

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

Section 1- The Citizens

- 1. The Citizens of each State of the European Federal Union also possess the Citizenship of the United States of Europe.**
- 2. The Citizens of the European Federal Union over the age of eighteen years, unless they lack legal capacity due to mental illness or mental incapacity, may participate in elections to the House of the Citizens and in federal popular votes, launch or sign popular initiatives and requests for referendums in federal matters. In compliance with the provisions on the requirements of Article III on competence and suitability for membership of the House of the Citizens, transnational political parties shall contribute to forming the opinion and will of the Citizens.**
- 3. At least 1% of the Citizens eligible to vote may, within 18 months of the official publication of their initiative, request a revision of the Federal Constitution. A popular initiative for of the Federal Constitution may take the form of a general proposal or of a specific draft of the provisions proposed.**
- 4. Any popular initiative with the form of a specific draft has to comply with the requirements of consistency of form and of subject matter, and it must not infringe mandatory provisions of international law. If these requirements are not satisfied, The European Court of Justice shall declare it to be invalid in whole or in part.**
- 5. In case of a popular initiative in the form of a general proposal, the House of Citizens must, within 3 months, organize a multi-day meeting with panels of Citizens with the aim to discuss, analyze and weight the proposal and to assist citizens with the preparation of a specific draft. The European Congress may choice to adopt this proposal or organize a referendum for the vote on the specific draft. The European Congress may submit a counterproposal to the initiative.**
- 6. A popular initiative in the form of a specific draft shall be submitted to the vote of the Citizens. The House of Citizens must, within 3 months, organize a multi-day meeting with panels of Citizens with the aim to discuss, analyze and weight the proposed draft and to inform European citizens about the content of the popular initiative. The House of the Citizens shall recommend whether the initiative should be adopted or rejected. On the basis of the confrontation emerged during the panels of Citizens, the European Congress ~~It~~ may submit a counterproposal to the initiative.**
- 7. The Citizens vote on the initiative and the counterproposal at the same time. The Citizens may vote in favour of both proposals. They may indicate the proposal that they prefer if both are accepted. The proposal that**

comes into force is that which achieves the higher sum of the percentage of votes of the Citizens.

8. The following must be put to a referendum:

- a) a decision on ratification of an international treaty, accession to organisations for collective security or to supranational communities;**
- b) emergency federal laws that are not based on a provision of the Constitution and whose term of validity exceeds one year; such federal laws must be put to the vote within one year of being passed by the European Congress.**

9. The following may be put to a referendum:

- a) federal laws;**
- b) federal decrees, provided the Constitution or a law so requires;**

10. Proposals that are submitted to the vote of the Citizens are accepted if a majority of those who vote approve them.

11. All referendums must, within three months, be preceded by panels of Citizens organized by the House of Citizens with the aim to prepare European Citizens to the vote, by providing information on the proposals. On the basis of the outcome of the Panels of Citizens, the European Congress may submit a counterproposal.

Section 2 - The States

- 1. Full faith and credit will be given in each State to the public acts, records, and judicial proceedings of all other States. The European Congress may prescribe by general law the manner in which such acts, records and proceedings will be proved, and the effects thereof.
- 2. The States of the European Federal Union have the exclusive power to regulate matters of Citizenship. A State's Citizenship is valid in any other State of the Federation.
- 3. States may join the European Federal Union with the consent of a two-third majority of the Citizens of the acceding State, a two third majority of the legislative branch of the acceding States, a two-third majority of the Citizens of the Federation and a two-third majority of each House of the European Congress, in this order. The European Federal Union takes note of this consent and acts accordingly.
- 4. On the advice of the European Court of Justice, a state that persistently violates the Constitution can be expelled from the Federation by a two-thirds majority of the European Congress.**
- 5. States joining the European Federal Union after the Constitution having come into force retain their debts and are bound to the laws of the Federation as of the moment of their accession.
- 6. Any change in the number of States of the United States of Europe will be subjected to the consent of a two-third majority of the Citizens of the

concerned States, a two-third majority of the legislative branch of all States and a two-third majority of each House of the European Congress, in that order.

7. A person convicted in any State of the Federation for high treason, felony, or other crimes, fleeing from justice and found in a different member State, will at the request of the executive authority of the State from which he/she fled, be surrendered to the State with jurisdiction relating to that crime.
8. Slavery or any form of compulsory servitude, except in case of punishment for a crime for which the said person has been lawfully convicted, will be ruled out in the European Federal Union or in any territory under federal jurisdiction.

Section 3 - The Federation

1. The United States of Europe will guarantee a representative democracy for each Member State and will protect them against an invasion and, at the request of the legislative branch, or that of the executive branch in case the legislative branch cannot convene, against internal violence.
2. The United States of Europe will not interfere with the internal organization of the States of the Federation.
3. The European Congress has the power to have at their disposal and make all necessary regulations with respect to the territory or other possessions belonging to the United States of Europe.

Explanatory Memorandum of Article VII: The Citizens, the States, and the Federation

Introduction

This first Article of a series of general provisions concluding the draft of our Constitution outlines the further elaboration of the federal system. That is, the relationship between the sovereign federal authority and the equally sovereign authority of the member states. The all-important formula of the vertical separation of powers is thus explained in the Constitution in five stages:

- The first stage is in Article I, Section 2 which says that what is not expressly given to the Federation belongs to the complex of powers of the States and of the Citizens.
- The second stage is Article III, Section 2. That specifies limitatively those federal powers.
- Stage 3 is Section 3 of Article III which specifies the limits within which those powers of the Federation must be exercised for the protection of the Citizens.

- Stage 4 is Section 4 which sets limits to what the Federation and the States may do.
- And then, finally, there is Stage 5 in this Article VII which makes it even more clear how some aspects in the Federation-States-Citizens relationship must be understood.

Explanation of Section 1 - The Citizens

Clause 1, states that every Citizen of an affiliated State is also a Citizen of the Federation, in possession of all political rights. Citizenship of an affiliated State goes hand in hand with Citizenship of the Federation. As soon as a person possesses the nationality of an affiliated State, he or she also has federal Citizenship. One receives a single passport, issued by one's own State, stating Citizenship of the Federation. This means, among other things, that he or she has the federally granted political and other rights and that he or she can also call on its diplomatic or consular services outside the Federation in matters for which they are competent. The latter implies that those federal services must allow Citizens of the Federation, residing outside the Federation, to participate in elections for the House of the Citizens and the President/Vice-President.

The Clauses 2 to 11 regulate direct democracy borrowed from relevant provisions of the Swiss Federal Constitution, adapted to the structure of a European Federation, based on states rather than cantons. The Clauses 2-7 deal with the right of the Citizens to propose amendments to the Constitution. The Clauses 8 and 9 deal respectively with mandatory and optional referendums. Clause 10 regulates the voting by majority decisions. Clause 11 refers to deliberative democracy.

For the application of the diverse forms of direct democracy, we do not use the usual method of stating a minimum number of Citizens who are entitled to launch a citizens' initiative, but we use the principle of 1% of the Citizens entitled to vote. That is a consequence of our choice to subject the size of the House of Citizens to the principle of dynamic sizing. As the population of the federation changes, the number of citizens entitled to vote required for a citizens' initiative must also change.

Thus, the Clauses 2 until 10 are meant to close part of the present EU democratic gap. The closing of the other part of the gap is the abandoning of institutes as the non-elected European Council and the marginal body of competences of the European Parliament. These pernicious elements of the treaty-based intergovernmental governing system cause a non-functioning

of the democracy in the EU as a whole and weakens democracy in Member States. More than seventy years after WWII, democratic values and processes appear to be crumbling and are even being discarded in some EU Member States. As a result, autocratization is on the increase. The democratic deficit of the European Union is partly to blame for this: good examples are often followed, but so are bad ones.

This process of the degeneration of democracy in Europe must stop. Our Constitution of the European Federal Union therefore has, as a complement to representative democracy, an advanced - partly even revolutionary - system of rules that guarantees to the Citizens of the Federation the possibility to influence the process of federal legislation and implementation. Partly by putting Citizens in charge of decision-making processes. See, for example, Appendix II A and Appendix III A. These integral appendices to the Constitution mandatorily require Citizens to lead the processes for the competence and suitability requirements of delegates (II A) and for the vertical separation of powers (III A). In addition to these forms of direct process influence, the Constitution includes forms of direct decision-making by Citizens. These are included in Clauses 2 until 10 of this Article VII.

Explanation of Section 2 - The States

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

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

Clause 3 of Section 2 provides for the possibility of other States acceding to the Federation after its foundation.

Clause 4 is borrowed from Article 6 of the Charter of the United Nations, reading: "A Member of the United Nations who has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon recommendation of the Security Council." The UN has 193 members. Some of them persistently violate human rights and the principles of the rule of law for many years, but so far Article 6 has not been applied. The cause is the UN-treaty system which, like that of the European Union, is based on an accumulation of national interests, whereby decision-making on general interests - such as the Article 6 Charter - is subject to unanimity decisions of members who violate the treaties. That makes Article 6 of the Charter meaningless. The version of Clause 4 excludes the possibility of violating with impunity.

To avoid being a political decision - with possible political ulterior motives that are not justified in the context of violation of the constitution - there must be a basis of an independent authority that monitors only one thing, namely the pure application of the constitution. Violations must be determined outside the delusion of the political day. As an opinion of the most important authority in the field of the constitution: the European Federal Court of Justice. The European Congress can follow that or not.

We have added Clause 5 in order to make clear the conditions of accession: the acceding State retains its debts and must apply the federal rules in force from the time of its accession. Both conditions are imposed so as not to jeopardize the continued existence of the United States of Europe. For the record, this applies to States that accede after the Federation has already entered into force. For States which, at the time of ratification, are already acceding themselves, we stipulate in Article X that the Federation shall support them in the payment of their debts and the fulfilment of their contractual obligations by taking over, as a Federation, the debts of those States.

Section 2 also stipulates, in Clause 6, that any change in the number of States in the Federation Europe, by merging or splitting States, shall be submitted to the Citizens concerned, to the Parliaments of all the States and to the European Congress. The reason for these various authorizations is that they alter the balance of power between the States and within the Federation, institutionally for example, by affecting the composition of the Senate. This provision is important for regions with activist groups that aspire to establish their own state, such as Catalonia in Spain, Corsica in France, Flanders in Belgium and Scotland in the United Kingdom.

We are therefore departing from the American Constitution which, in its Article IV, Section 3, states that it is not permitted to create a new State within a State of the

American Federation, nor to merge States. We think that our proposal for the European Federation is more appropriate because Europe has not yet fully overcome its political past, within and between the States. Not every nation feels comfortable within the borders drawn after wars over the past two centuries.

Clause 7 of Section 2 provides for extradition of suspects between States as the flip side of the free movement of persons in the Federation. **Clause 8** of Section 2 reaffirms the principle of prohibition of slavery and forced labour.

Explanation of Section 3 - The Federation

Section 3 explicitly underlines the sovereign character of each Member State, which is also guaranteed by the Federation. Just as the Swiss Constitution guarantees the existence, status, and territory of the cantons.

Clause 2, that the Federation shall not interfere with the internal organisation of a State, we have added, again inspired by the Swiss State system in which the cantons organise themselves and the Federation protects their loyal Constitutions. The States of the United States of Europe thus remain competent to establish their own institutions. The fact that a State is itself also a Federation - this is already the case in the EU with Belgium, Germany, and Austria - does not constitute a problem, provided that the federal organisation of that State does not conflict with the federal Constitution of Europe.

Clause 3 needs no explanation, because it arises from the functional sovereignty of the Federation over its territory. It does not affect the separate sovereignty of the Member States over their national territory. The United States of Europe therefore does not intervene in the alteration of borders between the States.

As an aside, we would like to make a comment on Section 3, Clause 2, which states that the United States of Europe may not interfere with the internal organisation of each State. The creation of a federal state system will undoubtedly affect the way in which the participating States view their own internal organisation, because we will be dealing with a layered system of governance. But it cannot be repeated often enough that the federal body has no hierarchical authority to interfere with the internal structure of a member state. A federal state is not a supranational state of which hierarchical decision-making is a feature.