriving from natural rights. Man has no authority over these. Natural rights are fundamental, self-evident rights. And what 'goes without saying' does not need to be explained. In addition to these rights by virtue of nature, we have rights by virtue of agreements made with the consent of all participants. In our modern time these agreements are laid down in Charters because they have a transnational character.

The wording 'every living human being' means that the Constitution does not grant natural, fundamental, self-evident rights to every other living being on earth: animals, plants, the seas, and all possible other living, non-human phenomena. That does not alter the fact that there are moral duties of humans towards other living beings. Agreed rights are derived from them, but such rights are currently very much under discussion and can better be laid down in other documents – e.g., Climate Accords - than the federal Constitution.

So, there is a division between natural rights and cultural rights. Natural rights do not need to be formulated, because to do so would be to erroneously state that they are adaptable or negotiable. This is only possible with rights derived from natural law that are laid down by men made agreement in Charters.

Clause 4 refers to Charters for those concrete, men made, cultural rights, without considering the Charters' various intergovernmental arrangements and references to intergovernmental institutions. It is not necessary, nor advisable to incorporate concrete rights already laid down in Charters literally into the Constitution. This is also to avoid the need to develop new case law and the consequently need to amend the Constitution when jurisprudence gives cause to modify these cultural rights. In the event that the EU ceases to exist, the Federation can adopt the Charters - adapted or not - as its own human rights domain.

Post-totalitarian constitutions have always worked like this: they open themselves to international human rights treaties and thanks to these they manage to update the protection of fundamental rights without having to change the text all the time. To pretend to fix an exhaustive list of fundamental rights without referring to the human rights treaties or the Charter of fundamental rights would end up frustrating the need to guarantee a high standard of protection to the rights themselves because the text of the constitutions gets old if it is not linked to the evolution of the international community. The history of constitutional law is full of referrals like this, we need to produce a document that has the ambition to work. If we do not recognise the constitutional value of the Charter of Fundamental Rights, we will undermine the strength of fundamental rights. It will bind lawmakers, but this is what constitutions normally do and this is how the judicial review of legislation works. Courts rely on the Constitution to declare the invalidity of pieces of legislation that are seen as in conflict with fundamental rights.

There are many examples of constitutional provisions like this: Art. 10, paragraph 2, of the Spanish Constitution, Art. 16 of the Portuguese Constitution, Art. 5 of the Bulgarian Constitution, Art. 20 of the Romanian Constitution, Art. 93 of the Netherlands, and many others. If this reference is ignored, we should write a detailed list of rights and this would make the constitutional text much longer, whereas one of the objectives is to draft a short, effective, and comprehensible text. So, this explains why it is not necessary, nor advisable to incorporate concrete rights already laid down in Charters literally into the Constitution.

The Constitution - once ratified - binds everyone: individuals, governments, and private organizations of all kinds. Therefore, it is not necessary to require a signature from Citizens and organizations to confirm commitment to the

Constitution. That is implicitly established. The reason to mention it explicitly here is the circumstance that there are always individuals or organizations that violate human rights. With Article I, the Federation is – as one nation, composed by Citizens and Member States - a secular republic that unconditionally opposes the violation of human rights by any person or institution.

Explanation of Clause 5
The freedom of information and transparency is so fundamental and vital for democracy and legitimacy/public trust in authorities, that it deserves to be included directly right there in Article I.

Explanation of Clause 6
This Constitution has been ratified by the people and parliaments of the states that wish to be the first to join the Federation. States that wish to join later, i.e. after the creation of the Federation, require their national parliaments to ratify the Constitution. It is up to the states themselves to make arrangements with their people for this purpose.

Explanation of Clause 7
This Clause is a combination of two sources. Firstly, it breathes the spirit of Article 11 of the Italian Constitution, which reads:

> "Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy promotes and encourages international organizations furthering such ends."

The second source is derived from the aspirations of various movements for a World Federation: a federal state is - compared to always failing treaty-based intergovernmental cooperation - a superior form of statehood. It combines the care for common interests of member states with guarantees for the sovereignty of the member states on the one hand, and peace, solidarity, and prosperity on the other. The denial of this in Europe, since 1800, has caused untold victims and material damage in the 19th and 20th century. By repeating the denial after WWII the Balkan war in the early nineties of the previous century, and the Ukraine war in 2022 serve as cynical evidence.

It requires politicians with an understanding of the standards of federal state formation to make this happen. With this Constitution, they have a new opportunity to do what their predecessors failed to do for two hundred years.

Explanation of Article II – The Legislative Branch

Explanation of Section 1 – The European Congress

Clause 1 implies that the European Congress is the assembly of both Houses at the same time. Only the Congress has legislative power. But there are some nuances to this principle. The President of the Federation has a kind of derived legislative power in the form of 'Presidential Executive Orders'. These are regulations of a lower order than the formal legislative power of Clause 1. Furthermore, these Executive Orders must be traceable to that legislation of Congress. Another nuance is that, as in the case of the USA, the Federal Supreme Court of Justice has ruled several times that Congress can delegate legislative power to federal agencies. This Federal European Constitution does allow this as well.

In Clause 2, Brussels is the seat of both Houses of the European Congress, but with the reservation that the European Congress may decide to choose another location. The reason is that it is uncertain whether Belgium will be among the initial members of the Federation. And, in any case, the European Congress must have the power to choose another location within the federal territory.

Few constitutions specify the location without a way for the assembly to move itself within the nation, even if they specify a capital. E.g., the Swedish constitution does name Stockholm as its capital, but allows for the parliament to decide to move elsewhere. The US federal government is in Washington, DC, because of the Residence Act of 1790, not because of the constitution.

The European Congress should decide freely such matters when constituting itself. The peoples' delegates might even think it proper to mark the transition to a new paradigm of European history by moving the seat of European Congress to a new location altogether. Like Brazil's Brasilia, or Indonesia's plan to move the capital from Java to the island of Kalimantan, one could even imagine a future new administrative capital, located geographically in the center of our Continent, named 'Europa', taken from Greek mythology about Princess Europa and symbolized by a statue of this Princess?

Explanation of Section 2 - The House of the Citizens

Clause 1 rules to have one constituency for the whole Federation; no elections for the House of the Citizens per State, as is the case in America and also in the EU. This Constitution opts for voting for the whole Federation: one constituency of the countries belonging to the territory of the Federation. So, a Slovakian will be able to vote for a Belgian, an Irishman, a Cypriot, a Spaniard, a Dutchman, et cetera.

This single federal constituency will give rise to real transnational political parties. Only through a single constituency for the Federation can a direct – uniting - relationship be established between Citizens and their delegates. Thus, delegates of the House of the Citizens are representing the citizens' European-interests, not the citizens' state- or district-interests.

The Americans' main objection to a single American constituency (instead of their present system of electoral votes per district/state) has been based on the fear that the population of the most densely populated cities and areas would gain more influence than the inhabitants of rural areas. Although we understand why and how a district/state-based election system was designed in the first years of the American Constitution, this must be seen as a first-class methodological error. An error in the sense that the essence of a federal state - namely, to look after Common Interests that transcend state interests - cannot be represented by an electoral system based on local, regional, and state interests. Such concerns belong to the competences of the states and their components. The reason for a federation's existence is only the need for a body capable of looking after common interests that individual states can no longer look after on their own.

The choice at the time resulted in the weakest element of the American political system. Elections based on districts de facto led to a two-party system. In practice, this meant that the loser's voters were not represented. The adage 'the winner takes all' led to an unprecedented power struggle in which both parties did not – and still do not - hesitate to use any means to gain and keep power. During the Trump era, this reached an all-time high. After Trump's presidency numerous Republican-controlled states have passed laws that further impede the other party's ability to gain power through elections. Including measures to prevent - or make it very difficult for - certain populations, particularly people of colour, from casting a vote. This is supported by Gerrymandering; that is, periodically adjusting the boundaries of districts in such a way as to guarantee electoral gains for one party. This process is further driven by PACs: Political Action Committees that use many millions to influence the election campaign in favour of one of the two parties.

It should be mentioned that in America, too, the pernicious nature of this system has long been recognised. Since 1800, over 700 proposals to reform or eliminate this system have been introduced in Congress. However, amending the Constitution in this way always failed. Nevertheless, as of June 2021 fifteen states plus the District of Columbia (Washington) forged the National Popular Vote Interstate Compact. They agreed to give all their popular votes to the presidential candidate who wins the overall popular vote in the fifty states and the D.C. This

agreement comes into effect when they gather an absolute majority of votes (270) in the Electoral College.

This plan, of course, meets with legal objections and will have to prove itself at the next elections. However, it is an important signal for Europe never to make the same methodological mistake of basing federal elections on a district/state system. How the UK's district system with the (alternating) dominance of one party could have led to Brexit says it all.

Such a system is a fundamental error seen from the essence of a federal organization. The Citizens at the base of society vote for local, regional, and national interests in their own local, regional, or national elections. So, on the basis of their own systems. A federal Europe is not allowed to interfere with this. Federal elections are about European interests. The delegates of the House of the Citizens are not delegates of a district, nor of a state, but of the European Citizens. That requires an electoral system that is suited to this. A system that makes it possible for Citizens at the basis of society to understand that they have to give substance to a small, limitative list and exhaustive of Common European Interests. This leads to a fundamental rejection of district and state elections and the introduction of a system of popular voting for the territory/constituency of the entire Federation.

This is new and therefore difficult to implement. But that is the task we face.
It is especially difficult for transnational political parties. There are already some such parties, but the EU system forces them to raise their profile within the state in which they have registered as political parties. That is, their electoral lists for intra-state positions or for the European Parliament must include only persons from the state concerned. Being registered in several states does not make them transnational, yet. They only become transnational when they are allowed to propose candidates - adhering their values or ideology - for the House of the Citizens from any Member State of the Federation.

In a federal Europe based on popular voting within one constituency - the territory of the Federation - political parties will have to reinvent themselves. Just as a federal Europe says fundamentally goodbye to a treaty-based Europe, so transnational political parties will have to devise completely new methods and techniques to put the best candidates on election lists and ensure that federal elections are about European interests, fully understood and supported by the Citizens. While preserving their own local, regional, and national cultural identity, it should help Citizens to slowly acquire a European sense of togetherness as well.

So, the electoral system of this constitution is based on the so-called list system: (a) each transnational political party deposits a list that ranks eligible persons, (b)

voters vote for the list of their choice and thus simultaneously for a person. The electoral divide determines how many votes a candidate needs to win a seat. Example of an electoral divide: if ten million valid votes are cast for one hundred seats, the electoral divide is 10,000,000:100 = 100,000 votes. This number of votes is needed for one seat; this is the electoral divide.

The political parties themselves decide who will be on the electoral list. Whether there is an (un)balanced representation of the States in the House of the Citizens of the Federation depends on how the political parties compile their electoral lists. The political parties can prevent small Member States of the Federation from having no or very few delegates in the House of the Citizens. They should put good candidates from such States on electable positions.

In America, delegates of the House of Representatives only sit for two years. Why do we opt for five years for the European House of the Citizens? The reason is: the democratic deficit of the European Union, which has been criticized for years, can only be compensated by giving the Citizens' delegates a central role. The EU-states, with their nationalistically driven interests of intergovernmentalism, have deprived the representation of the Citizens of its powers for too long.

Moreover, we do not consider it right to send the delegates of the House of the Citizens on an election tour every two years. When they have just settled in, they would have to go out again to secure their next election. In the Federation, they can devote the better part of five years to looking after the common European interests of the Citizens, rather than the interests of their re-election. We do want to limit the number of terms to two. So, a maximum of ten years in the House of the Citizens. In this way the Constitution can prevent the quality of the work of representation from deteriorating because of the concentration of dubious power, laziness, or excessive influence from lobbyists.

The last sentence of Clause 1, that federal elections are held based on federal laws, prevents Member States from influencing the organization and operation of federal elections with their own laws.

Clause 2 introduces the concept of ‘dynamic sizing’. The population of the Federation will fluctuate for a long time. For this reason, it is not wise to fix the number of Citizens' delegates in the House of the Citizens. The number of delegates of that House should be as balanced as possible with the size of the people. That size will fluctuate with the expected growth of the number of Member States (a political matter); it can decrease because of structural shrinkage of the population or increase by an influx from immigrants (a demographic matter). Therefore, a clear and manageable arrangement has to be made between

fluctuations of the population on the one hand and a corresponding size of representation on the other. We think that, initially, this system should work with a census cycle of ten years. But we know technological progress could make wise to opt for a different cycle. In this way, the constitution does not have to be amended if the size of the federation's population fluctuates.

In Clause 3 another revolutionary rule is introduced. Though political parties are free to choose the candidates they want to stand for election, Clause 3 extends the system of checks and balances by regulating requirements for acquiring the political office. Checks and balances are powerful defense mechanism against undemocratic rule. But on the issue of eligibility, there is no check on whether a candidate has the right competence and suitability to perform the most important political office in the Federation: representing the Citizens. Citizens want to be represented by competent and suitable persons. We cannot leave the selection of candidates entirely to the political parties because they will always maximize their power in the fight for the political values they cherish. If anywhere in the constitutional and institutional system a place must be reserved for Citizens to have influence, it is at the front of the door where delegates want to enter the House of the Citizens.

Therefore, Clause 3 regulates that the House of the Citizens lays down rules on the competence and suitability of candidates for membership of that House. This is a mandate for transnational political parties to put on the electoral list candidates who are thoroughly familiar with the fundamentals of the political office, the most important office in the world. So, this task for transnational political parties - in their role as gatekeepers - requires a total change in mindset, selection and training of the candidates deemed necessary for that political office. The law also regulates the Citizen’s role and position in that process.

Clause 3 regulates further that are eligible those who have reached the age of eighteen years and are registered as Citizen of a State of the Federation during at least seven years. Of course, one might wonder whether that is not too young for a political office of that weight. But the same can be said of someone who is forty years of age or older. It is a matter of principle. If one considers eighteen years old enough to be recruited into the army and sent out to protect the country, even with the mandate to shoot, or the risk to be shot, then that age should also be good enough to be eligible for election. Setting the bar on twenty-five will disenfranchise young voters and bar them from electing peers that might be qualified, competent, and great talents/future leaders. We would exclude a considerable percentage of Europe’s citizens, citizens that one can argue have that highest stakes and interest in best possible long-term policies for future custodianship of the planet.

The earlier mentioned list-system is also ideally suited to promoting gender equality. If each political party draws up its list of candidates in the alternating gender ratio, the composition of the House of the Citizens will, by definition, approach the 50% female-to-male ratio, unless new demographic developments and/or regulations force transnational political parties to consider other gender forms as well.

The constitution does not provide for by-elections for delegates of the House who leave office early. We propose that the list system should include a system of deputies.

Then there is the question: 'How can a German know whether to vote for a Luxembourger or a Cypriot?' That is a non-issue. Elected members of the House of Citizens deserve their seats, not because they are connected to citizens of a District, a Region, or a Member State, but because they are uniquely connected to common European interests. It is this identity that justifies their election. And it is this identity that, in a quiet process of a few years, will make the Citizens of Europe understand what common European interests are and align their votes accordingly. We can already see this happening among young people. They are voting for representatives of European policies. If Sweden's Greta Thunberg stands for election, Greek and Spanish citizens will also vote for her.

Clause 4 introduces another form of influence by Citizens by the obligation on the part of the House of Citizens to organize annually multi-day Citizens' Panels. These are aimed at systematically collecting the views of expert panels on how the legislation of the House should be improved to strengthen the policy on the Common European Interests addressed in Article III. The composition and working methods of those panels shall be laid down by law.

This Clause introduces, together with elements of classic representative democracy and direct democracy, also elements of deliberative democracy. The ability to enter dialogue with each other is a necessary condition for arriving at good decision-making, meaning a process of taking decisions after consulting Citizens, after an exchange of arguments in the political arena, in which the best arguments prevail, tested against the public interest and in which compliance with the decisions/laws by Citizens is guaranteed because there is support in society.

When the instrument of referendum is used, we run into the following problems: Citizens can make their preferences known:

- without having to enter a dialogue with other citizens;

- without having to weigh up the pros and cons within the framework of the public interest; they can let their own interest prevail;
- without having to present arguments to support their choice;
- without having to tell the world what choice they have made;
- without being accountable to anyone.

Put that next to the situation in which a politician must operate. He must enter a debate with fellow politicians within the parliamentary setting; that debate is about exchanging arguments. Afterwards, the politician takes a stand, whereby he is obliged to keep the public interest in mind. It takes place in public, so that the voter can take note of it, address the politician, and take it into account when deciding how to vote in the next round of elections. That's why the Constitution explicitly states – in Clause 7 - that no secret vote is allowed in the Congress.

In this sense, direct democracy is not the only way in which the decision-making process is not the exclusive domain of politics: deliberative democracy, organized in accordance with the standards based on Jürgen Habermas's 'Theory of Communicative Action' can become a strong junction between citizens and representatives. A power-free space must be created in which participants are completely free to make statements. These statements can be criticised on three levels: is it factually true, is it normatively correct and is the statement truthful?

For such deliberative sessions Citizens are invited who can make statements about the problematic reality with reason and feeling. In this phase, politics does not interfere; it is merely an organizer and spectator.

The next step – policy-making - is the legislator's turn, which is fulfilled by the democratically elected representation of the people.

It is then up to the administration to execute legislation and regulations. It is important that the rules that usually lead to restrictions on the freedom of Citizens are complied with. The quality of the first step in the policy process and the quality of the representation of the people determine the extent to which the rules are complied with.

In Clause 5 of this Section 2 is explicitly stated, as in the American and Swiss Constitutions, that the delegates of the House of the Citizens exercise a mandate to be accountable only to those European Citizens. Their mandate is also exclusive - that is to say, they may not exercise any other public function, office, or mandate, at any level of government; in this way we prevent conflicts of interests and the concentration of power. So, no double mandates, nor with a position or such a

relationship with European or global enterprises or NGO's as to influence the Federation's decision making.

Clause 6 - on who has the right to vote - does not need further explanation.

Clause 7 is explained as follows. No such position of power – the Chair of the House - should be in the hands of one single person. Power corrupts, and lots of power corrupts a lot; it is not impossible to corrupt a college of three people, but it is far easier to find out.

Representation Overseas Countries and Territories (former colonies)
There is one more important aspect to deal with. In the context of representation attention must be paid to the position of territories which, after the abolition of colonial status, still maintain a legal link with the former colonizer. Let's check first the situation in the USA.

In addition to the 435 voting delegates of the US House of Representatives, there are six non-voting delegates from the District of Columbia (= D.C. with the federal capital Washington), Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and a resident commissioner from Puerto Rico. The Federation takes the following position.

Brussels – or any other location of the European Congress - is the constitutional capital of Federation, but not, like Washington in the District of Columbia, a territory with its own constitutional status that justifies (non-voting) membership in the House of the Citizens. Therefore, no separate seat for 'Brussels' in the European House.

Another question is what status the so-called Overseas Countries and Territories should have, legally linked to a Member State of the Federation: France, the Netherlands and Denmark. Their associate membership of the European Union is very similar to that of the six territories mentioned above that are delegates of the US House of Representatives without voting rights. We therefore recommend that these Overseas Territories also be given such a status in the House of the Citizens: membership without voting rights. Of course, this leaves us with the question: how many delegates per territory and who chooses or appoints them? This could be dealt with in a simple way: the Member State concerned organizes an election for one non-voting delegate of the European House of the Citizens in the territory concerned. The principle of incompatibility of offices should also apply here. One cannot be a delegate of the European House of the Citizens and hold a public office in one's own constituency.

In a nutshell, the electoral system of this Constitution boils down to the following points:

- The Federation has universal suffrage, popular voting, with seats distributed based on proportional representation.
- Everyone who is registered in a Member State of the Federation and is 18 years of age has the right to vote in periodic elections to the House of the Citizens.
- Voters registered in more than one Member State, for example migrant workers or students (originating from Member State A but working or studying in Member State B), receive only one ballot.
- The constituency is the entire territory of the Federation. No elections per Member State, nor per District. So only the popular vote applies throughout the constituency of the Federation.
- Conscientious transnational political parties place candidates on electoral lists and ensure equal gender distribution on those lists; they also ensure candidates from all Member States so that a voter from one Member State can vote for a candidate from whatever other Member State.
- After the election, the total vote count determines which candidate has won a seat in the House of Citizens. A seat is determined by dividing the total number of votes cast by the number of seats in the House of Citizens. So, the number of times a political party reaches that number determines the number of seats for that party. The seats that remain are called residual seats. They are distributed proportionally among the political parties.

Explanation of Section 3 - The House of the States

In Section 3 it is a deliberate choice not to give the House of the States the name 'Senate'. This choice of words has to do with the importance of always pointing out the strength of the Constitution through the system of checks and balances: the balance between looking after the interests of the Citizens - under the responsibility of the House of the Citizens - versus looking after the interests of the States, under the responsibility of the House of the States. The delegates of the House of the States are not called ‘Senators’ because this word is derived from the Latin 'senex'. That means ‘old man’. As they – men and women - are eligible for election from the age of 30, we do not consider the term 'Senator' to be appropriate anymore.

The American Constitution was drafted in 1787 and came into force in 1789. According to that text, Senators were elected by the legislature of the States. Not elected by the Citizens. This was changed in 1913 by Amendment XVII. From then on, the US Senate is composed by the Citizens of the States. We wonder whether that is a good Amendment. It was, and still is, the intention that the House of Representatives represents the interests of the People, and that the Senate represents the interests of the States. This is an essential feature of the federal

system: the Federation is formed by the Citizens and the States. Therefore, their representation is arranged separately from each other, from two separate sources: one from the Citizens and the other from the States. It is also an indispensable part of the checks and balances.

To prevent a federal European Congress from placing all the power in the hands of the Citizens and undervaluing the interests of the States, this Constitution chooses the system whereby the delegates of the House of the States are appointed by and from the Legislatures of the Member States. Nine delegates per State, not two as is the case in the USA. For the following reasons.

A larger number of delegates per State ensures that each State of the Federation is adequately represented in the federal House of the States, however small and sparsely populated a State may be. By assigning each State of the Federation nine delegates in the House of the States, each State is assured of sufficient representation to participate effectively in federal decision-making. Moreover, this figure may be an incentive for Europe's smallest States, with populations of at most a few million (or even less), to join the Federation. Under the Lisbon Treaty, they are now guaranteed five to eight seats in the European Parliament. By joining a Federation, they are guaranteed nine seats in Congress - that is, in the House of the States - even if none of these smallest States were to win a seat in the elections for the House of the Citizens. The fact that small Member States in a federal Congress also have delegates in the House of the Citizens is a matter and task for transnational political parties, which must organize their electoral lists in such a way that Luxembourg, Cyprus, Malta, and other small States – if entered the Federation - are also represented.

The question may rise: why not opting for more than nine? Or less? The reason for not more than nine is that with that the danger of specialization looms. Specialists will certainly be found in the House of the Citizens. That is sufficient. In our view, the House of the States consists of generalists, wise people with broad experience in the way a State translates social-cultural developments into sensible policies. The reason for not less than nine is the guarantee that small Member States must have that they can adequately counterbalance the House of the Citizens which, because of its election based on one constituency, is completely detached from judging the interests of states, let alone interests of districts, because it is elected to look after the encompassing interests of Europe.

The term for a delegate of the House of the States is five-year, the same as the members of the House of the Citizens. We diverge with the US Constitution with its mid-term elections of the House of the Citizens because we want to avoid a situation of permanent electoral campaign running; also diverging from the US

constitution regarding the appointment of the delegates of the House of the States: a fixed term of five years and no stepping down of half of the House delegates after three years. The Constitution does not provide for elections for the early replacement of delegates so, a system of deputies must be included in the Rules of Procedure of the House and in the Rules of the States.

As in the case of the House of the Citizens, we cannot now anticipate the year in which the first appointments to the European House of the States will be made. The date will depend on when the Constitution enters into force. It is possible that the appointment of the House's delegates by the State Parliaments presupposes that all national legislatures are in session. However, there is a real possibility that the planned appointment of delegates coincides with parliamentary elections in one State or in a few States. Therefore, the Constitution provides for a period of five months during which the appointments of delegates can take place. In this way, the States can appoint their delegates every five years in time, before a Parliament is dissolved. And so, the continuity of European governance is assured. The only drawback, it seems, is that in the event of the premature dissolution of their national Parliament, delegates will have to wait a few extra weeks to take up their office, but in any case, on 1 June of the year of appointment.

Clause 2 of Section 3 contains the same defense mechanism as in Section 2. It is a check on the competence and suitability of candidates for the political office of representing the States. The House of the States makes rules to check the competence and suitability of candidates for the political office of a delegate.

Clause 2 provides further that Citizens from other parts of the world must have lived officially in a Member State of the Federation for at least seven years - and thus have sufficient Citizenship - to be eligible, for election, at the age of twenty-five, as a delegate of the House of the States.

Clause 3 is the deliberative equivalent of Clause 4 of Section 2: the House of the States shall organize once a year a multi-day meeting with panels of delegates of the parliaments of the Member States to gather information on how to improve the realization of the Common European Interests as envisaged in Article III. The law shall determine how these panels are composed and how they shall operate, considering that delegates from each parliament of the Member States will participate in these panels and that the outcome of these meetings will improve and strengthen the Common European Interests.

Clause 4 states that the mandate of a delegate of the House of the States is individual; a delegate receives no instructions, not even from the institutions of the State from which he comes, or which elected him. The mandate is exclusive: it

excludes any other public office. So, when they are appointed by their own state parliament as delegate of the Federation, they resign as delegates of their parliament.

Clause 5 rules that the House of the States chooses its Presidency, consisting of three delegates of the House, with the right to vote. The House appoints its own personnel.

Clauses 6 and 7 deal with matters of impeachment.

Clause 8 forbids secret votes.

Relationship with ACP-countries

As with the Overseas Territories, there is the question of the position of the 79 ACP countries, now independent states but previously colonies of European countries. In Africa, in the Caribbean and in the Pacific. The European Union maintains a special relationship with these countries through treaties, mainly aimed at creating trade relations that (can) benefit both parties. However, this relationship is always under pressure. While the EU - within the framework of the policy of the World Trade Organization - wants to abolish as many trade barriers as possible, the ACP countries usually advocate the continuation of protection. The periodic renewal of the treaty relationship between the EU and the ACP countries does not seem able to eliminate these tensions. On the contrary. However, we cannot afford this in the rapidly globalizing world. Therefore, we propose a paradigm shift in this area as well: promote the functioning of EU-ACP treaties by giving the ACP countries a place in Congress. What would be against giving six seats (without voting rights) in the House of the States, the House explicitly intended for the interests of states, to two delegates from the African ACP group, two from the Caribbean group and two from the Pacific group? In order to promote gender equality, these two delegates per A, C and P should always consist of a woman and a man, unless new gender criteria force another order. Although they would not have the right to vote, they could participate in deliberations in the House of the States committee(s) that prepare a House position on trade treaties that the President of the Federation wants to conclude. This would give a more positive dimension to the increasingly strained relationship between the European Union and those ACP countries: those countries would no longer be negotiators on the other side of the table, but partners on the same side. It seems to us that it is up to the three groups of countries themselves to elect or appoint their delegates to the European House of the States. Here too, the principle of incompatibility of offices should apply: one should not hold, alongside the (non-voting) membership of the European House of the States, any other public office anywhere.

It does not seem necessary to include this in the Constitution itself. This specific relationship between the Federation and the ACP countries can be settled by

treaty. Should anyone argue that the absence of a literal passage in the Constitution conflicts with the Constitution, the Federal Supreme Court of Justice can teleologically establish, on the basis of the explicit intention of the Constitution as described here in the explanatory statement, that this is in fact in accordance with the Constitution.

If all the countries of the current EU join the Federation, our House of the States would therefore consist of 27 x 9 = 243 people. Plus, the above mentioned (non-voting) 3 x 2 = 6 delegates from the former colonies of European countries, the ACP group.

Explanation of Section 4 – The gathering of both Houses
This Section regulates the way of working when both Houses of the European Congress meet together.

Explanation of Section 5 – Rules of Proceedings of both Houses
There are therefore three Rules of Procedure: one for the European Congress (the two Houses together) and one for each of the two Houses. The recording of deliberations and votes implies the openness of these matters (no secret vote allowed).

Explanation of Section 6 – Compensation and immunity of delegates of Congress
Clause 1 may speak for itself. Clause 2 is about immunity which must guarantee the free exercise of the mandate. Each delegate of Congress must be able to function without external pressure.

Explanation of Section 7 – The Federal Supreme Court of Justice, the Federal Central Bank, the Federal Court of Auditors, and the Federal Ombudsman Office
This Section provides that the European Congress shall establish four – non-legislative and non-executive - principal institutions of the Federation and shall regulate their powers by law.

Explanation of Article III - The Powers and tasks of the Legislative Branch

Explanation of Section 1 - The legislative procedure
Clause 1 entitles both Houses of the European Congress to make initiative laws. Not the President and the Ministers of his Cabinet. These executives do not even act in the Houses. This strict separation of legislative and executive power

guarantees the autonomy of the European Congress in its core task: the drafting and final approval of federal laws.

Clause 2 is a rather revolutionary text. Laws - with commandments and prohibitions - are the strongest instrument by which a government determines the behavioural alternatives of its Citizens. Citizens who believe that laws do not sufficiently consider the requirement of inclusiveness, deliberative decision-making, and representativeness in the sense of respecting and protecting minority positions within majority decisions, with resolute wisdom avoiding oligarchic decision-making processes can challenge this up to the highest court. The Federal Supreme Court of Justice has the power to test laws against the Constitution. In this Clause 2, therefore, lies a fundamental aspect of direct democracy: Citizens have the right to challenge the correctness of a law before the highest court.

Clause 3 gives the exclusive power to the House of the Citizens to make tax laws. Unlike legislation in the general sense, the House of the States therefore does not have that power. However, that House may try to change those tax laws through amendments. The reason for declaring only the House of the Citizens competent to take an initiative in this regard is based on the consideration that 'groping in the purse of the citizens' is solely and exclusively at the discretion of the delegates of those Citizens.

The House of the Citizens thus decides what type of federal taxation will take place: income tax, corporation tax, property tax, road tax, wealth tax, profits tax and/or value added tax. Or perhaps it will leave those types of tax to the jurisdiction of the States and creates only one new type of tax under the name Federal Tax, provided that States' taxes are simultaneously reduced or abolished to prevent this Federal Tax from being imposed at the expense of the Citizens. The Constitution says no more about this because it is a subject for the politically elected.

The way in which federal taxes - collected by Member States and remitted to the Federal Authority - are conditionally returned to Member States in financial difficulties (e.g. after devastating storms or pandemics) is a matter that can be settled by establishing a Fiscal Union[11] within the federal system.

Clause 4 excludes the President's and the Praesidium's involvement in the legislative process of both Houses. The USA Constitution gives the President the power to veto a draft law, but then a complicated process follows between the

[11] For more information about the operating of a Fiscal Union within the Federation see paragraph 3.8 of the *'Constitutional and Institutional Toolkit for Establishing the United States of Europe':* https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf

President and both Houses to agree or disagree. We do not consider it desirable for the President, as leader of the Executive Branch, to participate in law making, nor in interfering in a possible dispute between the two Houses. We provide the establishment of a mediating bicameral commission in case both Houses cannot work it out together.

Clause 5 gives the Praesidium a say in legislative matters of a lower level than a law.

Explanation of Section 2 - The Common European Interests

If one sees the Preamble as the Soul of the Constitution, then Section 2 of Article III is its Heart. It mixes procedural provisions with substantive issues and the way they are to be dealt with partly by the Federation and partly by the Member States.

The end-means relationships of the Constitution

The Explanatory Memorandum to the Preamble already contains some considerations on the end - means relations of the Constitution. It is useful to elaborate on that now.

Building a federation is mainly a matter of structure and procedures. It is not about substantive policy. There is no such thing as federalist policy, for example, in the sense of federalist agricultural policy. There are, however, the policies of the Federation. But their content is not determined by the fact that it has a federal form of organization but by the political views and decisions of the members of the House of the Citizens, of the States and of the Federal Executive Branch. The Federation itself has no political colour. It is not left-wing; it is not right-wing, is neither progressive nor conservative. It is a safe house for all European Citizens, regardless their political, social, religious belief. A structure with procedures and guarantees that are geared as much as possible towards taking care of Common European Interests. In other words, interests that individual Member States can no longer take care of on their own.

Section 2 shows the list Common European Interests in relation to substantive subjects for which the Federal Authority needs powers to look after those interests. Because this Federation is built on the principles of centripetal federalizing (by building from the bottom up the parts create a center for the whole) the Member States shall determine for which Common European Interests they are entrusting[12]

[12] The German philosopher Ernst Jünger formulates this 'entrusting' in the following way, contained in the last word of this quotation: "That a legal path can exist which all basically recognize—of this there can be no doubt. We are plainly moving away from the national states, away from the large partitions, toward planetary orders. These can be achieved by covenants and conventions, assuming only the good will of the partners. Above all, this would have to be

which powers to the Federation. This is the most important condition for preventing the Federation from developing into a superstate. Federations that are built top down (centrifugal/devolved federalisation: a central government creates or expands the already existing parts) have the characteristic that there will always be centralist aspects in the federation, with the risk of weakening the classical federal structure that aims to ensure that the parts always remain autonomous, independent, and sovereign.

Thus, the powers of the federal body come from the Member States, not in the sense of transferring or conferring, but in the sense of entrusting: the Member States make some of their powers dormant, as it were, so that the Federation can work with them to realise the Common European Interests. That is the socalled vertical separation of powers between the Member States and the Federal Authority, leading to shared sovereignty between the two.[13]

This requires a return to the passage on 'Values and Interests' in the General Observations of the Explanation to the Preamble. The Preamble to a federal Constitution is about values. The values are the objectives to be achieved through the deployment of Articles I to X. These articles contain the norms – read means – by which the values – read objectives – must be realised. The composition of a Constitution is thus a balanced relationship between values and norms or – in other words – between ends and means.

Interests on the other hand – better the Common European Interests of Europe, to be taken care of by the Federal Authority – are part of a second ends–means relationship. They are the means to realize the norms. And they are cared for and secured through the Vertical Separation of Powers between the Federal body and the Member States. So, that is a third means-to-end relationship.

Note that these three ends–means relationships are part of the ingenious system of checks and balances and require such attention that the ends are clear, that the means are clear and that the means can realise the ends. The arrows in the diagram – from right to left - show the means-to-end relations:

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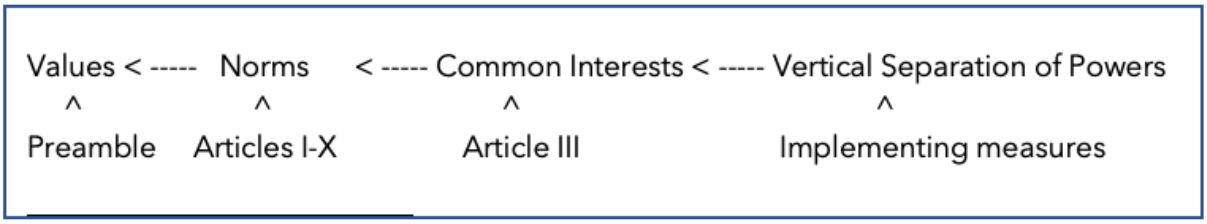
demonstrated by an easing of sovereignty demands—for there is fertility concealed in renunciation." See '*The Forest Passage & Eumeswil*', Wewelsburg Archives 1954, p. 45.

[13] The vertical separation of powers is the same as establishing subsidiarity. In other words, nowhere in a well-designed federal constitution is there a sentence that points to the principle of subsidiarity for the simple reason that the concepts of 'vertical separation of powers' and 'subsidiarity' coincide. See for more information the paragraphs 4.2.5, 4.2.8, 5.2, 5.3.2, 5.4 of the aforementioned Toolkit: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.



The FAEF Citizens' Convention started the process of improving a provisional Constitution text with the perception that there are Values and Common European Interests; and that we can achieve (much) more through cooperation. Realization of these Common European Interests are the objectives of forms of cooperation between the Member States and a Federal Authority. By expanding the scope, scale, and depth of the collaboration, it becomes possible to define those Common Interests in terms of means to fulfill the Norms and the Norms to fulfill the Values. These Values are understood as the foundation of the Federation, and as the ultimate objectives to be achieved. They have become the objectives in terms of the 'what' and indicate the desired direction (of development) for the Federation.

The Articles I - X concern principles for the organization of the Federation (structure and process) - the 'how' - and reflect (must be consistent with) the Values. The Articles can be considered Norms. i.e. rules and expectations (of 'behavior') that can be enforced. They are the means to fulfill the Values.

The Common European Interests are the 'where'. They can be considered 'result areas' that are established with a centripetal approach to federalization (bottom-up approach). These result areas are the more concrete issues/challenges where the Federation can provide added value for the Member States and the Citizens of the Federation. The 'field of activity' of the Federal Authority is defined through the Common European Interests, that are identified by the Member States and its Citizens.

The Vertical Separation of Powers defines the content, the depth and the scope of the Common European Interests and is the beginning of the series of goal-means relationships. Anything that goes well - or perhaps not well - in the process of the vertical separation of powers by which Member States entrust powers to the Federal body will positively or negatively affect the meaning and value of the Common Interests. That, in turn, will affect the quality of the Norms and, in turn, that will affect the quality of achieving the Values. Thus, the success of the vertical separation in a good cooperative effort ultimately determines the success of what the Federation aims to achieve with the Values of the Preamble.

The Clauses of Section 2

Clause 1 lists a provisional series Common European Interests. This is the fulcrum of a federal Constitution. The only reason to make a centripetal federation is that States realise that they can no longer look after some interests on their own. They then jointly create a Federal Authority and ask that body to look after a small set of common interests on their behalf and of their Citizens.

Listing – provisionally - names of Common European Interests gives an idea of what these interests mean. For a better idea of their content, see Appendix III A. The Appendix describes the procedure for the vertical separation of powers which gives indications of the subjects of policies that are entrusted to the care of the Federal authority.

Clause 2 refers to Appendix III A that regulates the procedure of the vertical separation of powers. See the end of this Explanation on Article III.

More powers than the ones in Section 2

It is to be expected that the practice of the Federation will show that the Houses of the European Congress feel that they do not have enough powers with the exhaustive Common European Interests mentioned in Section 2. A system of 'additional powers' will undoubtedly develop. An expansion of the complex of powers of both Houses that may be at odds with the intentions of the Constitution. One should think here of the following - potential - developments.

One of the most important is called 'Congressional Oversight'. This oversight - organized mainly through parliamentary committees (both standing and special), but also with other instruments - concerns the overall functioning of the Executive branch and Federal Agencies. The aim is to increase effectiveness and efficiency, to keep the executive in line with its immediate task (execution of laws), to detect waste, bureaucracy, fraud and corruption, protection of civil rights and freedoms, and so on. It is a comprehensive monitoring of the entire policy implementation. This system arose from the inception of the US Constitution and is an undisputed part of the ingenious system of checks and balances. It will undoubtedly develop in the same way in Europe.

The Constitution does not know this 'Congressional Oversight' in so many words, but it is supposed to be an inalienable extension of the legislative power: if you are authorised to make laws, you must also be authorised to control what happens in their implementation. It is self-evident in an administrative cycle. Of course, there have been attempts to demonstrate with a strict interpretation of the US Constitution that this form of 'Implied Powers' is not in accordance with the Constitution. However, the US Supreme Court has always rejected this claim. This

is in line with the vision of President Woodrow Wilson, who saw this parliamentary oversight as being just as important as making laws: "Quite as important as legislation is vigilant oversight of administration."[14]

Explanation of Section 3 - Constraints for the Federation and its States

Clause 1 restrains policies and actions that may be crushing for biodiversity or that, for example, polluting energy companies are opened or remain open in violation of climate agreements. This ban must make a positive contribution to energy and food availability and security.

According to Clauses 2 and 3 of this Section, neither the States of the Federation, nor the Federation itself, may introduce or maintain regulations which restrict or interfere with the economic unity of the Federation. Again, powers not expressly assigned to Congress by the Constitution in Article III, Section 2 rest with the Citizens and the States. This is the other side of the coin called 'vertical separation of powers'. Nevertheless, in the USA it was considered useful and necessary at the time not only to place limits on Congress in their Article I, Section 9, but also to remind the States that their powers are not unlimited. To this end, their Article I, Section 10 - our Article III, Section 3 - stipulates what the States may not do.

Clause 4 imposes the same limitation on the legislative power of the States as that of the Federation in order to maintain legal certainty, not to affect the exercise of judicial power and to safeguard rights of Citizens in force or enforced. It is also important, a subject that has often been addressed by the US Supreme Court, that States may not legislate to override contractual obligations. Legal certainty for contractors and litigants is of a higher order than the power to declare a contract or a court decision ineffective by law.

In Clause 5, the provision that none of the Member States of the Federation may create its own currency (taken from James Madison's Federalist Paper No 44) is a clear warning to some EU Member States considering returning to their own former national currencies. Nevertheless, states are allowed to issue bonds and other debt instruments to finance their deficit spending.

Clause 6 states that export and import duties are not within the competence of the States unless they are authorised to do so. They may, however, charge for the expenses they incur in connection with the control of imports and exports. The net proceeds of permitted levies must fall into the coffers of the Federation. This matter is likely to have a high place on the agenda of the previously recommended

[14] For more information on these issues, see Chapter 10 of the aforementioned Toolkit: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.

six delegates of the House of the States (without voting rights) delegated by the ACP countries to the European House of the States.

Clause 7 emphasizes once again that defence is a federal task. On the understanding that the European Congress may decide that a Member State shall accommodate on its territory a part of that federal army and keep it ready to act in case of emergency.

Explanation of Section 4 - Constraints for the Federation

In this Section 4 we have included a number of additional rules to combat political corruption. Because gigantic sums of money are spent on election campaigns in America, there is a saying: "Money is the oxygen of American politics". In our federal constitution for the Federation, Article III, Section 5 contains Clauses justifying the adage: 'Money should not be the oxygen of European politics'.

Appendix III A - The procedure for the vertical separation of powers[15]

By ratifying the Constitution, the Citizens adopt the limitative and exhaustive list of the Common European Interests. The question, however, is: how can one properly determine which powers are necessarily needed to enable the Federal Authority to do its job? For that, a procedure is needed. A procedure of debate, deliberation, and negotiation within which the Citizens (direct democracy) and the States play a prominent role. For this purpose, Clause 3 refers to Appendix III A which is an integral and therefore mandatory part of the Constitution, but for any future adjustment it is not subject to the amendment rules of the Constitution.

If the Constitution is ratified by enough Citizens to establish the Federation the limitative and exhaustive list of the Common European Interests will be established. The meaning of this is: the Citizens have spoken; that list is non-negotiable during the debate, deliberation, and negotiation necessary to determine which powers should be entrusted – by means of that vertical separation of powers - to the Federal Authority, to enable the Federation taking care of the Common European Interests.

Let us repeat once again that the Member States retain their sovereignty in the sense that they do not transfer or confer parts of their sovereignty to the federal body and would thus lose those sovereignty. What they are doing is entrusting some of their powers to the federal body because that body can look after Common European Interests better than the Member States themselves. Thus, the

[15] For drawings explaining the operation of the vertical division of powers, see Leo Klinkers, President of the Federal Alliance of European Federalists, Chapter 2 of '*Sovereignty, Security and Solidarity*', Lothian Foundation Press 2019.

Member States make their relevant powers dormant. The effect is shared sovereignty.

The vertical separation of powers will always be a matter of debate and will sometimes require adjustment. That is why the outcome of the debate and negotiation on the vertical separation of powers will be another Appendix to the Constitution: Appendix III B. The Appendix III A on the procedure of the process of the vertical separation of powers and the future Appendix III B, containing the result of that procedure, are integral parts of the Constitution but might be adjusted during the years without being subjected to the constitutional amendment procedure. This is to prevent that any necessary adjustments of the vertical separation will force to amend the Constitution itself.

On the basis of three principles, the founding fathers of this Constitution lay down the following procedure for determining the vertical separation of powers.

Principle 1 – from bottom to top
It would be a severe system error to arrange the allocation of powers from top to bottom. Wherever possible in the construction of a federal state, one should always work from the bottom up. That is a 'commandment' of the centripetal way on which this federal Constitution is based. This requires asking the Member States which parts of their complex of competences they wish to make dormant, so that the federal body can dispose of them to take care of the Common European Interests.

One must be careful not to think in terms of decentralization or devolution. Decentralization/devolution is 'moving from top to bottom': the center shares parts of its powers with lower authorities. This does happen in federal states that are centrifugally built: a centre creates parts or expands already existing parts. But the effect of such a course of action is that there will always remain unitary/centralist aspects. First of all, the central state may, at any time, without consulting its citizens, decide to get back all of its powers, because there is not a Federal Constitution that states otherwise. If countries such as Spain and the United Kingdom were to decide to further decentralize their already existing devolved autonomous regions into parts of a federal state, they would run the risk of creating a relatively imperfect federal state as well.

Principle 2 – debate and negotiation on Common European Interests
If the electorates of some European states ratify the Constitution by a majority, and if their parliaments follow the will of their people, the debate, deliberation, and negotiation on the powers that the Member States entrust to the Federation starts. This process is as follows:

a) Internal deliberation by individual Member States
Each Member State has two months to prepare a document in which it puts forward proposals on the powers it wishes to entrust to the Federal body. In total, they draft one document for each Common European Interest. In doing so, they give an

insight into the way in which they think the Federal body should be vested with substantive powers and material resources. A Protocol establishes the requirements that the documents must meet to be considered, among which the organization of the way Citizens participate in that process (direct democracy). The central requirement is that they must deal with the representation of Common European Interests that a Member State cannot (or can no longer) represent in an optimal manner itself.

b) Aggregation of the documents

Under the leadership of FAEF, a Transition Committee is created beforehand to regulate the transition from the treaty-based to the federal system. This is where the Citizens come in as well: direct democracy. Led by FAEF, that Committee consists of (a) non-political Experts on the Common European Interests and (b) non-political Citizens. Point (a) is required for expertise. Point (b) is required to prevent the deliberation and decision-making on the vertical separation of powers from degenerating – as has been the case in the treaty-based intergovernmental EU-system since 1951 – into nation-state advocacy. The Transition Committee aggregates the documents of the Member States into a total sum of powers to be vertically separated, and the substantive and material consequences. Two months are available for this.

c) Final decision-making

The aggregated document is the agenda for a one-week deliberation on each Common European Interest. Under the leadership of the Transition Committee, final decisions are taken on the best-balanced allocation of powers from the Member States to the Federal body. This final document will be an integral Appendix III B of the constitution. After its implementation in the federal system practice will show when, why and how Appendix III A on the procedure of the vertical separation of powers needs improvements, so that the Appendix III B on the result of that procedure must undergo improvements as well.

d) The start of the construction of the federal Europe

The result of c) marks the beginning of the building of the federal Europe. Guided by a Transition Committee of Citizens, the Member States determine concretely how the federal body with a limited number of entrusted powers of the states should represent a limited amount of Common European Interests. It marks a barrier between the tasks of the Federation and the fields in which the Member States remain fully autonomous and the Federation cannot become a superstate.

Principle 3 – Debatable and negotiable subjects

Taking from the limitative and exhaustive list of Common European Interests of Section 2, Principle 3 contains non-exhaustive examples of topics on which the debate, deliberation and negotiations may take place. The formula is as follows:

The European Congress is responsible for taking care of all necessary regulations with respect to the territory or other possessions belonging to the Federation, related to the following Common European Interests.

1. **The livability of the Federation**, by regulating policies against existential threats to the safety of the Federation, its States and Territories and its Citizens, be they natural, technological, economic or of another nature, or concerning the social peace.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:

(a) to regulate the policy on all natural resources and all lifeforms, on climate control, on the implementation of climate agreements, on protecting the natural environment, on ensuring the quality of the water, soil, air, and on protecting the outer space;
(b) to regulate policies on preventing and fighting pandemics
(c) to regulate the policy on the safety and availability of food and drinking water;
(d) to regulate the policy on preventing scarcity of natural resources and dysfunctional supply chains;
(e) to regulate the policy on social security, consumer protection and childcare;
(f) to regulate the policy on employment and pensions;
(g) to regulate the policy on health throughout the Federation, including prevention, furthering and protection of public health, professional illnesses, and labor accidents;
(h) to regulate the policy on justice and on establishing federal courts, subordinated to the European Federal Supreme Court of Justice.

2. **The financial stability of the Federation**, by regulating policies to secure and safe the financial system of the Federation.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:

(a) to regulate the policy on federal tax, imposts, and excises, uniformly in all territories of the Federation, on the debts of the Federation, on the expenses to fulfill the duties imposed by this and on borrowing money on the credit of the Federation;
(b) to regulate the policy on installing a Fiscal Union;
(c) to regulate the policy on supervising the system of financial entities;
(d) to regulate the policy on coining the federal currency, its value, the standard of weights and measures, the punishment of counterfeiting the securities and the currency of the Federation.

3. **The internal and external security of the Federation**, by regulating policies on defence, intelligence and policing of the Federation.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:

(a) to regulate the policy on raising support on security capabilities, among which the policy on one common defence[16] force (army, navy, air force, space force) of the Federation, on compulsory military service or community service, and on a national guard;
(b) to regulate policies in the context of external conflicts, policies on sending armed forces outside the territory of the Federation, on military bases of a foreign country on the territory of the Federation, on the production of defensive weapons, on the production of weapons for mass destruction, on the import, circulation, advertising, sale, and possession of weapons, on the possibility of bearing arms by civilians;
(c) to regulate the policy on declaring war, on captures on land, water, air, or outer space, on suppressing insurrections and terrorism, on repelling invaders, and on fighting autonomous weapons;
(d) to regulate the policy on fighting cybercrimes and crimes in outer space;
(e) to regulate the policy on one federal police force;
(f) to regulate the policy on one federal intelligence service;
(g) to regulate fighting and punishing piracy, crimes against international law and human rights;

4. **The economy of the Federation**, by regulating policies on the welfare and prosperity of the Federation.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:

(a) to regulate the policy on the internal market;
(b) to regulate the policy on transnational production sectors like industry, agriculture, livestock, forestry, horticulture, fisheries, IT, pure scientific research, inventions, industrial product standards.
(c) to regulate the policy on transnational transport: road, water (inland and sea), rail, air, and outer space; including the transnational infrastructure, postal facilities, telecommunications as well as electronic traffic between public administrations and between public administrations and Citizens, including all necessary rules to fight fraud, forgery, theft, damage and destruction of postal and electronic information and their information carriers;
(d) to regulate the policy on the commerce among the Member States of the Federation and with foreign nations;
(e) to regulate the policy on banking and bankruptcy throughout the Federation;
(f) to regulate the policy on the production and distribution of energy supply;

[16] See Mauro Casarotto, Secretary General of the Federal Alliance of European Federalists, *'Without a Constitution-based Federal Europe a Common Defence is built on quicksand'*, in Europe Today: https://www.europe-today.eu/2022/03/07/without-a-constitution-based-federal-europe-a-common-defense-is-built-on-quicksand/?fbclid=IwAR3XOaCsjHZjtS7Qj0FM3W8KNCpzR3n4Zl3G095X7YPCGulE5cgL2CaYIMU

(g) to regulate the policy on consumer protection;

5. **The science and education of the Federation**, by regulating policies on the improving the level of wisdom and knowledge within the Federation.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:
(a) to regulate the policy on scientific centers of excellence;
(b) to regulate the policy on transnational alignment of pioneering research and related education;
(c) to regulate the policy on the exclusive rights for authors, inventors, and designers of their creations;
(d) to regulate the policy on progress of scientific findings and economic innovations.

6. **The social and cultural ties of the Federation**, by regulating policies on preserving established social and cultural foundations of Europe.

Potential topics for debate, deliberation,n and negotiation on the vertical separation of powers:
(a) to regulate the policy on strengthening unity in diversity: "Acquiring the new while cherishing the old";
(b) to regulate the policy on arts and sports with a federal basis.

7. **The immigration in, including refugees, and the emigration out of the Federation,** by regulating immigration policies on access, safety, housing, work and social security, and emigration policies on leaving the Federation.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:
(a) to regulate policies on access – or denial of access - to the Federation, on security measures against terrorism and cybercrime related immigration, on mode of housing, employment, social security;
(b) to regulate policies on leaving the Federation.

8. **The foreign affairs of the Federation**, by regulating policies on strengthening the Common European Interests in the interest of global peace, social equality, economic prosperity, and public health.

Potential topics for debate, deliberation, and negotiation on the vertical separation of powers:
(a) to regulate the policy on external cooperation to strengthen the policies on the foregoing Common European Interests.
(b) to define the means by which this common interest is promoted, e.g. through cooperation by States, especially concerning international trade (what is trade, with whom, under what conditions), developmental projects (what projects,

with what partners, under what conditions), disaster relieve, projects to mitigate (the consequences of) climate change/global warming.

(c) to regulate policies to promote global federation.

To sum it up, correct thinking about federalizing is as follows

1. The Common European Interests are the same as a Kompetenz Catalogue. It is a limitative and exhaustive list of concrete interests of a common European nature. They must be formulated in an abstract, generic way. In other words: the common interests must have a name. For example, 'The financial stability of the Federation'.

2. Although the list of Common European Interests is exhaustive, the Constitution must provide for the possibility of adapting that list. The constitutional amendment procedure and that of Appendix III A shall apply.

3. These common European interests must be promoted by means of policies. To design and implement policies, the federal body needs powers. This requires a so-called vertical separation of powers: the states entrust a limitative and exhaustive list of powers to the federal entity.

4. Because we are building a classic centripetal federation (i.e., from the bottom up), it is up to the Member States to decide which powers they want to entrust to the federal body. This is the key to limiting a possible Pandora's box of an endless list of policies for free application by the federal body.

5. This methodology is a natural limitation to the bottom-up determination of what Member States want to entrust to the federal body. They might want to limit themselves and in that (defensive) attitude lies the perfect opportunity to clarify together what the real European interests are. The purpose of making a federation is not to enable a federal body to act as a new ruler but to look after essential European interests.

6. When working on the vertical separation of powers three subjects play an important role:
   (a) Stick to the principle of working from the bottom up. This stems directly from the Political Method of Johannes Althusius who formulated the building blocks of federal statehood around 1600.
   (b) Require the Member States to write down, each for itself, which powers it wants to entrust to the federal body. A Transition Committee of experts and other Citizens (proces-steering democracy), led by FAEF, aggregates these

Member State documents, and decides on it as the final decision on vertical separation. Only with the composition of that document does it become clear which powers, and thus which policies, will be represented by the federal body.

(c) Require, in addition to working with a Transition Committee of (expert) Citizens, that the Member States consult Citizens in the process of weighing up the options within their own state. This is another opportunity deliberative democracy.

7. That bottom-up process determines how many specific policies are taken out of the box to take care of the generic common interests. It leads naturally to an agreement between the Member States because they themselves have determined what they want to entrust to the federal body. And the federal body has to accept that. This indicates how much a federation differs from the treaty-based EU.

8. In other words, we should not already in the Constitution, nor in the Explanation, establish the vertical separation of powers or drive it in a certain direction. We must stick to a procedural way of working bottom up.

9. For this reason, the topics are intended only as possible subjects for debate and negotiation in the procedure of vertical separation of powers.

10. This line of thinking leans heavily on standards and principles of classical federal statehood.

Explanation of Article IV – The Executive Branch

Explanation of Section 1 - The Federal Government

The purpose of Section 1 is to prevent:

(a) that too much power is concentrated in the hands of one person, the President, possibly afflicted with autocratic aspirations;

(b) that a two-party system may emerge that allows one party to form blockades;

(c) that after elections, the tops of the Ministries are replaced on party-political motives. This aspect of America's 'spoil' system - exchanging top political officials of one political party for other top political officials of the other party after an election - does not only hamper the continuity of policies but is also a cause of corruption. Career civil servants must know that they can reach and keep the top of the civil service without any political affiliation.

It is intended to promote:
(a) the appointment of Ministers by the President - thus without interference from the European Congress - but with the consultation of the two Vice Presidents;
(b) a high quality of members of the executive branch to be worthy of political office;
(c) collegiality in decision making so that it is clear that there is collective responsibility and accountability;
(d) consistently focused on the interests of the entire Federation and skilled in addressing behaviour that threatens the Constitution;
(e) and, above all, a signal to career officials that they are part of a 'merit system' and not part of a 'spoil system'.

Although the President is both Head of State and Head of Government, he is assisted by two Vice Presidents. The power of a President of the Federation must never degenerate into autocratic decision-making. This is why the President, together with two Vice Presidents, forms a Praesidium with which the President must consult before making important decisions.

This Constitution is based on a Presidential system, in which the President is both Head of State and Government. Most European countries have a Parliamentary system. This means that the Parliament oversees the Executive branch, headed by a Prime Minister, and can therefore call the Prime Minister and Ministers to account.

A Presidential system - in which the President is both Head of State and Government - has no ministerial accountability, nor the so-called rule of confidence (= a minister must resign if he no longer has the confidence of parliament). In such a Presidential system Congress, the President and (as is the case in this Constitution) the two Vice Presidents, are elected by the people and answer to the people. The people express that in this Federal Constitution in three ways:
- By deposing the federal government if it violates the constitutional order of the Constitution if the people have no other remedy (Preamble, III).
- By means of elections.
- By various forms of direct and participatory democracy.

Such a Presidential system, provided it is balanced by an ingenious system of checks and balances, is the purest form of trias politica.

However, this does not mean that the Houses of the European Congress do not supervise the functioning of the Executive Branch. On the contrary. Both Houses

own an extensive Committee system and Staff[17] to oversee the operations of the Federal Government.

The federal government makes its decisions collegially, which means that each member must outwardly defend the decisions taken collectively by the Federal Government, even if he personally disagrees with them. This implies that the Federal Government is collectively responsible and accountable for its decisions.

It is a fundamental requirement of this Constitution that the moral and cultural integrity of the members of the three state powers - the European Congress, the Federal Government, and the Judiciary - should be beyond reproach. Just as there are requirements under Article II for the competence and suitability of candidates for the Houses of the European Congress, so too for the composition of the Federal Government.

One of the worst aspects of the American two-party system is the exchange of top civil servants from the ruling party for others from the other party once it has won the election. It is not called 'spoil' system for nothing because it breaks the continuity of policy and makes the administration vulnerable to corruption in the sense of following 'his masters voice'. In a federal Europe, top officials need to be sure they can do their jobs professionally, not partisanly. It is a merit-system.

Explanation of Section 2 – The election of the President and the Vice Presidents

Section 2 regulates matters such as the manner of election of the President and Vice Presidents, their term of office, the appointment of a temporary President and Vice Presidents between the period of ratification of this Constitution and the actual functioning of the Federation, the eligibility of such persons and their oath to the Constitution.

The European Congress may decide to conduct the election through ranked voting. This is a system - that occurs in various forms, incidentally - whereby voters cast, for example, three votes indicating the order of their priority: 1. Mrs. Johnson, 2. Mr. Smith and 3. Mrs. Peterson.

Explanation of Section 3 – The vacancy and end of term of the President and the Vice Presidents

Section 3 regulates the manner of filling offices in case one becomes vacant. It also clarifies how to proceed when, in the opinion of the Vice Presidents and a majority

[17] See Chapter 10 of the *'Constitutional and Institutional Toolkit for the establishment of the federal United States of Europe'*: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.

of Ministers, the President can no longer be considered capable of holding the office of President.

Explanation of Section 4 - Independent oversight of the executive branch: The Ombudsman Office

This Section provides for the institution of The Federal Ombudsman Office. Clause 1 takes care of regulating this by law.

Clause 2 regulates The Ombudsman's Office election. And the people's influence since the elected persons to serve within The Ombudsman Office come from civil society.

Clause 3 ensures The Ombudsman's' independence.

Clause 4 ensures that the power to give advice to the President cannot simply be rejected or ignored by the Praesidium: The Ombudsman Office is allowed to lay the matter before the European Congress. For both Houses, a two-third majority is required to reject the advice of The Ombudsman Office.

Clause 5 regulates an additional power: The Ombudsman Office is authorised to monitor the implementation – by the executive branch - of the reparation of damage caused to the well-being of Citizens and to assess its quality. If it is insufficient, The Ombudsman Office may bring the matter to the attention of the European Congress once again.

Special explanation on the composition of the Cabinet of Ministers

NOTE: The following is just an example of the possible composition of the Praesidium's Cabinet of Ministers. The final composition of the Ministries will depend on the outcome of the vertical separation of powers as described in Article III, guided by Appendix IIIA.

The Constitution does not determine the size of that Cabinet. It is up the President in consultation with the Vice Presidents.

The question we must now address is, "How large should the Cabinet of Ministers of the Federation be?" To answer that question, we would have to consider the dominant executive policy areas that emerge from Article III, Section 2 (the exhaustive list of powers of the European Congress). But we are reluctant to do so. It is likely that such a consideration will only lead to endless debates, drifting away from the requirements of good governance. Especially since not every participating country will have a representative in that government, as is currently the case in the European Commission and the European Council. Federal Ministers

are Europeans, serving common European interests. They are not representatives of national governments, serving national interests. The same applies to the civil service within Ministries. Ministries of the Government of the Federation of Europe must have European legitimacy, not national (= member state) legitimacy.

In order to open the debate on this, we cut the knot in a simple manner: we follow (not to copy but to give an idea) the policy areas/ministries of the Cabinet of the American President.

This concerns fifteen ministers:

1) Minister of Foreign Affairs: in charge of the foreign policy of the Federation. On the understanding that the States of the Federation retain their own foreign policy for their substantive domains, with their own Ministers of Foreign Affairs, as is currently the case in the EU and in the Belgian Federation.
2) Minister of Finance in charge of the financial policy of the Federation. Including the federal budget and federal taxes. Including the supervision of the Fiscal Union we advocate.
3) Minister of Defense: charged with the care of the federal army in all its components: namely, land forces, air forces, naval forces, and militias.
4) Minister of Justice in charge of all judicial matters.
5) Minister of the Interior. This American Secretary of the Interior is not comparable to the Minister of the Interior as we often know it in Europe. In this case, it is about the care for the transnational spatial planning, with an emphasis on the care for the preservation of the quality of life.
6) Minister of Agriculture: responsible for agriculture, stock breeding, fisheries, and horticulture, as well as food security (production, distribution, and supply) and food safety (healthy food).
7) Minister of Commerce: responsible for the economy, trade, competition policy and intellectual property.
8) Minister of Labor: responsible for employment and working conditions.
9) Minister of Health and Human Services: responsible for health and social services, including poverty reduction.
10) Minister of Housing and Urban Development: responsible for public housing and the development of urban areas.
11) Minister of Transportation: responsible for all transportation of persons and goods for each mode of transportation between the States of the Federation, including the construction of transnational infrastructure.
12) Minister of Energy: responsible for energy supply and distribution, as well as for the promotion of clean energy and energy saving measures, and the issue of climate change.

13)Minister of Homeland Security[18]: responsible for ensuring homeland security, combating terrorism within the Federation, and responding to disasters.
14)Minister of Education, Science, and Innovation: responsible for the curriculums meeting required standards throughout the Federation, supporting basic scientific research, ensuring innovation in areas such as electronic traffic, product innovation and the creation of new educational systems.
15)Minister of Cultural Relations and Immigration: responsible for ensuring good relations between the peoples of the member states, for the interests of regions and populations with their own language and culture, and for migration policy.

This might be an idea to elaborate on: fifteen federal ministers as members of the Cabinet of the Praesidium of the Federation. And thus, no twenty-seven or more Commissioners to satisfy the national interest or honour of each Member State in the EU. Let alone a European Council.

Explanation of Article V – The Powers and Tasks of the Executive Branch

Explanation of Section 1 – The President's and Praesidium's powers

Clause 1 is the equivalent of Article III, Section 1, Clause 2: it is the Praesidium's responsibility that the policies of the executive branch adhere to principles of inclusiveness, deliberative decision-making, and representativeness in the sense of respecting and protecting minority positions within majority decisions, with resolute wisdom to avoid oligarchic decision-making processes. Citizens can challenge policies they believe do not meet these requirements up to the highest court.

Clause 2 places the supreme command of all armed forces and security services in the hands of the President. Clause 2 does not mention militia. There is no place in Federal Europe for para-military and irregular armed forces, which in practice often go their own way. The right to declare war on another country is a power of Congress.

Clause 3 gives the Praesidium the power to appoint the offices in the Executive. It appoints the Ministers. As well as the diplomatic staff, government officials and other officials whose appointment is not regulated in any other way.

[18] The policy of this Ministry is usually found in Europe in the Ministry of the Interior. But that is not a good formulation. Security is a matter of Homeland Security. Interior affairs are about how that interior looks in terms of spatial planning and infrastructure, in the service of a sustainable life.

Clause 4 regulates that the power of the Praesidium to seek advice from the Ministers does not apply to military matters, but to everything related to their work. What is important in this respect is that the Constitution assumes in so many words that the Praesidium has Ministers at its disposal.

Clause 5 regulates the Praesidium's power to grant amnesty and pardon, a normal part of any Constitution. However, one cannot leave this to one person, the President. Therefore, this is a competence of the Praesidium.

Clause 6 gives the Praesidium the right to make Treaties. But it links this to the duty to seek advice and approval from the European Congress by a two-third majority in both Houses. This provision does not prevent the Member States of the Federation from continuing to conclude Treaties, provided that they do so within the context of their own policy areas. This is due to the vertical division of powers, explained in Article III. This implies that both levels of government can have their own diplomatic and consular corps. For treaties and diplomats, this is already the case in the European Union. The division of tasks between the consuls of each administrative level can be regulated. For example, by declaring federal consuls exclusively competent to assist (commercial) legal persons. In our view, each Member State of the Federation remains competent for its own legislation on nationality and thus helps abroad to physical persons with the nationality of that State. The nationality of a Member State is combined with the Citizenship of the Federation.

Clause 7 is the result of Article I, Clause 7 with regard to becoming a member of a World Federation. If such a request is made by such a World Federation to the Praesidium of the Federation, Clause 7 requires the Praesidium to hold a decisive referendum among the people of Europe on the question of whether the Federation should join such a World Federation. Clause 7 also includes the commitment of the Federation to join other federal states in exchanging the treaty-based UN for a federal world government, based on a federal constitution.[19]

Clause 8 instructs the Praesidium to organize once a year a consultative referendum among all Citizens of the Federation with the right to vote in order to obtain the opinion of the European people with respect to the execution of the federal policy domains.

[19] See Leo Klinkers and Mauro Casarotto 'The San Francisco Promise, Ukraine and UN's irrelevance', in Europe Today Magazine: https://www.europe-today.eu/2022/03/23/the-san-francisco-promise-ukraine-and-uns-irrelevance/.

Explanation of Section 2 – The President's and Praesidium's tasks
Clause 1 deals with the annual State of the Union. This is an executive task that in this European Constitution substantively is assigned to the Praesidium and orally to the President. The Praesidium is supposed to bring forward everything that it considers important.

Clause 2 gives the President the right to convene both Houses in extraordinary cases. Without further criteria to be observed.

Clause 3 requires all foreign ambassadors to present their credentials in a personal interview with the President.

Clause 4 is known in the US as the 'Take Care Clause' or the 'Faithful Execution Clause'. In essence, it is an order to the Praesidium to faithfully execute the laws, even if it does not agree with them. This is not just about execution itself, but also about realizing the intrinsic intentions of Congress: hence the word 'faithful'. This Clause is held in high esteem in the US and is thus also the source of a strong teleological attitude among those in authority and the citizens. An attitude that manifests itself in a high degree of curiosity about "What would the founding fathers of the Constitution have meant? What goals does Congress want to achieve with that provision in that law?". Nonetheless, it is recognised that the US President has broad authority to interpret the intentions of the legislature. But always with the Supreme Court as watchdog, empowered to declare presidential action contrary to the Constitution: "The Constitution is what the judges say it is."

Clause 5 gives the Praesidium the power to ensure that all officials of the Federal Government know what their job is.

Explanation of Article VI: The Judicial Branch

Article VI deals with the third component of the trias politica: the Judicial branch. As mentioned earlier, it is not possible at this time to determine whether all the institutions of the European Union, including the EU Court of Justice, are also institutions of the new Federation. This could be done by applying Article 20 of the Treaty on the European Union: at least nine Member States may enter into enhanced cooperation without prejudice to the internal market (the safeguarding of the customs union, currency policy, competition policy and trade policy). In our view, such an enhanced form of cooperation could take the form of a Federation. In that case, there would be no need to establish a European Court of Justice for the Federation. That Court would then take on that function. If such an Article 20 Federation is not considered an enhanced cooperation, it remains possible for Citizens and States - like the United Kingdom - first to leave the EU (Article 50 of

the Treaty on European Union), then to form a federation in its own right, and then to become a member of the EU as a Federation (Article 49). Article X on the ratification process regulates this Article 20 issue.

Now first the judiciary with a Federal Supreme Court of Justice, at the top. In our opinion, a system of lower federal courts in the Member States of the Federation is needed below this. We therefore first describe in broad outline what that judicial system looks like in the United States. This is followed by the articles of our draft.

As long ago as 1789, the US Congress laid down by law that the federal judiciary would consist of three layers. The first layer is occupied by the Supreme Court. Under it, there are nineteen federal courts of appeal against the judgements of the ninety-four federal district courts below it. In addition, each State has its own courts and thus its own State Supreme Court.

Note: the power of Congress to establish lower federal courts implies the power to abolish them as well. In the US, this sometimes happens in the power struggle between the President and Congress, when the majority in Congress is not from the President's party. In order to prevent the President from using his presidential power to appoint judges (after advice and approval from the Senate) only to put party members in such positions, it can happen that the opposition in the Senate blocks these appointments. If such a lower federal court were to be without judges for a long time (because the previous ones had retired or left for other reasons), it would happen that Congress would close down such a court.

The US Supreme Court rules in matters of the federal government, in disputes between Member States and in the interpretation of the US Constitution. The Constitution does not give that Supreme Court the right to declare laws contrary to the Constitution in so many words, but in a dispute in 1803, the then President of the Supreme Court established or claimed that power for the Court. This so-called 'Judicial Review' implies the power of the Supreme Court to declare a law of Congress or a measure of the executive branch contrary to the Constitution. The Supreme Court's decision is a precedent for similar cases in the future. The Supreme Court acts as an appellate body to decisions of the nineteen federal courts of appeal.

At the lowest level, the federal district courts have jurisdiction in disputes relating to the federal system, and in matters between litigants who do not reside in the same State. Decisions of these courts may be appealed to the nineteen courts of appeal. These federal courts are thus based on Article III of the American Constitution (in our draft Article VI) and are therefore called 'constitutional courts'.

The courts of these three tiers have general jurisdiction. They handle criminal and civil cases. In addition to this three-tier structure, there are special courts, for example for bankruptcies (Bankruptcy Courts) or taxes (Tax Courts). However, these have a different status. The Bankruptcy Courts are considered 'below' the district courts and therefore do not fall within Article III of the US Constitution (in our draft Article VI). Their judges are not appointed for life and their salaries can be adjusted. The Tax Courts do not fall under that Article III either, but under Article I, Section 8 (in our draft Article III). It is a so-called 'legislative court'. Note that the US Constitution thus gives Congress the power to establish courts in two places – their Articles I and III; in our Constitution Articles III and VI.

In addition to acting as an appellate body, the Supreme Court rules on disputes concerning the interpretation of the Constitution, treaties and matters that affect Ministers or Ambassadors and Consuls of other powers.

US federal judges are appointed for life. This means that they remain in office until they die, voluntarily resign, or retire. If they commit a serious crime, they are also subject to the procedure of impeachment.

In addition to this three-tier federal judiciary, the US Member States themselves have courts. This makes things rather complicated, because it happens under circumstances that federal courts may interfere in conflicts at the level of a State, and vice versa that courts of a State may rule in disputes of a federal nature. The courts of a State administer justice on the basis of the laws of that State. And thus, also with the procedural law of that State. Each State also has its own Supreme Court. In principle, this Supreme Court of each State is the court of last instance. But in many cases, decisions of that State Supreme Court can still be appealed to the Federal Supreme Court. The State Supreme Court is bound only by interpretations of the Constitution by the federal Supreme Court, not by decisions of lower federal judges.

The US Constitution does not specify the number of judges on the Supreme Court. However, for many years it has consisted of nine people: the Chief Justice as the presiding judge and eight others. All are appointed by the President after approval by the Senate. The Court has no separate chambers and always rules jointly, by majority vote. Pleas for the establishment of Chambers have always been rejected by the Supreme Court on the grounds that there would then be more than one Supreme Court.

Now to the relevant Articles of our draft Federal Constitution.

Explanation of Section 1 – The Courts and the Judges
The judges of the Federal Supreme Court of Justice are not appointed by the President, but by a Praesidium of Judges, based on an act by the European Congress. This is to prevent the President – supported by a partisan House of the States - from pushing through party-political appointments. It is not the Constitution but this act that determines the number of judges of the Federal Supreme Court of Justice.

It is up to the European Congress to decide whether there should be lower federal courts below the Federal Supreme Court of Justice, so-called Constitutional Courts, in addition to and separate from the courts that each Member State establishes itself.

The requirement of good behaviour of judges means that they may continue to work until they retire at 75, unless their behaviour leads to impeachment by Congress. This has happened fourteen times in the US. It is also stipulated that their salaries may not be reduced (but may be increased) in order to avoid pressure on their independent judiciary.

The phrase 'proper representation from all Member States' in Clause 2 implies that the law of the European Congress referred to here will determine how many judges will sit in courts. So, this Constitution does not fix the number of judges of the Federal Supreme Court of Justice. The evolution of the judicial system of the Federation must be flexible and quickly adaptable by law of the European Congress.

Explanation of Section 2 – Powers of the Federal Judicial Branch
Section 2 deals with the jurisdiction of the Federal Judicial Branch. The Federal Supreme Court of Justice as well as the lower Constitutional Courts have the power to declare rules and executive measures invalid on constitutional grounds. They may review laws against the Constitution because it is the highest form of law. There has been much debate about this in the US. One can ask the question: “Who is the boss here?” If the legislator makes a law, it applies to everyone. But if a judge considers such a law contrary to the Constitution, that validity falls away. Federal judges (including those lower than the Federal Supreme Court of Justice) can therefore 'overrule' the legislature.

Alexander Hamilton, in No. 78 of The Federalist Papers, provided a clarification on this point that to this day stands as the prevailing doctrine:

> "The interpretation of the laws is the proper and peculiar province of the [federal] courts. A constitution is, in fact, and must be regarded by the [federal] judges, as a

> fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.
> Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental."

So, we follow Hamilton in his reasoning that a Constitution is the most fundamental law, of and for the people. Consequently, that law takes precedence over all other laws. This means that the Constitution in the Federation is the judicially enforceable law of the highest order. It is truly 'a Constitutional Law', i.e., it is more than a 'Convention of the Constitution' or a moral-political agreement that can hardly be invoked in court.

In Section 2 the Clause 1b is a peculiar one. In charge of protecting the rule of law throughout the Federation this power of the Judicial Branch is a safeguard against socalled 'destructive amendments', as in 'unconstitutional constitutional amendments'[20]. Those amendments are not meant to improve but rather to attack a Constitution, either the Federal Constitution or that of a Member State. On the basis of a teleological approach, all courts of the Federal Judicial Branch determine what is 'legally right'. This may differ from what is politically considered a good solution to societal problems. If politicians annihilate societal cohesion and thereby cause, among other things, financial-economic problems, which is a common precursor to war on a grand scale, then the Federal Supreme Court of Justice and the Constitutional Courts can prevent them from restricting and abolishing (fundamental) rights and even turning society into a concentration camp. Clause 1b protects the vulnerability of the Constitution against autocratic impulses.

Clause 2 of Section 2 provides that for suits to which a Member State or Member States, Ministers, Ambassadors and Consuls of the Federation are the only parties, only the Federal Supreme Court of Justice shall have jurisdiction at first and last

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[20] See Yaniv Roznai, '*Unconstitutional Constitutional Amendments: A Study of the nature and Limits of Constitutional Amendment Powers',* PhD Thesis for the Department of Law, London School of Economics and Political Science, 2014. For his book see: https://www.amazon.it/Unconstitutional-Constitutional-Amendments-Limits-Amendment/dp/0198768796

instance. This exception to the principle of jurisdiction at first instance and on appeal is dictated by the delicate nature of such litigation, where the immunity from jurisdiction of Member States or officials within and outside the Federation is at issue.

With Clause 3 of Section 2, we introduce jury trial in the Federation. At least for crimes specified by law. A thorny issue in many countries. We are familiar with the fierce debates of those for and against this. Our argument for taking this step nevertheless lies in the all-important element of federal thinking: the Federation belongs to the people. When in doubt about the right way of constitutional and institutional design, it is wise to take the people as the starting point. Therefore, for certain crimes, jurisdiction by a jury, assisted by professional magistrates.

Explanation of Section 3 - Powers of the Federal Supreme Court of Justice
This Section 3 is dealing with some specific powers of the Federal Supreme Court of Justice. It is a special power to make preliminary rulings on the interpretation of the law at the request of lower courts or individuals.

Explanation of Section 4 - High treason and (no) death penalty
We assume that these provisions require no further explanation.

Explanation of Article VII: The Citizens, the States, and the Federation

Explanation of Section 1 – The Citizens
Clauses 1 to 3 elaborate on the concept of the Citizenship. The Citizenship of a Member State goes hand in hand with Citizenship of the Federation. As soon as a person possesses the nationality of a Member State, he or she also has federal Citizenship. One receives a single passport, issued by one's own State, stating Citizenship of the Federation. This means that he or she has the federally granted political and other rights and that he or she can also call on its diplomatic or consular services outside the Federation in matters for which they are competent. The latter implies that those federal services must allow Citizens of the Federation, residing outside the Federation, to participate in elections for the House of the Citizens and the President/Vice Presidents.

The Clauses 4 to 10 regulate another set of direct and deliberative democracy, in addition to and reinforcing provisions on direct and deliberative democracy, regulated in other articles of the Constitution. They are expressly intended to solve the democratic deficit of the Treaty-based intergovernmental European Union. The Constitution introduces two issues here. First, the right of Citizens to launch a

People's Initiative, among which the right to propose to amend a part of the Constitution. Second, the concept of compulsory and optional referendums. Because this partly concerns possible changes to the Constitution, Article VIII, dealing with changes to the Constitution, naturally also plays a role here.

Explanation of Section 2 – The States

Clause 1 requires States to recognise the practice of law in the other States of the Federation as of right. Thus, the States do not subject each other's law to evaluation, but let it apply to them. Among other things, this provision avoids administrative burdens for Citizens, administrations and judges concerning the use of official documents. In the Federation, therefore, any requirement for legalization of documents drawn up by a Member State is waived; these documents therefore have legal force in other States of the Federation.

Clause 2 means that only the Member States of the Federation have competence in matters of Citizenship with all the political and social rights attached thereto, although the Federation becomes competent for immigration policy. Each Member State recognises the Citizenship of another State and, according to its legal order, treats the Citizens of that other State as its own Citizens. This also implies that all the Member States of the Federation provide help and assistance to each other's Citizens abroad through their diplomatic and consular services where necessary.

Clause 3 provides for the conditions to be fulfilled by States who want to accede to the Federation.

Clause 4 rules that leaving the Federation is possible, provided the leaving Member State follows the same procedure as indicated in Clause 3.

Clause 5 makes clear that the States, acceding to the Federation at the moment of the ratification of the Constitution, are freed from their debts. Under a federal tax system, complemented by a Fiscal Union, they start their lives as Member States of the Federation with a clean financial slate. Under a federal tax system, complemented by a Fiscal Union, they start their lives as Member States of the Federation with a clean financial slate. Under a federal tax system, complemented by a fiscal union, they start their lives as Member States of the Federation with a clean financial slate. This does not apply to States that register as members of the Federation after it has been established and has entered into force. Those States retain their debts and must apply the federal rules in force from the time of their accession.

Clause 6 rules that any change in the number of Member States of the Federation, by merging or splitting States, shall be submitted to the Citizens concerned, to the Parliaments of all the States and to the European Congress. The reason for these various authorizations is that they alter the balance of power between the Member States and within the Federation, institutionally for example, by affecting the composition of the House of the States. This provision is important for regions with activist groups that aspire to establish their own state, such as Catalonia in Spain, Corsica in France, Flanders in Belgium, and Scotland in the United Kingdom.

Clause 7 provides for extradition of suspects between Member States as the flip side of the free movement of persons in the Federation.

Clause 8 reaffirms the principle of prohibition of slavery and forced labour.

Explanation of Section 3 – The Federation

Clause 1 emphasizes the guarantee that the Federation secures a representative democracy for each Member State and that it will protect them against an invasion and against internal violence. That it is a centripetal constitution underlines the potential of this type of constitution - unlike a centrifugal/devolved constitution - to ensure diversity.

Clause 2 stresses - as an explicit aspect of the vertical separation of powers of this centripetal federation – that the Federal Authority does not interfere with the internal order of the Member States, but rather ensures the unconditional application of the rule of law throughout the Federation. A federal state is not a supranational state of which hierarchical decision-making is a feature.

Explanation of Article VIII - Changing the Constitution

Article VIII balances between the harshness of the original 'Articles of Confederation' (1776-1787) which, with its unanimity requirement, did not allow for much, if any, amendment of the Confederal Treaty, and an overly soft application of majority decisions that - under the pressure of the political frenzy of the day - would introduce constant changes to the Constitution, making it unstable. This Article VIII, therefore, tries to safeguard the fundamental character of the Constitution, but at the same time to offer room for the need to adapt, from time to time, that basic document of an organization such as the Federation Europe to changed circumstances and changed insights.

Explanation of Article IX: Federal Loyalty

The first Clause of this Article makes it clear that the Constitution, together with federal laws and treaties, constitutes the fundamental law within the Federation and that everyone has to comply with it. Also, the judges of the Member States. State law - whether in a State Constitution or in state laws and regulations - may not conflict with the federal Constitution. So, trying to 'nullify' a federal law in a state law is not possible. For the rest, the States are free to make the laws they see fit, provided that they comply with the rule of law. In order to ensure that respect for the Constitution is observed, the second Clause provides that those in positions of responsibility must take an oath or pledge, which, incidentally, exempts them from an enquiry into their religious beliefs.

Explanation of Article X: Ratification of the Constitution

For the Federation to enter into force, the federal Constitution must first be ratified. This is a matter and task for the Citizens of Europe because it is a Constitution of, by and for the Citizens. Their ratification is an endorsement - a confirmation - by which the Constitution becomes binding. It is up to their national parliaments to follow the ratification by their Citizens in accordance with the provisions of their national constitutions.

Participation in this ratification process is open to all Citizens with the right to vote - from all the states of Europe. So, also to Citizens of states that are not members of the European Union.

By putting the ratification in the hands of the Citizens, we are following the procedure of the ratification of the US Federal Constitution between 1787 and 1789: it is about the application of the most basic right of the Citizens, based on the adage: "All sovereignty rests with the people".

This Article X provides for two possible federations. If the citizens of all the EU Member States ratify, the Federation will replace the European Union. If not all Member States ratify, a federal Europe can nevertheless be established on the basis of Article 20 of the Lisbon Treaty's partial treaty, the Treaty on European Union. Article 20 gives at least nine Member States the power to organize a form of enhanced cooperation. Since the concept of enhanced cooperation is not further qualified, it can take the political form of a federation.

The organization of this ratification process will gradually become clear.

Acknowledgements

Well then, this is the conclusion of the Constitution for Europe by the Federal Alliance of European Federalists (FAEF). Only ten articles, bearing in mind Napoleon Bonaparte's 1804 statement: "The best constitution is the concise and pithy one." It offers Europe the strength to leave the era of erroneous treaties behind, making the leap to a new European State system, that of a federal state, the best form of state when sovereign countries want to cooperate in peace, while preserving their own cultural identity.

This leap is perhaps what former EU-Commission President Romano Prodi meant in 2000 when he said: "Great reforms will make a great Europe."

Speaking about great reforms, let us recall once again that the Philadelphia Convention as early as 1787 preceded Prodi's statement by committing three daring steps out-of-the-box. Firstly, by disobeying the mandate – giving by their Confederal Congress - to amend the Confederal Treaty. Instead, they threw away the treaty and designed a Federal Constitution. Secondly, by submitting that Constitution not first to the Confederal Congress for ratification, but to the Citizens of their thirteen States through a system of electoral delegates. Thirdly, they ignored the requirement of unanimity: if the Citizens of only nine States agreed, the Constitution would enter into force.

Three steps out-of-the-box. A great reform: the birth of the federal state-system; in 2022 no less than 27 federations house over 42% of the world's population.

What was realised in America, creating an authority that encompasses them all as a remedy for degenerating conflicting fragmentation - from which Europe suffers since centuries - Europe is only now about to achieve. More than two hundred years and many devastating wars later. We can be annoyed by it. Better to be glad that it finally seems to be happening. And that we are ready for it.

That is why FAEF Board is very moved by the work that FAEF's Citizens' Convention[21] has done from October 2021 to April 2022. Our Convention, modelled on the Philadelphia Convention, has, as a six-months peer review, significantly improved a previously drafted centripetal federal Constitution of ten articles. Making it a powerful document of which we are extremely proud and grateful to the members of the Convention.

[21] The members of the Citizens' Convention who did this remarkable work are here listed.

No European state can reasonably dispute the correctness of this federal Constitution: it does not threaten any existing right or interest of any state but places the responsibility for Common European Interests on the European level, in order to meet global challenges for ensuring security and prosperity. The fundamental strength of our federal Constitution is the principled choice to base the care of European interests on a bottom-up democratic Constitution of, by and for the Citizens of Europe.

Finally this. The ratification of this Federal European Constitution is a task and a matter for the Citizens of Europe. Not of the current European Parliament, not of the European Council, not of the European Commission. It is only a task of the national Parliaments after their Citizens have spoken: 'All sovereignty rests with the people'.

Those who doubt whether there is support for such an approach may be convinced by the following quote from the Berlin Europe speech by Germany's Federal President Joachim Gauck on 22 February 2013:

> "Ohne die Zustimmung der Bürger könnte keine europäische Nation, kann kein europäischer Staat wachsen. Takt und Tiefe der europäischen Integration werden letztlich von den Europäischen Bürgerinnen und Bürgern bestimmt. ... Was Europa jetzt braucht, sind keine Zweifler, sondern Fahnenträger, keine Zauderer, sondern Menschen, die bereit sind, zuzupacken, nicht die, die einfach mit dem Strom schwimmen, sondern aktive Mitspieler... Mehr Europa heißt für mich: mehr Europäische Bürgergesellschaft."

In English:

> "Without the consent of the Citizens, no European nation, no European state could grow. The pace and depth of European integration are ultimately determined by the European Citizens. ... What Europe needs now are not doubters but flag-bearers, not laggards but people who are ready to get stuck in, not those who simply go with the flow but active players.... For me, more Europe means more European Civil Society".

With this message we offer our Federal European Constitution to the Citizens of Europe. It is up to them to decide on it.

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