

## **Article II - Organization of the Legislative Branch**

### *Section 1 - Setting up the European Congress*

1. The Legislative Branch of the European Federal Union 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 European Federal Union.

### *Section 2 - The House of the Citizens*

1. The House of the Citizens is composed of the delegates of the Citizens of the European Federal Union. 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 European Federal Union. 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 1<sup>st</sup> of the election year.
2. The size of the House of Citizens will follow the political and demographic development of the European Federal Union, based on a ten-year census cycle. If the population of the Federation does not exceed four hundred million, the House of the Citizens will consist of four hundred delegates. When the population is between four hundred and five hundred million, the House of the Citizens will consist of five hundred delegates, and when the population exceeds five hundred million inhabitants, it will consist of six hundred delegates.
3. Subject to the law to be established by the House of the Citizens on requirements of competence and suitability for the office of delegate on behalf of the Citizens of the European Federal Union, are eligible those who have reached the age of eighteen years on June 1<sup>st</sup> of the election year and are registered as Citizen of one or more States of the Federation during at least seven years. 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 organise 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 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 (no double mandates), nor with a position or such a relationship with European or global enterprises or other organisations 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 States of the Federation, regardless of the number of years of that registration. Citizens of a 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 choose their Chair, consisting of three delegates of the House, with the right to vote, and appoint their own personnel.

### *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 the legislature of their State 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 1<sup>st</sup> of the year of their appointment.
2. Subject to rules to be established by the House on requirements of competence and suitability for the office of delegate on behalf of the States of the European Federal Union, are eligible as delegate those who reaches 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 State of the European Federal Union.
3. The House of the States shall organise 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 (no double mandates), nor with a position or such a relationship with European or global enterprises or other organisations as to influence the Federation's decision making.

5. The Vice-president of the European Federal Union chairs the House of the States. He or she has no right to vote unless the votes are equally divided.
6. The House of the States elects a chairperson pro tempore who in the absence of the Vice-president, or when he or she is acting President, leads the meetings of the House. The House appoints its own personnel.
7. The House of the States holds the exclusive power to preside over impeachments. In case the President of the European Federal Union, the Vice-president of the European Federal Union or a delegate of Congress is impeached the House of the States will be chaired by the Chief Justice of the Court of Justice. In case a delegate of that Court is impeached the President 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.
8. 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 European Federal Union. The convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

#### *Section 4 - The European Congress*

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 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 European Federal Union.
2. The rule on the immunities of both Houses are determined at the level of the European Federal Union. 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 Court of Justice, the Federal Central Bank, and the Federal Court of Auditors*

The European Congress establishes by law The Federal Court of Justice, the Federal Central Bank, the Federal Court of Auditors and regulates their powers.

## **Explanatory Memorandum of Article II**

### **Explanation of Section 1**

Clause 1 implies that the European Congress has the same position as the US Congress: 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 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 the US Supreme Court has ruled several times that Congress can delegate legislative power to federal agencies.

In Clause 2, we opt for Brussels as 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 European Federal Union. 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 the constitution.

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**

In Clause 1 we don't follow the American Constitution. First, our choice 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 transnational political parties. Only through a single constituency for the European Federal Union 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. A federation is only there to look after common interests that cannot (any longer) be looked after by individual states.

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 low. 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 the party that was authorised to adjust the boundaries. 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 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 organisation. 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 base 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 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 European Federal Union depends on how the political parties compile their electoral lists. The political parties can prevent small Member States of the European Federal Union 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 European Federal Union, 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 we can prevent the quality of the work of representation from deteriorating because of the concentration of power, laziness, or excessive influence from lobbyists.

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. Clear, by using numbers to show that relationship. Manageable, by working with a census cycle of ten years. In this way, the constitution does not have to be amended if the size of the federation's population fluctuates.

In Clause 3 we are introducing another revolutionary rule. 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 the most 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, 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-to-female ratio, the composition of the House of the Citizens will, by definition, approach the 50% female-to-male ratio.

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. He does not need to know, because the European Congress is not about German or other national interests, but about European ones. He just needs to have confidence in the transnational political party of his choice. And thus, the confidence that that party will put the best candidates, well distributed over the entire Federation, on electable positions on the list.

Clause 4 introduces another form of influence by Citizens by the obligation on the part of the House of Citizens to organise 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.

With this Clause, we introduce, 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:

1. without having to enter a dialogue with other citizens;
2. without having to weigh up the pros and cons within the framework of the public interest; they can let their own interest prevail;
3. without having to present arguments to support their choice;
4. without having to tell the world what choice they have made;
5. 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.

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, organised 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 organiser 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.

Finally, the legal test ensures the legal protection of Citizens in relation to government action. The interests of the citizens within the Federation must be represented by the Deliberative Democratic method of working enshrined in the Constitution.

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 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. Neither in an economic-financial democracy, nor in a social-cultural sociocracy, nor in a judicial-moral meritocracy. 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 European Federal Union takes the following position.

Brussels - or any other location of the European Congress - is the constitutional capital of European Federal Union, 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 of the European Federal Union has universal suffrage, popular voting, with seats distributed on the basis of proportional representation.
- Everyone who is registered in a member state of the European Federal Union 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 European Federal Union. No elections per Member State, nor per District. So only the popular vote applies throughout the constituency of the European Federal Union.
- 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**

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 voters 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 part of the checks and balances.

In order to prevent a federal European Congress from placing all the power in the hands of the Citizens and undervaluing the interests of the States, we therefore choose 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.

We opt for a larger number of delegates per State to ensure that each State of the European Federal Union 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, to join the Federation. Under the Lisbon Treaty, they are now guaranteed five to eight seats in the European Parliament. By joining a European Federal Union, 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 on the basis of 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.

For the House of the States, we are working on the basis of a five-year term of office, the same of the House of Citizens. We diverge with 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. We do 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. We can imagine 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, we provide 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 to us, 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 organise 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.

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 or she comes, or which elected him or her. 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 follows the US constitution by putting the Vice-President in charge of the House of States. Clause 6 rules that in the absence of the Vice-President, the meetings of that House are led by a Chairperson-pro tempore.

Clauses 7 and 8 deal with matters of impeachment.

### **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. 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 European Federal Union and the ACP countries can be settled by treaty. Should anyone argue that the absence of a literal passage in the Constitution is in conflict with the Constitution, the 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  $27 \times 9 = 243$  people. Plus, the above mentioned (non-voting)  $3 \times 2 = 6$  delegates from the former colonies of European countries, the ACP group.

#### **Explanation of Section 4**

The European Congress decides in full sovereignty on exceptional judicial-moral issues.

In deviation from the American Constitution, we propose that not each House separately regulate its elections, but the European Congress. The reason is the choice to have the election of delegates of the House of the Citizens take place throughout the Federation. In other words, no delegate of the people should be elected per State, but of all the affiliated peoples together. In this way, this House is the indisputable emanation of the elective Citizens of the Federation.

Clause 2 is part of American Amendment XX, ratified in January 1933.

Clause 3 is self-evident. After the Constitution, the Rules of Procedure of a House of Representatives is the most important document because it governs the procedure of democratic decision-making.



**Explanation of Section 5**

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, unless the House concerned decides that certain subjects should remain closed.

**Explanation of Section 6**

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**

This Section provides that the European Congress shall establish the three - non-legislative and non-executive - principal institutions of the Federation and shall regulate their powers by law.