

We, the Citizens who establish the Federation Europe by ratifying this Constitution,

I. Whereas

(a) that the **Federation Europe** hereby established by us has the task and duty to support **and protect** us as citizens in our search for happiness **in a humanly dignified life**;

(b) that it should support our quest for happiness, based

- on working **relentlessly** to preserve the diversity of all life forms on Earth **and to protect and care natural environment for future generations,**
- **on securing freedom to live one's life without impeding the freedom of others,**
- on **elimination of all forms of discrimination on the basis of respect for the diversity of cultures, languages, ethnicities, beliefs, and sciences** of the citizens within the federation **and from outside the federation, as well as on the protection of their fundamental rights and freedoms,**
- **on encouraging trust and solidarity among all countries and regions, in Europe as well outside Europe,**
- on human compassion for citizens from outside the federation who want to find their happiness within the Federation Europe;
- that in carrying it out, it should bear witness to wisdom **&** knowledge, human **dignity &** justice, and integrity, in the full awareness that it derives its powers from the people, that all people on earth are **born equal in dignity and rights,** and that no one is above the law.

II. Considering further:

(a) that this federal Constitution is based on **the cultural, religious, and humanist inheritance of Europe, including the considerations and desires of European philosophers - and of European political leaders - to unite Europe in a federation**

(b) that the federal system is based on a vertical separation of powers between the member states and the federal **entity** through which **they** share sovereignty;

(c) that the horizontal separation of the **legislative, judicial, and executive branches** both at the level of the federal **entity** and at that of the member states is guaranteed by a solid system of checks and balances.

III. Whereas, finally, without prejudice to our right to adjust the political composition of the federal entity in elections we have the right **to resist any person seeking to abolish this constitutional order if no other remedy is available,**

IV. Adopt the following articles for the Constitution of the **Federation Europe,**

Explanatory Memorandum of the Preamble

General observations

The name of the federal Europe is a welcome topic of discussion. From the various proposals, we choose the name 'Federation Europe', albeit provisional. We will leave this open until the process might produce a better title.

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

When discussing a Preamble, the following questions always come up:

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

Here are the answers to those questions.

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

Values or interests? A Preamble to a federal constitution is about values. The values - explicitly formulated in the Preamble - are the objectives to be achieved through the deployment of Articles I to X. These articles contain the norms - read means - by which the values - read objectives - must be realised. The composition of a constitution is thus a balanced relationship between values and norms or - in other words - between ends and means.

Interests on the other hand - better the common interests of Europe, to be taken care of by the Federal Authority - are part of the norms and thus fall under the articles of the constitution, not in the Preamble.

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

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

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

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

The fact that this Constitution is first ratified by the Citizens and only then by the parliaments of the Member States indicates that - in accordance with the elementary aspects of federalism formulated by Johannes Althusius in his Political Method around 1603 - it is established from the bottom up and not imposed from above.

This federal Constitution guarantees the common interest of the Citizens of the **Federation Europe** and leaves it to the Citizens of the Member States, and to the Member States themselves, to serve their own interests. That is why this federal Constitution consists of a limited number of rules of a general binding nature. There are no exceptions - **opt-outs**, driven by national interests - to these generally binding rules.

Explanation of Consideration Ia

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

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

A federal state recognises a European cultural identity with respect for the diversity of **languages within the Federation and** of cultural identities within Member States. **We recognise that some regions within European countries, striving for independence, might favour to preserve their cultural identity as sovereign members of the Federation Europe, rather than as autonomous regions within their own countries.**

Explanation of Consideration Ib

In the first place, this consideration gives the federation the task of working relentlessly to preserve the diversity of all life forms on Earth. Unsuccessful preservation of the diversity of all forms of life threatens human life on Earth. This task requires maximum cooperation, expertise, and reliability within the federation's authorities. **It gives reason to quote Greta Thunberg: "We deserve a safe future. And we demand a safe future. Is that really too much to ask?" (Global Climate Strike, New York, 20 September 2019).**

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

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

- To strengthen the demographic and geopolitical position **and capacity** of Europe
- To design and implement plans such as the Marshall Plan (1948-1952) to support poor countries in their economic development in order to eliminate the need to flee to Europe.
- With immediate effect, to **promote, seeking the collaboration of the international community**, a humane existence for the approximately eighty million refugees that are wondering on earth.
- Considering the implementation of this as one of the common interests of the federation.

This Constitution is therefore a task and an opportunity for fundamental political renewal now that post-war democracies have come to the end of a seventy-five-

year life cycle and have led to the exclusion of Citizens in favour of treaty-based, governance which, by its very nature, has become increasingly oligarchic and protectionist. **Out of egoism acting against the principle of altruism, is the undoing of humankind on Earth.**

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

Explanation of Consideration Ic

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

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

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

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

Democracies cannot prevent elections from leading to groups within democratic institutions that wish to use their power against democracy. Autocratic tendencies are always present. This Constitution enables the institutions of democracy as much as possible to deal with abuses of democratic procedures by building in defence mechanisms.

The task is therefore a fundamental reorientation of the concept of democracy in 21st century Europe. With a task for transnational political parties (see Chapter 11 of the 'Constitutional and Institutional [Toolkit](#) of Establishing the **Federation Europe**') to consider their own responsibility to devise instruments to defend democracy against parties that abuse the procedures of democracy in order to destroy that democracy. **Criteria of organization should be formulated in order to qualify for the nomination as a democratic transnational party organization.** Probably more than any other organisation within a democratic system, political parties will have to reflect on wisdom, knowledge, humanity, justice, and integrity in order to ensure the viability of a federally united Europe.

Explanation of Consideration IIa

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

Not only philosophers provided the 'cement' for the building blocks of federalism. Also, political, and social leaders - in the Interbellum period, for example the British Philip Kerr, better known as Lord Lothian - and after the Second World War the Italian Altiero Spinelli who, with his Ventotene Manifesto (1941), laid the foundation for the post-war pursuit of federalism. Between 1945 and 1950 this aspiration was led by a large number of conferences and plans led by statesmen, scientists, cultural figures, and civil movements. But in 1950 it radically ceased with the 'Schuman Declaration'. Although the Declaration fully demanded the creation of a federal Europe, it placed its elaboration in the hands of government leaders, charged with creating a federal Europe on the basis of treaties. In this way - unintentionally, but through guilty ignorance of how to make a federation - the treaty-based intergovernmentalism that is taking the European Union to the end of its current political life cycle was created.

This seems a good place for a quote from Thomas Jefferson in a letter to Roger C. Weightman on 24 June 1826: "May it be to the world, what I believe it will be, (to

some parts sooner, to others later, but finally to all,) the signal of arousing men to burst the chains under which monkish ignorance and superstition had persuaded them to bind themselves, and to assume the blessings and security of self-government."

Which means in our perspective that 'self-government' will have to be organized in a collective mind space, the dimensions whereof will have to be sharply defined.

Explanation of Consideration IIb

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

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

The vertical separation of powers, leading to shared sovereignty between the federal body (operating for the whole) and the member states, also solves another problem. Namely the principle of subsidiarity. **Which means first and foremost: to the Citizens be left what they can do better for themselves in any pursuit to their prosperity, to the Member States is left what they can do better for their Citizens in any pursuit to the wellbeing of their Citizens, and to the Federation is left what it can do better for the Citizens in the Member States in any pursuit to their wellness. But it is all about structurized thinking what to do, how to do, and why to do, about issues that do not have an answer as yet.**

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

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

Explanation on Consideration IIc

As for a horizontal separation, the order should be: legislative, judicial and executive. The legislative power is a strategic power (answering moral 'why'-questions), advised by the judicial power - a tactical power (answering cultural 'how'-questions) - that controls the executive power, which is an operational power (answering financial 'what'-questions). These three powers/branches are transcendent as 'sovereignty' is a transcendent power. All former considered: the 'horizontal separation' should be an 'equally balanced qualified separation' of authorities. These three powers are equal and interdependent in a triarch structure, balanced by a system of checks and balances. Seeing these powers forming a circle, then in the centre 'wisdom' may be found.

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

Firstly, from the first federal state - that of the Federated States of America - the trias politica must be established both at the level of the federal body and at the level of the individual member states. Secondly, in addition to the invention of the vertical separation of powers mentioned above, the federal Constitution of the Federated States of America has introduced a second innovation: the checks and balances. Saying that a self-respecting state must consider the trias politica high is merely expressing a value. But values can only be guarded and preserved by means of norms. That is why the American Constitution - and also this federal European Constitution - contains articles that prevent the inevitable action of the three powers in the field of another power from slipping into the supremacy of one power over the other.

To that end, there are the checks and balances. They are the indispensable countervailing powers to curb the ever-present 'desire' for the three powers to expand their complex of powers at the expense of the powers of the others.

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

Explanation of Consideration III

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

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