

Article IV - Organization of the Executive Branch

Section 1- Establishing the offices of the President and the Vice President

1. The executive power is vested in the President of the European Federal Union. The President is in office for a term of four years, together with the Vice President who shall also be in office for a term of four years. The President and the Vice President are elected as a duo by the Citizens of the European Federal Union, which has to that goal one constituency. They are re-electable - forthwith - for one term.
2. The election of the President and the Vice President of the European Federal Union will be held on the third Friday in the month of October; the first election in the year 20XX. To bridge the period between ratification of the Constitution of the European Federal Union and the first election of its President and Vice President the European Congress appoints from its midst an acting President. This acting President is not electable as President, nor as Vice President, at the first Presidential election of the European Federal Union.
3. Electable for President or Vice President is any person who, at the moment of his candidacy, to be set by federal law, has reached the age of thirty-five years **or older**, who has the **Citizenship** of one of the States of the European Federal Union and who has been registered as a Citizen of one of the States of the Federation for at least **twelve** years.
4. The President receives a salary for this position, set by the European Congress. The salary shall not be increased nor decreased during the term of his presidency, and he does not receive any other compensation or in kind from the European Federal Union, nor from any individual State of the Federation, nor from any other public institution within or outside of the Federation, nor from a private institution or person.
5. Before the President enters the office, he will pledge, in front of the Chief Justice of the Court of Justice, in the month of January in which his office begins, the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of the President of the European Federal Union and shall to the best of my ability preserve, protect and defend the Constitution of the European Federal Union.

Section 2 - Vacancy and end of the term of the President and the Vice President

1. The President and the Vice President will be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors. In case of removing the President from office, his death or his resignation, the Vice President will become President.
2. Whenever there is a vacancy in the office of the Vice President the President will nominate a Vice President who will take the office upon confirmation by a majority vote of both Houses of the European Congress.

3. Whenever the President transmits to the President pro tempore of the Senate and the Chairperson of the House of the Citizens his written declaration that he is unable to execute the powers and duties of the office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.
4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Chairperson of the House of the Citizens their written declaration that the President is unable to execute the powers and duties of the office, the Vice President shall immediately assume the powers and duties of the office as Acting President.
5. Thereafter, when the President transmits to the President pro tempore of the Senate and the Chairperson of the House of the Citizens his written declaration that no inability exists, he shall resume the powers and duties of the office unless the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may provide by law, transmit within four days to the President pro tempore of the Senate and the Chairperson of the House of the Citizens a new written declaration that the President is unable to execute the powers and duties of the office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of the office, the Vice President shall continue to execute the same as Acting President; otherwise, the President shall resume the powers and duties of the office.
6. The terms of the President and the Vice President will end at noon on the 20th day of January in the final year of their term. The terms of their successors will then begin.
7. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President elect is unable to pledge the oath or affirmation for beginning his office, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as 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 shall have qualified.

Explanatory Memorandum of Article IV: Organisation of the Executive Branch

This article deals with the powers of the Executive branch under the direction of the President. Most European countries do not have a Presidential System, but a Parliamentary Democracy. This means that the Parliament oversees the Executive branch and can therefore call the Prime Minister and members of the government to account. But in the US, there is no ministerial responsibility, nor the so-called rule of confidence (= a minister must resign if he no longer has the confidence of parliament). In a Presidential System like the US, this does not exist. Congress and the President are elected by the people and answer to the people. This explains the extensive Committee system and Staff in both Houses¹. But it also explains the extensive lobbying on the part of the Executive to convince members of the Houses of the need to make certain laws. The President and his Ministers do not sit around waiting for a bill to arrive from a House, but actively pursue policies behind the scenes of the Houses to provoke legislation.

Explanation of Section 1

Clause 1 states that the Executive power lies with the President. It is important to emphasize here that this power is to execute what the legislative Houses of Congress decide. And so, to keep an eye on the President in this regard, Congress - as already discussed - exercises its 'Congressional Oversight': a deep oversight of the executive.

Clause 1 also stipulates that, unlike the American Constitution, we do not use the system of electoral votes per State, where the principle of 'the winner takes all' applies. Clause 1 is based on direct election by a simple majority of the votes (50%+) of the Citizens of the Federation of Europe, with the territory of the Federation forming a single electoral district/constituency. We therefore opt for the system of 'popular vote', whereby the candidate who receives the most votes, seen across the whole Federation, wins. The distribution of the elected representatives among the available seats is a matter of proportional representation.

In America, there are regular calls to adopt this system instead of the electoral system, because on a few occasions (George Bush versus Al Gore, Hilary Clinton versus Donald Trump), it turned out that a candidate had the most voters (Al Gore and Hilary Clinton) but not the most electoral votes. The President and Vice-President can serve a maximum of two four-year terms.

¹ 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>.

Clause 2 departs from the US Constitution. It stipulates that Congress sets the date for the election of the President. For the US, there is nothing against that. However, in view of the importance of a federal Europe to reposition itself swiftly and skillfully in the game of globalizing powers and forces, it seems sensible to us to synchronize the terms of office of the American and European Presidents from the outset. In this way, the two can get used to each other and, where necessary, cooperate, without there being a break in continuity because a new President is elected halfway through the term of one in the other continent. Before they remember each other's telephone number, valuable time is lost.

As an aside, in the US, the day of the Presidential election is set for the Tuesday after the first Monday in November. That is between 2 and 8 November. In 2012, it fell on 6 November. In 2020 on 3 November. Considering European electoral traditions and public holidays in the month of November, we choose the third Friday in the month of October.

Furthermore, in derogation from the American Constitution, Clause 2 stipulates that, during the period between the creation of the European Federal Union and the first presidential elections, an acting President is appointed by and from the European Congress. He will then be ineligible at the first presidential election. The argument is that in the first presidential election of the European Federal Union, the candidates concerned should have a level playing field for the European presidency. Allowing the acting President to participate in that election could adversely affect the level playing field for the other candidates. Moreover, it seems wise that in the months, or perhaps years, preceding the first election of the President of the European Federal Union, someone should be appointed who has no personal interest in his or her election. A businesslike and professional approach to the young Federation is then required.

Clause 3 provides that a person can only become President if he or she has a personal link with the European Federation, namely, possesses the **Citizenship** of a State of the Federation and has lived somewhere officially in the Federation for at least **twelve** years.

Clause 4 provides for a salary of the President for the whole term of office. In addition, he may not accept any other income in cash or in kind - either public or private - other than that derived from his own assets that he had before taking the presidential office. Under Donald Trump's presidency, this has not been adhered to. It is to be hoped that this will not set a precedent for the conduct of any future President of the Federation of Europe.

Clause 5, the compulsory oath or promise of the President, to be taken at the hands of the President of the Court of Justice, is **not** taken from the US Constitution. In the US, this is a quadrennial event that is graced with pomp and circumstance. **This Constitution opts for:**

I, [name], solemnly promise in exercising the powers of the President of The European Federal Union to fulfil 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, safety, and integrity of the Federation; and to faithfully serve the People of the Federation.

Explanation of Section 2

The first five Clauses of this Section are almost entirely taken from U.S. Amendment 25, ratified in February 1967².

The first sentence of Clause 1 is the impeachment provision, used at the time to pressure Richard Nixon into resigning because of his part in the Watergate affair, after which his successor Gerald Ford pardoned him. President Trump has been impeached twice by the House of Representatives but also acquitted twice by the Senate.

This first Clause also solves a problem that people in America have struggled with for a long time. Namely, the question: if the President is succeeded by the Vice President, is he then 'Acting President', i.e., the acting President with only presidential powers, or is he/she President, all the way? Well, the latter has been the case since 1967: the Vice President becomes the President. On that basis, Gerald Ford became President when Richard Nixon resigned because of the Watergate scandal.

Clause 2 was prompted by the concern to ensure continuity in the administration of the Federation. A Vice President may be appointed by the President - with the consent of the European Congress - if for any reason there is no Vice President, so that in this case there is no need to appeal to the Citizens.

Clauses 3 to 5, which relate to the President's inability to perform his duties, speak for themselves. They are taken from Amendment 25 of the US Constitution. When the Capitol was stormed on 6 January 2021 and the Democrats accused Trump of being the instigator, the Democrats put pressure on Vice Presidential Mike Pence to use Amendment 25, Clause 4, to make it clear that President Trump could no longer be considered capable of carrying out the presidency. Pence did not

² See Chapter 8 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>.

accept that challenge. An impeachment procedure then followed, which obtained most votes in the House of Representatives but not in the Senate.

Clauses 6 and 7 are taken from American Amendment 20, ratified in January 1933.