

## **Article III - Powers of the Legislative Branch**

### **Section 1 - Legislative procedure**

1. Both Houses have the power to initiate laws. They may appoint bicameral commissions with the task to prepare joint proposal of laws or to solve conflicts between both Houses.
2. **The laws of both Houses must 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.**
3. The House of the Citizens has the power to initiate legislation affecting the federal budget of the European Federal Union. 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 President and need his/her approval before they will gain legal effect. If the President disapproves, this matter will nevertheless have legal effect if two thirds 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 livability of the European Federal Union, by regulating policies against existential threats to the safety of the European Federal Union, its States and Territories and its Citizens, be they natural, technological, economic or of another nature or concerning the social peace.
  - (b) The financial stability of the European Federal Union, by regulating policies to secure and safe the financial system of the Federation.
  - (c) The internal and external security of the European Federal Union, by regulating policies on defence, intelligence and policing of the Federation.
  - (d) The economy of the European Federal Union, by regulating policies on the welfare and prosperity of the Federation.
  - (e) The science and education of the European Federal Union, by regulating policies on the level of wisdom and knowledge of the Federation.

- (f) The social and cultural ties of the European Federal Union, by regulating policies on preserving established social and cultural foundations of Europe.
  - (g) The foreign affairs of the European Federal Union, by regulating policies on strengthening the Common European Interests in the interest of global peace, social equality, economic prosperity, and public health.
2. As a consequence of the fact that the European Federal Union is being built according to the principles of centripetal federalisation, the European Congress derives its powers to look after these Common European Interests from powers that the Member States of the European Federal Union entrust to the federal body through a vertical separation of powers, as a result of which the federal body and the member states have shared sovereignty.
  3. Appendix III A, being integral part of this Constitution but not subject to the constitutional amendment procedure, regulates the way the Member States decide which powers to entrust to the federal body. It also regulates the influence of the Citizens on that process.

### ***Section 3 - Constraints for the European Federal Union and its States***

1. No taxes, imposts or excises will be levied on transnational services and goods between the States of the European Federal Union.
2. No preference will be given through any regulation to commerce or to tax in the seaports, air ports or spaceports of the States of the European Federal Union; nor will vessels or aircrafts bound to, or from one State, be obliged to enter, clear, or pay duties in another State.
3. No State is allowed to pass a retroactive law nor a law on civil death. Nor pass a law impairing contractual obligations or judicial verdicts of whatever court.
4. No State will emit its own currency.
5. 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 European Federal Union; all related regulations will be subject to the revision and control by the European Congress.
6. No State will, without the consent of the European Congress, have an army, navy, air force or space force, enter into any agreement or covenant with another State of the Federation or with a foreign State, or engage in a war, unless it is actually invaded or facing an imminent threat which precludes delay.

### ***Section 4 - Constraints for the European Federal Union***

1. No money shall be drawn from the Treasury but for the use as determined by federal law; a statement on the finances of the European Federal Union will be published yearly.

2. No title of nobility will be granted by the European Federal Union. No person who under the European Federal Union holds a public or a trust office accepts without the consent of the European Congress any present, emolument, office, or title of any kind whatever, 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 Congress.
4. No person or entity, whether living, robotic or digital, may contribute more than one day's wages of the average laborer to a person seeking elected office in a particular election cycle, in currency, goods, services or labor, whether paid or unpaid. Anyone seeking an elected position that accepts more than this amount in any form, and anyone who seeks to circumvent this statutory limit on campaign contributions, will be barred from holding office for life and will serve a minimum term of imprisonment of five years.
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 five years of its annual 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 five years on an annual basis, payable on conviction.
7. No individual shall spend more than one month of the average monthly wage of the average worker on his own campaign for an elected office. Anyone wishing to circumvent this statutory limit on campaign contributions will be barred from holding office for life and will serve a minimum sentence of five years imprisonment.
8. 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.
9. 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 five years in revenue, 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.

## **Explanatory Memorandum of Article III**

### **Explanation of Section 1**

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 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.

Clause 4 excludes the President's involvement in the legislative process of both Houses. The US Constitution gives the President the power to veto a draft law, but then a complicated process follows between the 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 President a say in legislative matters of a lower level than a law.

### **Explanation of Section 2**

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**

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 organisation but by the political views and decisions of the members of the House of the Citizens, of the States and of the Federal Executive. 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 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.

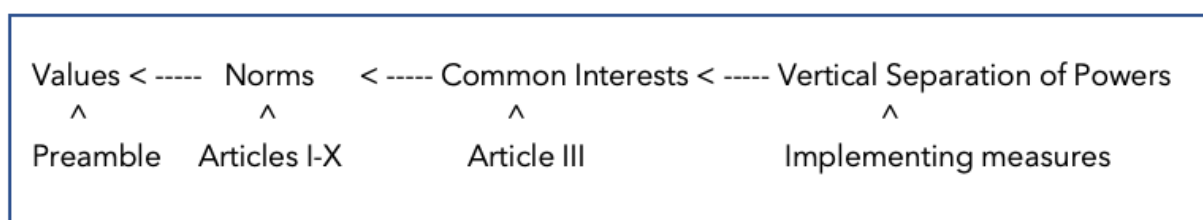
Section 2 shows the list Common European Interests in relation to substantive subjects for which the Federal Authority needs powers to look after those interests. Because this federation is built on the principles of centripetal federalizing (by building from the bottom up the parts create the whole) the Member States shall determine for which Common European Interests they are entrusting 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 federalisation: a central government creates 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 so-called vertical separation of powers between the Member States and the Federal Authority, leading to shared sovereignty between the two.<sup>1</sup>

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 the norms and thus fall under the ten articles of the Constitution, not in the Preamble. Moreover, common interests are part of a second ends-means relationship. They are cared for and secured through the vertical separation of powers between the Federal body and the Member States.

Note that both 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 actually realise the ends. A simple diagram shows the relations:



## The Clauses of Section 2

Clause 1 lists the Common European Interests. This is the fulcrum of a federal Constitution. The only reason to make a centripetal federation is that states realise

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<sup>1</sup> 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>.

that they can no longer look after some interests on their own. They then jointly create a federal body and ask that body to look after a small set of common interests on their behalf and of their Citizens.

Clause 2 explains what a centripetal federation is, and Clause 3 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 European Federal Union will show that the Houses of the European Congress - just like those of the US Constitution - 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 - organised 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, by the way, is not something of the recent past in the US. It arose from the inception of the 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."<sup>2</sup>

### **Explanation of Section 3**

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<sup>2</sup> For more information on these issues, see Chapter 10 of the aforementioned Toolkit: <https://www.faeu.eu/wp-content/uploads/Constitutional-Toolkit.pdf>.

According to Clauses 1 and 2 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 America 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 3 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 4, 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. In other words, we are proposing to create a financial system similar to that of the USA.

Clause 5 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 six delegates of the House of the States (without voting rights) delegated by the ACP countries to the European House of the States.

Clause 6 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 5**

In this Section 5 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 United States of Europe, Article III, Section 5 contains  
Clauses justifying the adage: 'Money should not be the oxygen of European  
politics'.

**[This is new but it would be too much to make it bold]**

### **Appendix III A - The procedure for the vertical separation of powers**

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 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 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 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. Decentralization 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. But the effect of such a course of action is that there will always remain unitary/centralist aspects. 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 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 in order 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 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 European Federal Union, related to the following Common European Interests:

#### **1. The livability of the European Federal Union,**

by regulating policies against existential threats to the safety of the European Federal Union, 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 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 the policy on the safety and availability of food and drinking water;
- (c) to regulate the policy on preventing scarcity of natural resources and dysfunctional supply chains;
- (d) to regulate the policy on social security and child care;
- (e) to regulate the policy on employment and pensions;
- (f) to regulate the policy on health throughout the European Federal Union, including prevention, furthering and protection of public health, professional illnesses, and labor accidents;
- (g) to regulate throughout the European Federal Union the policy on uniform migration and integration rules, what rules will be co-maintained by the States;
- (h) to regulate the policy on justice and on establishing federal courts, subordinated to the European Court of Justice.

## **2. The financial stability of the European Federal Union,**

by regulating policies to secure and safe the financial system of the Federation.

### Potential topics for debate 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 European Federal Union, 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 European Federal Union,**

by regulating policies on defence, intelligence and policing of the Federation.

### Potential topics for debate 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 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 European Federal Union,**

by regulating policies on the welfare and prosperity of the Federation.

Potential topics for debate 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;
- (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 bankruptcy throughout the Federation;
- (f) to regulate the policy on the production and distribution of energy supply;
- (g) to regulate the policy on consumer protection;

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

Potential topics for debate 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 European Federal Union,**

by regulating policies on preserving established social and cultural foundations of Europe.

*Potential topics for debate 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 foreign affairs of the European Federal Union,**

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 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.

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

1. The Common 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 European Federal Union'.
2. These common 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 federale entity.
3. 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.

4. 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.
5. 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 (direct 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 for direct democracy.
6. 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.
7. 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.
8. For this reason, the topics aforementioned are intended only as possible subjects for debate and negotiation in the procedure of vertical separation of powers.



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