FEDERAL ALLIANCE OF EUROPEAN FEDERALISTS

OPERATION 'FEDERAL EUROPEAN CONSTITUTION'

The Citizens' Convention continues to work

Since October 2021, the FAEF Citizens' Convention has been working on a ten-article federal constitution. By June 2022, the Convention will be ready. But the current progress is so interesting that we want to share an interim result with the outside world:

- not only to give courage to supporters of a federal Europe based on a correct democratic federal constitution of only ten articles,
- not only to be ready with our federal constitution when the European Union falls apart and autocrats will crowd in to fill the administrative vacuum that will then exist,
- not only to strengthen the organisation of the many European federalist movements by federating the federalists,

but also to

- help us with volunteers to submit the draft of our federal constitution for ratification by the people of Europe after June 2022,
- help us explain to the people of Europe what is at stake and what they will achieve by ratifying the federal constitution,
- help us to raise funds to finance that ratification process.

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WHY THIS PROJECT ON A FEDERAL CONSTITUTION FOR EUROPE?

After decades and many attempts to create a European Federation, only one project is in place to provide Europe with a true Federal Constitution. This document explains how and when, and how individuals and organisations can take part and support this project.

The European Union is in an identity crisis
Due to increasing internal conflicts and the absence of a meaningful geopolitical position, the European Union is experiencing an identity crisis. An organisation in an identity crisis consumes more energy than it stores to survive and renew. Such a crisis is the last stage before the organisation collapses.

The Convention on the Future of the European Union (2001-2003)
Around 2000, the realisation dawned that the continued existence of the European Union was in danger. The system of treaties that had to keep the EU member states together began to show cracks. So, an attempt was made to renew the Union.

The former President of France - Valéry Giscard d'Estaing - was commissioned to lead a Convention on the Future of the Europe Union. The goal was: create a constitution for a federal Europe. It was a debacle. The outcome was a so-called 'Constitutional Treaty'. Well, something is either a constitution or a treaty. A constitutional treaty is the same as a pregnant man. It does not exist. After several years of intergovernmental talks, the Treaty of Lisbon came into being in 2007 and entered into force in 2009. Any reference to the federalisation of Europe had by then been deleted. The Union continued with yet another adjustment of the treaty system.

The Conference on the Future of Europe (2021-2022)
Twenty years after the Giscard d'Estaing Convention, it became clear that the Lisbon Treaty was a source of increasing conflict within the European Union. This led to the decision to launch the Conference on the Future of Europe in May 2021.
This time without any reference to federalisation and with the explicit aim of revising and possibly supplementing the system of EU treaties. On the assumption that the systemic errors of the intergovernmental operating system could thereby be repaired. Systems theory, however, explains that attempts to repair system errors only cause more errors; exponentially: 2-4-8-16 et cetera. It is a foregone conclusion that this attempt at renewal will also fail and, on balance, exhaust the EU's last shred of energy to survive and renew.

The Lisbon Treaty as a source of conflict
The Lisbon Treaty is an accumulation of national interests. Decisions on European interests are - driven by the principle of unanimity in the undemocratic European Council and the oligarchic position of France and Germany in that Council - weighed against the advantage or disadvantage of Member States' interests. The treaty-based intergovernmental EU system is therefore not concerned with European interests - including the need to finally acquire a geopolitical position - but with the distribution of benefits and favours to satisfy Member States. A process of unprecedented horse-trading.

The EU is in the same situation as North America in 1787

Today, February 2022, the European Union is in the same situation as the thirteen former English colonies were in North America in 1787. The Confederate Treaty (='Articles of Confederation') they had concluded after independence in 1776 did not work. On the contrary. Three groups of states were about to fight each other. Action by James Madison, mandated by George Washington, leading to the Philadelphia Convention (1787), proved to be the birth certificate of federal statehood. It is the foundation that gives form and substance to FAEF's pursuit of a federal constitution for Europe: back to the basics. We briefly outline that history.

The birth certificate of federal state formation

A federal constitution of seven articles

In 1787, the Convention of Philadelphia of fifty-five persons designed the first federal constitution in the world. It contained only seven articles. It was a revolutionary breakthrough that gave legal form and content to the fragile political-philosophical concept of 'democracy'.

Concretisation of the wisdom of European philosophers

The energy for that constituent process came from the desire to establish the concept of 'representation of the people' without the risk that this representation might one day degenerate into autocracy. The federal constitution concretised the ideas of European philosophers in legal words. It is bitter knowledge that every attempt since 1800 to federalise Europe has been foiled. In their graves, European philosophers must content themselves with the fact that they were appreciated in another continent.

But there was more than making law to keep out an autocrat.

Down with the Confederal Treaty

The Convention had been mandated by law by the Confederate Congress to fix errors in the Confederal Treaty. Yet after only a few days, it was decided to throw the treaty in the dustbin. It had no binding effect and led to conflicts between three groups of the thirteen states. The Convention came up with something entirely new. That became a federal Constitution.

Ratification of the federal constitution by the people

Without asking the consent of the Confederate Congress, the Convention also decided that the Federal Constitution should be ratified by the people of the thirteen states. With today's knowledge, we know that they created a centripetal federal state: a number of sovereign entities together create a centre that is also sovereign. The Convention went so far out of the box that the federation would come into effect if nine (=two-thirds) of the thirteen states had ratified.

The concept of 'shared sovereignty'

It designed the principle of 'shared sovereignty'. Until then, the prevailing doctrine was that sovereignty, vested in the sovereign, was indivisible.
Shared sovereignty is the result of the way in which member states of a federation establish a vertical separation of powers.

This does not mean transferring sovereignty to a federal body and thereby depriving member states of that sovereignty. It does mean entrusting a federal body with some of the powers of member states to enable that body to look after common interests that member states cannot look after on their own. They make those member state powers 'dormant' and 'wake them up' again when the federation abuses them. This shared sovereignty implies that the federal body has no power to interfere in the internal order of the member states. These remain as they are at the time of joining the federation.

The ingenious system of checks and balances
The Convention also thought of how to give practical effect to the already familiar concept of the trias politica by devising an ingenious system of checks and balances: none of the three branches of the state (legislative, executive, and judicial) can ever overrule the others and acquire absolute power. Ex-President Trump has tried in vain. The political unrest in the US stems from an outdated electoral system (=spoil system), not from the federal constitution.

We will suffice with this brief sketch of how the Convention of Philadelphia achieved a revolutionary constitutional breakthrough and refer to documents that form the basis of our federal constitution for Europe. Know that today twenty-seven federal states in the world together house just over 42% of the world's population.

Failed federalisation of Europe from 1800 onwards

No federalisation of Europe
After 1800, numerous attempts - some even led for years by English federalist movements - were made to federalise Europe as well. All failed. Between the two world wars, the French Aristide Briand, and the German Gustav Stresemann - both ministers of foreign affairs and stimulated by Richard Coudenhove-Kalergi - made a few attempts. With the rise of Hitler and their untimely deaths, nothing came of it either. Moreover, their attempt at federalisation had the hallmark of treaty-based, intergovernmental cooperation. Not federalisation based on a federal constitution, of, by and for the people.

The Ventotene Manifesto
With the Ventotene Manifesto by Altiero Spinelli, assisted by Ernesto Rossi (1941-1945) - Mussolini's exiles on the island of Ventotene - the 1787 birth certificate of federal state formation was put back on the table after the Second World War. Spinelli argued that the future of Europe depended not only on the choice of a federal Europe, but that this should be realised based on the method of the Convention of Philadelphia: a contemporary interpretation of philosophical European thought, a centripetal construction of the federation, unconditionally based on a federal constitution (and not on intergovernmental treaties) of, by and for the people.

Choosing the wrong course
Between 1945 and 1950, countless conferences and statesmen pondered this idea. But as early as 1946, a movement emerged to turn Spinelli's position - that only a federal constitution could offer Europe a secure future - into a choice for treaty-based federalisation.

The advent of the treaty-based UN in 1945 contributed in no small measure to this choice.

The erroneous Schuman Declaration
The Schuman Declaration of 1950 settled the debate on 'federalizing Europe by treaty or constitution' in favour of treaty. Schuman, the French foreign minister, argued passionately for a federal Europe, but entrusted its construction to heads of government who would have to achieve federalisation by means of a treaty. Thus, was born the treaty-based intergovernmental system of European states, which today is called the European Union. As stated before the EU is now undergoing a serious identity crisis. Due to the numerous internal conflicts (=treaty-anarchy) and its meaningless geopolitical position, the EU consumes more energy than it stores for survival and renewal (=entropy). One or more incidents will bring it down.

The Schuman Declaration is a very serious systemic error. It has led to the current Lisbon Treaty, the worst legal document ever written in the history of Europe. With its countless exceptions to general rules to please Member States - and thus keep them in the Union - it is a textbook example of incompetent lawmaking. As soon as a Member State does not get its way, treaty-anarchy sets in. The adage 'pacta sunt servanda' only works if the horse-trading satisfies everyone.

Working with treaties is fundamentally wrong
The Toolkit, mentioned in the footnote, shows in chapter 4 how James Madison and Alexander Hamilton, two of the three authors of the Federalist Papers (1787-1788), explain why working with treaties is fundamentally wrong.
Their understanding of systems theory, even though that science was only established around 1940, is nothing short of brilliant. It is to be hoped that knowledge of this will lead European politicians, academics, and activists to stop claiming that treaties could create a federal Europe. Any attempt to fix the inherent systemic errors of the Lisbon Treaty leads to more systemic errors. Until the system collapses. For evidence of this position, see chapter 2 of the aforementioned Toolkit.

Meanwhile, the call for the federalisation of Europe is getting louder. It has even been explicitly included in the governmental declaration of the recently inaugurated new German government. However, for FAEF this declaration has no value because it continues to assume federalisation based on treaties.

FAEF's motive for acting itself
This very brief account of two hundred years of delay in making Europe a democratic federal state of geopolitical significance motivates the Federal Alliance of European Federalists to call attention again to the federalisation of Europe based on a real democratic federal constitution. We derive our motive from the working methods of the Convention of Philadelphia and from the Ventotene Manifesto. FAEF rejects any attempt to federalise Europe based on one or more treaties. Working with treaties is an instrument of oligarchs. They do not want, they cannot, and they will not form a European federation based on a true democratic federal constitution of, by and for the people of Europe.

[1] See the 'Constitutional and Institutional Toolkit of Establishing the Federation Europe':
https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf .

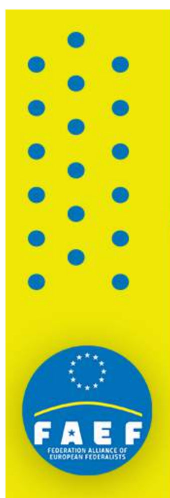
This is FAEF's motive for acting. The advent of the already mentioned EU Conference in May 2021 has made FAEF decide to set up its own Citizens' Convention: Operation 'Federal European Constitution'. It started in October 2021 and will last until the end of June 2022.

Working methods of the Citizens' Convention: the 55+ Group
The Convention works as much as possible in the style of the Convention of Philadelphia. This began in May 1787 with a discussion of the Virginia Plan of James Madison. FAEF's Citizens' Convention focuses on improving a ten-article federal constitution drafted by Leo Klinkers and Herbert Tombeur in their European Federalist Papers (2012-2013). It was a (belated) response to an appeal by Robert Levine (top official in the US federal administration) in the New York Times of 9 January 1999 that Europe would do well to write its own Federalist Papers. Only in that way, said Levine, would Europe understand that the Eurozone would not thrive without a federal foundation.

In a Discussion Forum, the 70 members of our Citizens' Convention - also known as the Group 55+ - are discussing amendments to improve that 2012-2013 federal constitution. It is not a copy of the US Constitution, but it serves to learn from it. That is why our final product, which we will finalise by June 2022, will contain elements of the US, Canadian, German, and Swiss federal constitutions, as well as elements of the constitutions of other countries, such as Italy, Norway, and Denmark.

Science is the Citizens' Convention's compass
The Citizens' Convention operates on scientific knowledge on federal state formation and deals exclusively with European interests. The care for national interests lies with the Member States themselves. In terms of process, the Citizens' Convention operates on rules of scientific methodology: a position that exists with facts and arguments remains in place until a better position arises with better facts and arguments. FAEF's board therefore asks of Convention members only: "If you can concretely improve the draft ten-article federal constitution, then prove it." The Convention does not pay attention to policies because there are no such thing as federal policies. There are policies from the federation, but their content is determined by the members of the federal parliament, because of their political values. Not because of the federal identity of the organisation.

The FAEF Board wishes you a pleasant introduction to our interim results,



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THE PROVISIONAL PREAMBLE AND THE ARTICLES I – IV

The Preamble

We, the Citizens who establish the European Federal Union by ratifying this Constitution,

I. Whereas,
(a) that the European Federal Union 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, respect, and support to achieve happiness for Citizens from outside the Federation who want to live within the European Federal Union in accordance with its laws and the articles of this constitution,
- that in carrying it out, it should bear witness to wisdom and knowledge, human dignity and 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 the European Federal Union is an integral part of a highly interdependent natural and social system. The ability to realize, preserve and promote its values depends on the global condition of international relationships among countries and on the health of the natural environment;
(b) that the European Federal Union repudiates war as an instrument of offence to the liberty of other peoples and as a means of settling international controversies; the Federation favours transnational cooperation and federal structures to ensure peace, justice, and prosperity among nations.
(c) that this federal Constitution is based on the cultural, religious, and humanist inheritance of Europe, including the considerations and desires of European philosophers to unite Europe in a federation after centuries of conflicts and wars;
(d) 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;
(e) 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, all Citizens shall have the right to resist any person, organisation, institute, or authority seeking to abolish this constitutional order if no other remedy is available,

IV. Adopt the following articles for the Constitution of the European Federal Union,

Article I – The Federation, the Rights, and the World Federation

1

The European Federal Union is a democratic Federation, founded on the rule of law. It consists of sovereign Citizens and democratic constitutional Member States.

2

The European Federal Union shall respect the equality of Citizens and Member States before the Constitution as well as their identities, inherent in their fundamental constitutional and political structures, inclusive of regional and local self-government.

3

The powers not entrusted to the European Federal Union by the Constitution, nor prohibited to the States by this Constitution, are recognised powers of the Citizens and entrusted powers of the Member States, in order to protect the autonomous initiatives of Citizens and Member States, relating to activities of personal or general interest.

4

The European Federal Union sees in the natural rights of every living human being the only source from which agreed rights can be derived. These rights are those as formulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in the Charter of Fundamental Rights of the European Federal Union, whose rights shall have the same legal value as the Constitution.

5

Every Citizen has a right of access to documents of the Federation, States, and local Governments and the right to follow the proceedings of the courts and democratically elected bodies. Limitations to this right may be prescribed by law to protect the privacy of an individual, or else only for extraordinary reasons.

6

Membership of the Federation after the Federation has entered into force requires ratification of this Federal Constitution by the respective national parliaments.

7

Subject to the provisions of Article V, Section 1, Clause 8, the European Federal Union may accede and adhere to a World Federation based on an Earth Constitution. Membership of the European Federal Union requires prior written dedication and adherence to the European Federal Union's efforts to initiate the process of creation of a democratic and effective World Federation.

8

A Member of the European Federal Union who has persistently violated the principles contained in the present Constitution may be expelled from the Federation upon a two-thirds vote by both Houses of the European Congress. The law determines the circumstances under which a persistently violation occurs and the procedure to be applied in that case.

Article II – Organization of the Legislative Branch

Section 1- Setting up the European Congress

1

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

2

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 1st of the election year. Federal elections, their organisation and operation, take place based on federal law.
2. The size of the House of Citizens will follow the political and demographic development of the European Federal Union. If the population of the Federation does not exceed four hundred million, the House of the Citizens will consist of four hundred delegates. Should the population exceed 400 million, the number of delegates will be increased by 20 for every additional 25 million of population. In any case, the total number of delegates of the House of Citizens will not exceed six hundred.
3. Electable to the House of Citizens are those who have reached the age of eighteen years on June 1st of the election year and are registered as Citizen of one or more States of the Federation during at least seven years. On behalf of the Citizens of the European Federal Union, the House of the Citizens establishes laws on requirements of competence and suitability for the office of delegate. 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 and any kind of multiple mandate, 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 Member States of the Federation, regardless of the number of years of that registration.

Citizens of a Member 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. No secret vote is permitted in the House of Citizens; every vote must be recorded.

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 1st of the year of their appointment.
2. Electable to the House of the States are those who reached 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 Member State of the European Federal Union. On behalf of the States of the European Federal Union, the House of the States establishes laws on requirements of competence and suitability for the office of delegate.
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 and any kind of multiple mandate, 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 Supreme 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.

9. No secret vote is permitted in the House of States; every vote must be recorded.

Section 4 – The European Congress

4

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

5

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

6

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 Supreme Court of Justice, the Federal Central Bank, and the Federal Court of Auditors

7

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

Article III – Powers of the Legislative Branch

Section 1 – Legislative procedure

1

1. Both Houses have the power to initiate laws. They may appoint bicameral commissions with the task to prepare joint proposal of laws or to solve conflicts between both Houses.
2. The laws of both Houses must adhere to principles of inclusiveness, deliberative decision-making, and representativeness in the sense of respecting and protecting minority positions within majority decisions, with resolute wisdom to avoid oligarchic decision-making processes.
3. The House of the Citizens has the power to initiate legislation affecting the federal budget of the European Federal Union. The House of the States has the power - as is the case with other legislative proposals by the House of the Citizens - to propose amendments in order to adjust legislation affecting the federal budget.
4. Each draft law is sent to the other House. If the other House approves the draft, it becomes law. In the event that the other House does not approve the draft law, a bicameral commission is formed - or an already existing bicameral commission is appointed - to mediate a solution. If this conciliation produces an agreement or a proposal of law, this is subject to a majority vote of both Houses.
5. Any order or resolution, other than a draft law, requiring the consent of both Houses – except for decisions with respect to adjournment – are presented to the President and need his/her approval before they will gain legal effect. If the President disapproves, this matter will nevertheless have legal effect if two thirds of both Houses approve.

Section 2 – The Common European Interests

2

1. The European Congress is responsible for taking care of the following Common European Interests:

(a) The livability of the European Federal Union, by regulating policies against existential threats to the safety of the European Federal Union, its States and Territories and its Citizens, be they natural, technological, economic or of another nature or concerning the societal peace.
(b) The financial stability of the European Federal Union, by regulating policies to secure and safe the financial system of the Federation.
(c) The internal and external security of the European Federal Union, by regulating policies on defence, intelligence and policing of the Federation.
(d) The economy of the European Federal Union, by regulating policies on the welfare and prosperity of the Federation.
(e) The science and education of the European Federal Union, by regulating policies on the level of wisdom and knowledge of the Federation.
(f) The social and cultural ties of the European Federal Union, by regulating policies on preserving established social and cultural foundations of Europe.
(g) The immigration in, including refugees, and the emigration out of the European Federal Union, by regulating immigration policies on access, safety, housing, work and social security, and emigration policies on leaving the Federation.
(h) The foreign affairs of the European Federal Union, by regulating policies on promoting the values and norms of the European Federal Union outside the Federation itself.

2. The Federation and the Member States have shared sovereignty concerning those Common European Interests. The European Congress derives its powers in relation to these Common European Interests from powers that the Member States of the Federation entrust to the federal body through a vertical separation of powers. This implies that new circumstances may lead to a decision by the European Congress to increase or decrease the list of European Common Interests.
3. Appendix III A, being integral part of this Constitution but not subject to the constitutional amendment procedure, regulates the way the Member States decide which powers to entrust to the federal body. It also regulates the influence of the Citizens on that process

Section 3 – Constraints for the European Federal Union and its States

3

1. No State will introduce state-level policies or actions that can threaten the safety of its own Citizens, or of Citizens of other Member States.
2. No taxes, imposts or excises will be levied on transnational services and goods between the States of the European Federal Union.
3. No preference will be given through any regulation to commerce or to tax in the seaports, air ports or spaceports of the States of the European Federal Union; nor will vessels or aircrafts bound to, or from one State, be obliged to enter, clear, or pay duties in another State.
4. No State is allowed to pass a retroactive law or restore capital punishment. Nor pass a law impairing contractual obligations or judicial verdicts of whatever court.
5. No State will emit its own currency.
6. No State will, without the consent of the European Congress, impose any tax, impost or excise on the import or export of services and goods, except for what may be necessary for executing inspections of import and export. The net yield of all taxes, imposts, or excises, imposed by any State on import and export, will be for the use of the Treasury of the European Federal Union; all related regulations will be subject to the revision and control by the European Congress.
7. No State will have military capabilities under its control, enter any security (-related) agreement or covenant with another State of the Federation or with a foreign State, and can only employ military capabilities out of self-defense against external violence when an imminent threat requires this, and only for the duration that the Federation cannot fulfil this obligation. The military capabilities that are used in the above-mentioned situation are capabilities that are stationed on the State's territory as part of that federal army.

Section 4 – Constraints for the European Federal Union

4

1. No money shall be drawn from the Treasury but for the use as determined by federal law; a statement on the finances of the European Federal Union will be published yearly.
2. No title of nobility will be granted by the European Federal Union. No person who under the European Federal Union holds a public or a trust office accepts without the consent of the European Congress any present, emolument, office, or title of any kind whatever, from any King, Prince, or foreign State.
3. No personnel, whether paid or unpaid, of the government, government contractors or entities receiving direct or indirect funding from the government shall set foot on foreign

soil for the purpose of hostilities or actions in preparation for hostilities, except as permitted by a declaration of war by the European Congress.

4. The income and spending capacity of political parties and of any candidate standing for elections is regulated by the European Congress with an act on the financing of elections.
5. No person or entity that has directly or indirectly received funds, favors, or contracts from the government during the last five years may contribute to an election campaign under the sanctions described in clause 6. In addition, any entity seeking to circumvent this limitation shall be fined five years of its annual turnover, payable on conviction.
6. Any contribution, whether direct or indirect, in cash, goods, services or labour, whether paid or unpaid, made to a person seeking elected office must be made public within forty-eight hours of receipt. The contribution from each entity must bear the name of the person or persons responsible for managing the entity. An entity seeking to circumvent this limitation shall be fined five years on an annual basis, payable on conviction.
7. No government employee may accept a position in a private entity that has accepted government funding, favors or contracts for a period of ten years after leaving the government office during the last five years.
8. Every institution and agency of government, and every entity or person that has directly or indirectly received government funding, favors or contracts, will be subject to an independent audit every four years, and the results of these forensic audits will be made public on the date of their issue. Any entity attempting to circumvent or avoid this requirement will be fined five years in revenue, payable in the event of a conviction. Any person seeking to circumvent or avoid this requirement must serve a minimum term of imprisonment of five years.

Article IV – Organization of the Executive Branch

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

1

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. If one of the candidates for the presidency achieves a absolute majority, he is elected President. If none of the candidates obtains a absolute majority, a second election shall take place within a month between the two candidates who obtained the most votes. The candidate who receives the most votes becomes President.
3. 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.
4. 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, and who has been registered as a Citizen of the Federation for at least twelve years.
5. 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.
6. Before the President enters the office, he will pledge, in front of the Chief Justice of the Supreme Court of Justice, in the month of January in which his office begins, the following oath or affirmation: "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 and integrity of the Federation; and to faithfully serve the people of the Federation."

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

2

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. If the office of Vice President is vacant, the President will nominate a Vice President, who will take office upon confirmation by a majority in both Houses of the European Congress.
3. Whenever the President declares in writing to both Houses of The European Congress his inability to execute the duties of office, and until afterwards declared otherwise in writing, the Vice President acts as President.

4. The Vice President, together with the majority of an institution described by law can inwriting declare to the Houses of the European Congress the President unfit to act, after which the Vice President immediately acts as President.
   If the President has in this manner been declared unfit to act, he or she can within five days in writing declare to the Houses of the European Congress that he is fit for office. The Vice President, together with the majority of an institution described by law can, within five days, issue another declaration in writing of the President's unfitness for office.
   If the Houses of the European Congress, within twenty-one days after receipt of the latter written declaration, determines by two-thirds majority of both Houses that the President is unable to act, the Vice President shall continue to act as President. Otherwise, the President shall resume the powers and duties of the office.
5. 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.
6. 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.

NOTE
The remaining Articles V – X will follow in June 2022.

PLEASE HELP US

WITH OUR PROCESS **TO ACHIEVE A FEDERAL EUROPE** WITH A **CONSTITUTION RATIFIED BY THE EUROPEAN CITIZENS**

Explanatory Memorandum of the Preamble

The Preamble distinguishes three groups of values. The first group deals with the view that government exists to help citizens pursue their happiness. Therein come together other values, such as preserving the diversity of all life forms on Earth; respecting the diversity of sciences, cultures, ethnicities, and religions; compassion for the less fortunate; and that wisdom, knowledge, humanity, justice, and integrity make it clear that the federation derives its powers from the people, that all people on Earth are equal and that no one is above the law.

The second group of values is indebted to the ideas of European political philosophers to whom we owe the standards of federal organization. An important value is the observation that the federal system is based on a vertical separation of powers. The federal body is only competent in a small list of matters of common interest. All other powers rest with the Member States and their Citizens. That is shared sovereignty.

Finally, this group of values enshrines the trias politica and the checks and balances that go with it at both federal and member state level. The third group of values establishes that the Citizens have not only the right to change, through elections, the composition of governments, but also the inalienable right to depose the federal authorities if they violate the values of the two previous groups.

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

The phrase 'We, the Citizens who establish the European Federal Union 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 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. Moreover, interests are part of a second ends - means relationship. Interests are cared for and secured through policy making.
So, the Constitution has two important ends - means relationships: values are ensured by norms and interests by policies. The second relationship is addressed by Article III of the Constitution.

Minimalist or extensive? The Constitution does 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.

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 European Federal Union 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 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, preserving peace, a well build federation is the best 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. And always treaty-anarchic prone.

[1] In 1961 Cameroon became a federal state. Partly French-, partly English-speaking. On 20 May 1972 the federation fell apart. This resulted in bloody conflicts between the two populations. Until today. In November 2021 a coalition of activists, with a federalist conviction to end the armed conflict, have created a platform called, Coalition of Cameroon Federalist Groups & Activists. Its spokesman, Dr. Munzu declared: "By nature, Federalism is the highest level of decentralized governance. It is the point at which tolerance, mutual respect, fair play, solidarity, and cohesion in our society meet. Federalism offers the best prospect of instituting in Cameroon a form of democratic governance suitable for overcoming our nation's governance, institutional, socio-political, and economic development challenges." Cameroon News Agency, 25 November 2021.

The fact that this Constitution is first ratified by the Citizens and only then by parliaments of European 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. Thus, it is a socalled 'centripetal' federation: the parts create a center. The opposite of 'centrifugal' federations where an already existing center creates the parts. Top down.

The federation is both symmetrical and asymmetrical; symmetrical in the sense that all Member States constitutionally have the same powers in relation within the federal realm; but it is asymmetrical in the sense that internally, i.e. within the Member State's realm, they each have their own constitutional statute and institutional order; some are decentralized or centralized unitary states, others are already federal states themselves, still others have the statute of a constitutional monarchy; that remains as it is and so our federal Europe is asymmetrical in that sense.

This federal Constitution guarantees the common interest of the Citizens of the European Federal Union 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.

The federal state recognises a European cultural identity with respect for the diversity of languages within the Federation and of cultural identities within Member States. It recognises and supports the right of all countries, regions and territories that are part of the European Federal Union to preserve their language and cultural identity.

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 European Federal Union 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, by 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 European 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 as the present basis of the European Union, 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; checks and balances.

(c) the creation of a House of the States, whose members are 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 of Justice, 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 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

This consideration makes it clear that the European Federal Union is not inward-looking but realizes that it is part of the greater whole of the Earth. The whole in all its aspects. The Federation therefore maintains relations - as an open system - with all those other parts of the world. As a result, it always stores more energy than it consumes. The European Federal Union rejects the slogan 'Europe first'.

Explanation of Consideration IIb

Federalism is about peace. Many of the world's current 27 federal states were founded to settle wars, violence and conflicts between countries and regions by means of federal state organisation. The Federal Constitution should therefore be seen explicitly as a means of achieving peace.

Explanation of Consideration IIc

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.

[2] See Chapter 11 of the 'Constitutional and Institutional Toolkit of Establishing the Federation Europe': https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf .

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 (1941-1944), 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 IId

The thirteen former American colonies in late 18thcentury 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 it away and thus losing it', 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 structured 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 IIe

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 three intersecting circles, then in the centre 'happiness through wisdom' may be found. This Constitution will elaborate on this in Article I.

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 European Federal Union 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 European Federal Union 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 above the rule of law.

Explanatory Memorandum of Article I

Explanation of Clause 1 – the formal basis
From a formal point of view, the sequence of establishing this Constitution is as follows. Citizens of European Union and of other European states - vested with the right to vote - ratify this Constitution by simple majority per state. It is up to the respective parliaments of those states to decide whether to follow the will of their Citizens. The states that follow the will of their Citizens – based on rules of their own constitution allowing the state to enter international cooperation - thus establish the European Federal Union. This Federation has two possibilities of existence. Either alongside the intergovernmental European Union, or as a Federation within that European Union. After all, federal Germany, Austria, and Belgium are already members of the EU.

Explanation of Clause 1 and 2 – the philosophical basis
The Federation is all about the sovereignty of the Citizens, the Member States, and the Federation itself. Sovereignty means the right and obligation to 'reign'; not to 'govern'. This means:

- For Citizens to reign their households based on socio-economic principles to attain prosperity through financial liberty.
- For Member States to reign their households based on socio-cultural principles to attain wellbeing through cultural equality.
- For the Federation to reign its household based on judicial principles to attain prosperity and wellbeing through morality and the rule of law.

The fact that no place is given in the Constitution to monarchy or other nobility and that the Federation is built on democratic institutions implies that it is a Republic. The fact that no place is given to God or religions also implies that the Federation is a secular Republic. The fact that the Constitution states in several places that the federal body has no power to influence the internal order of the Member States means that those Member States remain within the Federation as they are. So, monarchies remain monarchies, but the Federation itself is - as one nation - a secular Republic for all its Citizens.

The mutual relationship between the Citizens, the Member States and the Federation form an idiosyncratic trias politica: independent reigning spaces under the principle of subsidiarity, precisely defined, lest deliberations will produce unintelligible cacophonic noise. If not, Citizens' and Member States' thoughts will be quelled by hierarchical power play. Each of the three entities of that idiosyncratic trias politica should have and mind its own business for the sake of subsidiarity.

The Federation must protect itself against any (group of) Citizens or Member States with egoistic financial, cultural, or political impulses breaking the complex of values of the Preamble.

There are views that deny or minimise Citizens' own independent and sovereign space for thought and action. However, history has repeatedly proven that Citizens do have their own space, and that the constitution (or documents of the same value) must reflect this. Think of the English Magna Carta of 1215 in which the vassals of King John Lackland made it clear that with his signature he had to respect the inalienable rights of his people, otherwise they would depose him. The Netherlands, with the Placcard of Abandonment of 1581, declared the Spanish King no longer to be their sovereign and were prepared for an 80-year war to win this battle. The French Revolution of 1789 and the Declaration of Independence with which the thirteen British colonies declared their independence in 1776 are also examples of the inalienable right of citizens to free themselves from autocratic rule. After WWII, the Dutch, Portuguese, French, Belgian and British colonies did the same. Most of them by force.
Thus, our federal constitution guarantees the free space of Citizens in various places. First, by placing the ratification of the Federal Constitution primarily in the hands of the Citizens of Europe: the ultimate form of direct democracy. This makes it a Constitution of, by and for the Citizens. It is then up to the respective parliaments to decide whether to follow the will of the people. States that do not follow the will of their people therefore do not enter the European Federal Union. States that follow the vote of the Citizens become co-owners of the Federation. Subsequently, this own space of the Citizens is laid down in Section III of the Preamble, which reads:

> III. Whereas, finally, without prejudice to our right to adjust the political composition of the federal body in elections, we have the inalienable right to depose the federation's authorities if, in our view, they violate the provisions of points I and II.

Finally, the free space of the Citizens is reflected in the Articles II, III and VII of this Constitution, articles that use different methods to ensure that Citizens are involved in the decision-making process.

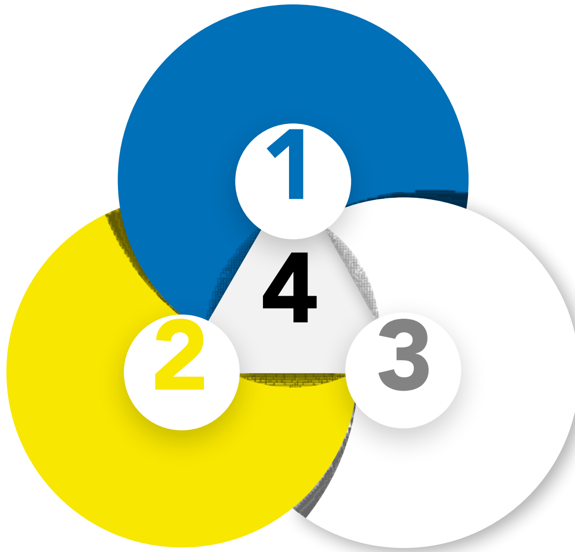
Other views grant no or little free space to the Member States of the Federation. They see the States' position as 'only' representing the people. So, limited to an administrative role. In other words, they see the space of the Citizens and of the States as coinciding, as it were, and only see a clear distinction between the space of the States and that of the Federal Authority. We do not follow this line of thinking. Although the Member States are the representation of their people, they are responsible for their own decision-making space for the democratic and functional order of the State. This is confirmed by Article VII, Section 3, Clause 2, reading:

> *"The European Federal Union will not interfere with the internal organization of the Member States of the Federation, but still demands that those states as democratic states will be governed by the rule of law."*

This is a reinforcement of Clause 1 of Article I, reading:

> *"The European Federal Union shall respect the equality of Citizens and Member States before the Constitution as well as their identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government."*

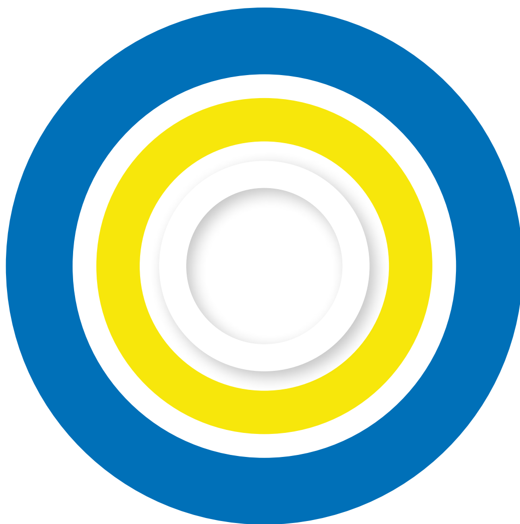
The relationship of these three independent - subsidiary - worlds of thought between the Citizens, the Member States and the Federation can perhaps be better understood by visualizing it with a pair of circles. First three intersecting circles.



Circle 1 is the world of the reign of the Citizens
Circle 2 of the Member States
Circle 3 of the Federation.
At number 4 lies the outcome of their combined reigning, expressed in the maximum protection of the complex of values of the Preamble: the 'holy grail' so to speak, untraceable but nevertheless obliging to an eternal search by the three entities involved. A 'holy grail' once expressed by Confucius, reading:

"When the sabers are rusted and the shovels glisten, when the steps of the temples are worn out by the feet of the faithful and grass grows in the courtyard of the courts, when the prisons are empty and the granaries are full, when the doctors walk and the bakers drive, then the empire is well governed."

This image is further complemented by three concentric circles.



The outer circle is that of the **Citizens** and includes the circle of the **Member States**. The circle of the **Member States** contains the central part, the **Federation.** This symbolizes that there is no world of Member States outside the world of Citizens. And that there is no world of the Federation without the world of the Member States. All in all, this second group of circles symbolizes the centripetal character of the federal Constitution: the building of the Federation from the bottom up, from the Citizens of Europe, in combination with those Member States that follow the will of the Citizens and thus are together the co-owners of the Federation.

Explanation of Clause 1 and 2 – the content

The text of the first Clause defines the specific nature of a republican federation: it consists not only of States, but also and especially of their Citizens; a Federation is of the Citizens and of the Member States. They are the co-owners of the federation. For all those who fear that a Federation, as a purported superstate, would absorb the sovereignty of the participating Member States, it should now be clear that within the European Federal Union the Member States remain as they are: France remains France, Estonia remains Estonia, Spain remains Spain, et cetera. Their constitutional and institutional order remains unaffected.

So, they retain their constitutional identity (republic, monarchy), their democratic form of government (representative democracy) and their organisational identity (centralized unitary state, decentralized unitary state, federation and any entities based on nobility, such as Luxembourg).

There is more: by explicitly naming the Citizens as co-owners of the Federation, there is a constitutional mandate to consult them on proposed changes to the territory of the Federation. A right that the European Citizens have not yet received under the Lisbon Treaty: a form of direct democracy. We address this right in Article VII of the Constitution.

The Member States are represented alongside the Citizens at the federal level of government. Their representatives have an individual mandate. They do not act in the name and on behalf of the political institutions of their State. This important principle in the functioning of the Federation is addressed in the organization of the European Congress consisting of two Houses. Other relevant federal experiences are those of the so-called multi-national federalisms, such as the Canadian, Swiss, and Indian ones, which show how federalism can be a response to the need to keep different cultures and languages together without undermining the identities of states. In this we have looked at the wording of Article 4(2) of the Treaty on the European Union (TEU).

Explanation of Clause 3

Clause 3 of Article I makes clear that the European Federal Union has a non-hierarchical vertical division of powers. This creates 'shared sovereignty' between the Member States and the Federal entity: the Member States entrust the Federation with the use of some of their powers to look after Common European Interests. These are interests that the Member States themselves cannot look after (anymore). Entrusting the federal authority with some powers of Member States does not give it any hierarchical power, let alone enable it to intervene in the internal order of the States.

Both the Federal and Member State authorities are sovereign in those matters assigned by the Constitution to both levels of government. In the sense that the Federation is assigned powers for several limited policy areas, no others. For lovers of historical best practice from the end of the 18th century, this principle of the vertical separation of powers (not to be confused with hierarchic powers) was already laid down in the first ten days of the Philadelphia Convention and further elaborated in a draft Constitution a few weeks later. It constitutionally establishes that the Federal Authority cannot exercise hierarchical power over the States.

Those familiar with the Treaty of Lisbon, and more specifically with the partial treaty under the name 'Treaty on European Union', may ask 'What's new'? After all, that Treaty on European Union stipulates in Article 4(1): 'In accordance with Article 5, powers not conferred on the Union in the Treaties shall be conferred on the Member States'. This looks like two drops of water on our Article I, Clause 2.

But appearances can be deceptive. The subsequent Article 5 of that Treaty of Lisbon states that the delimitation of the Union's competences is governed by the principle of conferral. This is what should NOT be done; the principle of conferral leaves far too many competence issues indeterminate:

[3] See Chapter 5 of the 'Constitutional and Institutional Toolkit of Establishing the Federation Europe': https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf .

- Whether the European Union has power to act is determined by the principles of subsidiarity and proportionality; that is to say, in short, the Union may act decisively in cases which the Member States themselves (or their component parts) could not (better) take care of; in other words, the principle of subsidiarity (leave to the States what the States themselves can best do) is not absolute, but relative.
- In the other part of the Lisbon Treaty - namely the 'Treaty on the Functioning of the European Union' - there are some articles that give a concrete list of the competences of the Union. But those articles are partly hierarchical in character, especially in the group of shared powers/competences - these are powers/competences allocated to both levels of government, but where the Union, when acting, obliges the Member States to conform to them. This does not exist in a Federation.
- As if all this were not enough, there are also subsidiary competences available to the European Union, granted in Article 352 of the same 'Treaty on the Functioning of the EU'. This means that the Union can act if this is necessary to achieve an objective in the Treaties and if no other provision in the Treaty provides for measures to achieve it. This is called 'the flexible legal basis'. This is a manipulative and arbitrary key that fits every lock. Apparently, the European Union cannot to this day abandon the technique of invoking the goal of 'ever-increasing integration' in order to seize power when it suits it.

Why does this not even remotely resemble federalization? Let us discuss it again. Practice has shown for years that the principle of subsidiarity leaks badly. The Protocol preventing the European Union from arbitrarily taking decisions outside the realm of its expressly granted competences, including the watchdog role of national parliaments in ensuring compliance with that Protocol, was already working very badly before the advent of the Lisbon Treaty. It has not worked at all since the entry into force of that Treaty in 2009, because from then on, the European Council took over principled decision-making. And nobody can stop that machine. Why is that? Because of the hierarchy we mentioned above: something once decided by the European Council means the obligation for the Member States to implement it uniformly in their own country: this is the source of assimilating integration. Not only is this alien to a federal system, but it is also unclear who is exclusively competent in what matters. It does say a few times that this or that authority has exclusive competence, but Articles 1 to 15 of the 'Treaty on the Functioning of the European Union' contain too many vague additions that there is no clarity.

So, the European Federal Union does not provide that the Federal Authority can overrule the Member States. It confers on the Federal Authority an exhaustively enumerated set of powers and that is all. There is no hierarchy towards the Member States, nor any division of powers. Just like in the Swiss and US Constitution.

This raises the question of whether a Member State is the same as a Nation State. This question is motivated by fear of the way in which European nation states, since the Treaty of Westphalia of 1648, have continued waging wars with their nation-state anarchy until 1945 and, within the intergovernmental state system that has developed since then, use treaty-law anarchy to evade the obligations of the EU treaties if they feel that those obligations threaten their interests. But the way in which the vertical separation of powers - see Article III - takes place determines which Common European Interests become the concern of the federal authority and which powers are entrusted to that authority by the

Member States to correct any deviations from the norms of those Common European Interests. Thus, the Member States of the Federation are not nation-states in the sense of the Westphalian nation-states.

This is the essence of federalism: a true federation has shared sovereignty but not shared powers: each, the Federal Authority, and the Member States, has its own powers. This is the result of the first two weeks of debates in the Philadelphia Convention that began in late May 1787. The 'Virginia Plan', which James Madison had put on the table as the federalist opening piece, contained a Clause giving the federal authority the power to overrule 'improper laws' of states. There was an objection to this, made explicit in the 'New Jersey Plan', produced immediately afterwards. The parties subsequently resolved this dispute in the 'Great Compromise' by opting for a vertical separation of powers, expressed in a series of limitable powers of the federal authority: no hierarchy. Thus, no intervention from above if a member state performs its legislative or executive functions 'improperly'.

That's how it should be: in a federal system, the Member States are and remain sovereign in their own circles. Our Constitution therefore does not mention the principle of subsidiarity at all, for the simple reason that the exhaustive enumeration (more on this later) of federal competences establishes subsidiarity in an absolute sense. The Federal Authority has no discretionary powers - let alone arbitrary powers - to determine for itself what Member States would not be able to regulate or achieve by themselves.

Explanation of Clause 4

Immediately after the American Constitution came into force, the need for a Bill of Rights became apparent. This came in the form of ten amendments to the seven-article Constitution. That Bill of Rights subsequently formed an annex to the Constitution. The ten-article federal Constitution of the European Federal Union does not contain a Bill of Rights either. It refers to rights that apply by reference to other documents. It is as follows.

The third Clause of Article I sees the rights of European Citizens as deriving from natural rights. Man has no authority over these. Natural rights are fundamental, self-evident rights. And what 'goes without saying' does not need to be explained. In addition to these rights by virtue of nature, we have rights by virtue of agreements made with the consent of all participants. In our modern time these agreements are laid down in Charters because they have a transnational character.

The wording 'every living human being' means that the Constitution does not grant natural, fundamental, self-evident rights to every other living being on earth: animals, plants, the seas, and all possible other living, non-human phenomena. That does not alter the fact that there are moral duties of humans towards other living beings. Agreed rights are derived from them, but such rights are currently very much under discussion and can be laid down in other documents – e.g., Climate Accords - than the federal Constitution.

So, there is a division between natural rights and cultural rights. Natural rights do not need to be formulated, because to do so would be to erroneously state that they are adaptable or negotiable. This is only possible with rights derived from natural law that are laid down by men made agreement in Charters.

Clause 3 refers to Charters for those concrete, men made, cultural rights, without considering the Charters' various intergovernmental arrangements and references to intergovernmental institutions. It is not necessary, nor advisable to incorporate concrete rights already laid down in Charters literally into the Constitution. This is also to avoid the need to develop new case law and the consequently need to amend the Constitution when jurisprudence gives cause to modify these cultural rights. In the event that the EU ceases to exist, the Federation can adopt the Charters - adapted or not - as its own human rights domain.

Post-totalitarian constitutions have always worked like this: they open themselves to international human rights treaties and thanks to these they manage to update the protection of fundamental rights without having to change the text all the time. To pretend to fix an exhaustive list of fundamental rights without referring to the human rights treaties or the Charter of fundamental rights would end up frustrating the need to guarantee a high standard of protection to the rights themselves because the text of the constitutions gets old if it is not linked to the evolution of the international community. The history of constitutional law is full of referrals like this, we need to produce a document that has the ambition to work. If we do not recognise the constitutional value of the Charter of Fundamental Rights, we will undermine the strength of fundamental rights. It will bind lawmakers, but this is what constitutions normally do and this is how the judicial review of legislation works. Courts rely on the Constitution to declare the invalidity of pieces of legislation that are seen as in conflict with fundamental rights.

There are many examples of constitutional provisions like this: Art. 10, paragraph 2, of the Spanish Constitution, Art. 16 of the Portuguese Constitution, Art. 5 of the Bulgarian Constitution, Art. 20 of the Romanian Constitution, Art. 93 of the Netherlands, and many others. If this reference is ignored, we should write a detailed list of rights and this would make the constitutional text much longer, whereas one of the objectives is to draft a short, effective, and comprehensible text. So, this explains why it is not necessary, nor advisable to incorporate concrete rights already laid down in Charters literally into the Constitution.

The Constitution - once ratified - binds everyone: individuals, governments, and private organisations of all kinds. Therefore, it is not necessary to require a signature from Citizens and organizations to confirm commitment to the Constitution. That is implicitly established. The reason to mention it explicitly here is the circumstance that there are always individuals or organisations that violate human rights. With the third Clause of Article I, the European Federal Union is – as one nation, composed by Citizens and Member States - a secular republic that unconditionally opposes the violation of human rights by any person or institution.

Explanation of Clause 5

The freedom of information and transparency is so fundamental and vital for democracy and legitimacy/public trust in authorities, that it deserves to be included directly right there in Article I.

Explanation of Clause 6

This Constitution has been ratified by the people and parliaments of the states that wish to be the first to join the European Federal Union. States that wish to join later, i.e. after the creation of the Federation, require their national parliaments to ratify the Constitution. It is up to the states themselves to make arrangements with their people for this purpose.

Explanation of Clause 7

Clause 7 establishes constitutionally that the European Federal Union sees itself as one of the building blocks of a World Federation. Only if the Earth is governed by a World Federation, supported by a number of (continental) federal states such as the European Federal Union, can geopolitically tensions, armed conflicts, and greed - causes of unprecedented human suffering, destruction of the earth, refugees, torture, migration flows, poverty, disease, illiteracy and more) - be overcome.

That is the 'holy grail' at the centre of the three circles shown earlier, a treasure that we have expressed with the famous saying of Confucius. That this may rightly be called a holy grail is supported by Appendix I A. It is a short memorandum in memory of Desmond Tutu, who died in December 2021. He is commemorated by Dr. Roger Kotila, director of the Democratic World Federalists, guardian of the Earth Constitution, a document that Desmond Tutu, along with other important figures of this world, wholeheartedly supported. See Appendix I A at the end of this explanation on Article I.

All Clauses of Article I have the hallmark of establishing fundamental commitments. If we ask for commitment from EU Member States to sign up as members of a federal Europe, then a World Federation may ask for commitment from a federal Europe to act as one of the building blocks of the foundation of that World Federation.

Just as our constitutional federal Europe must replace the undemocratic intergovernmental EU system, so a constitutional World Federation must replace the UN's dysfunctional system of treaties. Intended as an organisation that would put an end to wars, it is proving to be fundamentally undemocratic and unable to curb the constant violence in the world. In doing so, it violates its own rules.

This statement requires further explanation.

As the Second World War drew to a close, representatives of eighty countries met in San Francisco from April to June 1945 to discuss the establishment of the United Nations. The aim was to create a form of cooperation that would guarantee that no wars would ever be fought again. The founding fathers decided to establish a General Assembly (not a parliament), a Security Council (an oligarchy of ultimate decisionmakers with veto right) and an International Court of Justice (without executive powers). A crucial element was the composition of the Security Council: five permanent members - America, Russia, China, France, and the United Kingdom - and ten members elected every two years. America demanded a right of veto for the five permanent members. Many countries protested the fact that Article 109 spoke of reviewing the Charter but did not set a deadline for this mandatory evaluation of the veto-right system. America offered a third paragraph as a compromise. It stipulates that the revision of the Charter should take place within ten years. This is the so-called 'San Francisco Promise'. To date, this promise has not been fulfilled: the UN violates - with impunity – its own regulations. Addressing this impunity is blocked by Article 105 of the UN Charter which grants immunity to the institutions and officials of the UN: 'the offender has ensured that his offence cannot be dealt with.'

Article 109 reads:

> "1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.
> 2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Member of the United Nations including all the permanent members of the Security Council.
> 3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council."

The Democratic World Federalist (DWF, San Francisco) and the Center for United Nations Constitutional Research (CUNCR, Brussels) are among the most important movements demanding the true application of Article 109-3. The motive is not only that an organisation based on a Charter is supposed to follow its own rules, but also and especially because the UN anno 2022 is failing to guarantee the promised security and peace in the world. Let alone that the UN applies another article of the UN Charter, namely Article 6 of the Charter:

> "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 the recommendation of the Security Council."

Psychotherapy teaches us that those who set bad examples - after all, the UN itself refuses to comply with Article 109-3 - should not be surprised if others - belligerent nations - follow suit and shrug off treaty obligations.

Thus, Clause 7 of Article I of our Federal Constitution is a commitment to support the drive to replace the treaty-based UN with a World Federation based on an Earth Constitution: a complete removal of the undemocratic and ineffective treaty-based UN system in favour of a fully democratic and effective World Federation. With or without America, Russia, and China as members. As undemocratic and ineffective treaty systems both the UN and the EU have come to the end of their political life cycle and need to be buried in history.

States systems evolve. Until 1648, Europe had the state system of the nobility, with its violent noble anarchy. After 1648, the nation-states emerged with their violent nation-state anarchy. After 1945 the treaty-based state systems of the UN and the EU emerged, with their treaty-based anarchy. The current identity crisis of both the EU and the UN points to the advent of a new system of states: a European Federation for Europe and a World Federation for the world.
This federal Constitution serves as the constitutional basis for the European Federation.

Explanation of Clause 8

With reference to the previous Clause 7, Clause 8 states that a Member State of the Federation may be expelled if it persistently violates this Federal Constitution. The law determines the circumstances under which a 'persistently violation' occurs and the procedure to be applied in that case.

Explanatory Memorandum of Article II

Explanation of Section 1

Clause 1 implies that the European Congress has the same position as the USA 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 of the European Federal Union 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, as in the case of the USA, the 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, in recent times, 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 basis 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.

The last sentence of Clause 1, that federal elections are held based on federal laws, prevents Member States from influencing the organisation and operation of federal elections with their own laws.

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. We think that, initially, this system should work with a census cycle of ten years. But we know technological progress could make wise to opt for a different cycle. 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. That's why we explicitly stated that no secret vote is allowed in the Congress.

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.

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. 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 based on 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.

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 based on 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 based on 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 delates 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.

Clause 9 forbids secret votes.

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 conflicts with the Constitution, the Supreme 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 x 9 = 243 people. Plus, the above mentioned (non-voting) 3 x 2 = 6 delegates from the former colonies of European countries, the ACP group.

Explanation of Section 4

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 USA Constitution 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 (no secret vote allowed).

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.

Explanatory Memorandum of Article III

Explanation of Section 1

Clause 1 entitles both Houses of the European Congress to make initiative laws. Not the President and the Ministers of his Cabinet. These executives do not even act in the Houses. This strict separation of legislative and executive power guarantees the autonomy of the European Congress in its core task: the drafting and final approval of federal laws.

Clause 2 is a rather revolutionary text. Laws - with commandments and prohibitions - are the strongest instrument by which a government determines the behavioural alternatives of its Citizens. Citizens who believe that laws do not sufficiently consider the requirement of inclusiveness, deliberative decision-making, and representativeness in the sense of respecting and protecting minority positions within majority decisions, with resolute wisdom avoiding oligarchic decision-making processes can challenge this up to the highest court. The Federal Supreme Court of Justice has the power to test laws against the Constitution. In this Clause 2, therefore, lies a fundamental aspect of direct democracy: citizens have the right to challenge the correctness of a law before the highest court.

Clause 3 gives the exclusive power to the House of the Citizens to make tax laws. Unlike legislation in the general sense, the House of the States therefore does not have that power. However, that House may try to change those tax laws through amendments. The reason for declaring only the House of the Citizens competent to take an initiative in this regard is based on the consideration that 'groping in the purse of the citizens' is solely and exclusively at the discretion of the delegates of those Citizens.

The House of the Citizens thus decides what type of federal taxation will take place: income tax, corporation tax, property tax, road tax, wealth tax, profits tax and/or value added tax. Or perhaps it will leave those types of tax to the jurisdiction of the States and creates only one new type of tax under the name Federal Tax, provided that States' taxes are simultaneously reduced or abolished to prevent this Federal Tax from being imposed at the expense of the Citizens. The Constitution says no more about this because it is a subject for the politically elected.

Clause 4 excludes the President's involvement in the legislative process of both Houses. The USA Constitution gives the President the power to veto a draft law, but then a complicated process follows between the President and both Houses to agree or disagree. We do not consider it desirable for the President, as leader of the Executive Branch, to participate in law making, nor in interfering in a possible dispute between the two Houses. We provide the establishment of a mediating bicameral commission in case both Houses cannot work it out together.

Clause 5 gives the President a say in legislative matters of a lower level than a law.

Explanation of Section 2

If one sees the Preamble as the soul of the Constitution, then Section 2 of Article III is its heart. It mixes procedural provisions with substantive issues and the way they are to be dealt with partly by the Federation and partly by the Member States.

The end-means relationships of the Constitution

Building a federation is mainly a matter of structure and procedures. It is not about substantive policy. There is no such thing as federalist policy, for example, in the sense of federalist agricultural policy. There are, however, the policies of the federation. But their content is not determined by the fact that it has a federal form of organisation but by the political views and decisions of the members of the House of the Citizens, of the States and of the Federal Executive. The Federation itself has no political colour. It is not left-wing; it is not right-wing, is neither progressive nor conservative. It is a safe house for all European Citizens, regardless their political, social, religious belief. A structure with procedures and guarantees that are geared as much as possible towards taking care of Common European Interests. In other words, interests that individual Member States can no longer take care of on their own.

Section 2 shows the list Common European Interests in relation to substantive subjects for which the Federal Authority needs powers to look after those interests. Because this federation is built on the principles of centripetal federalizing (by building from the bottom up the parts create the whole) the Member States shall determine for which Common European Interests they are entrusting which powers to the federation. This is the most important condition for preventing the federation from developing into a superstate. Federations that are built top down (centrifugal federalisation: a central government creates parts) have the characteristic that there will always be centralist aspects in the federation, with the risk of weakening the classical federal structure that aims to ensure that the parts always remain autonomous, independent, and sovereign.

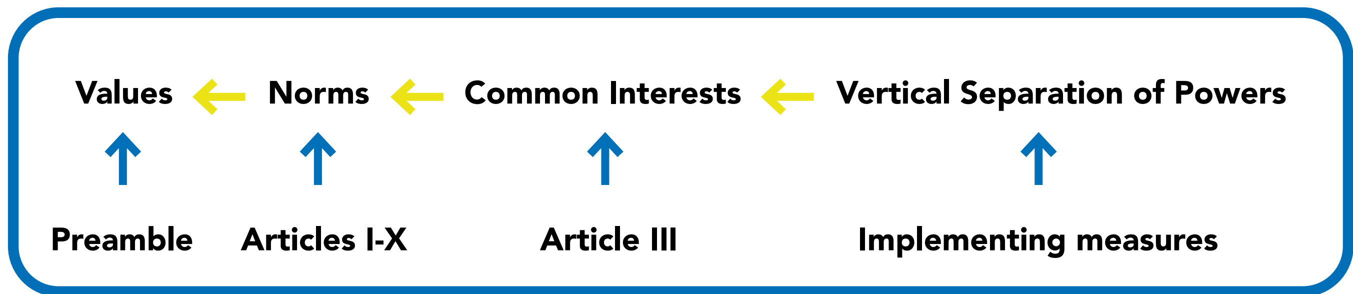
Thus, the powers of the federal body come from the Member States, not in the sense of transferring or conferring, but in the sense of entrusting: the Member States make some of their powers dormant, as it were, so that the Federation can work with them to realise the Common European Interests. That is the socalled vertical separation of powers between the Member States and the Federal Authority, leading to shared sovereignty between the two.

This requires a return to the passage on 'Values and Interests' in the General Observations of the Explanation to the Preamble. The Preamble to a federal Constitution is about values. The values are the objectives to be achieved through the deployment of Articles I to X. These articles contain the norms – read means – by which the values – read objectives – must be realised. The composition of a Constitution is thus a balanced relationship between values and norms or – in other words – between ends and means.

Interests on the other hand – better the Common European Interests of Europe, to be taken care of by the Federal Authority – are part of a second ends–means relationship. They are the means to realize the norms. And they are cared for and secured through the Vertical Separation of Powers between the Federal body and the Member States. So, that is a third means to end relationship.

Note that these three ends–means relationships are part of the ingenious system of checks and balances and require such attention that the ends are clear, that the means are clear and that the means can realise the ends. The arrows in the diagram – from right to left - show the means to end relations:

[4] The vertical separation of powers is the same as establishing subsidiarity. In other words, nowhere in a well-designed federal constitution is there a sentence that points to the principle of subsidiarity for the simple reason that the concepts of 'vertical separation of powers' and 'subsidiarity' coincide. See for more information the paragraphs 4.2.5, 4.2.8, 5.2, 5.3.2, 5.4 of the aforementioned Toolkit: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.



The FAEF Citizens' Convention started the process of improving a provisional Constitution text with the perception that there are Values and Common European Interests; and that we can achieve (much) more through cooperation. Realization of these Common Interests are the objectives of forms of cooperation between the Member States and a Federal Authority. By expanding the scope, scale, and depth of the collaboration, it becomes possible to define those Common Interests in terms of means to fulfill the Norms and the Norms to fulfill the Values. These Values are understood as the foundation of the Federation, and as the ultimate objectives to be achieved. They have become the objectives in terms of the 'what' and indicate the desired direction (of development) for the Federation.

The Articles I - X concern principles for the organization of the Federation (structure and process) - the 'how' - and reflect (must be consistent with) the Values. The Articles can be considered Norms. i.e. rules and expectations (of 'behavior') that can be enforced. They are the means to fulfill the Values.

The Common Interests are the 'where'. They can be considered 'result areas' that are established with a centripetal approach to federalization (bottom-up, minimalistic/cautious approach). These result areas are the more concrete issues/ challenges where the Federation can provide added value for the Member States and the Citizens of the federation. The 'field of activity' of the Federal Authority is defined through the Common European Interests, that are identified by the Member States and its Citizens.

The Vertical Separation of Powers defines the content, the depth and the scope of the Common European Interests and is the beginning of the series of goal-means relationships. Anything that goes well - or perhaps not well - in the process of the vertical separation of powers by which Member States entrust powers to the Federal body will positively or negatively affect the meaning and value of the Common Interests. That, in turn, will affect the quality of the Norms and, in turn, that will affect the quality of achieving the Values. Thus, the success of the vertical separation in a good cooperative effort ultimately determines the success of what the Federation aims to achieve with the Values of the Preamble.

The Clauses of Section 2

Clause 1 lists the Common European Interests. This is the fulcrum of a federal Constitution. The only reason to make a centripetal federation is that States realise that they can no longer look after some interests on their own. They then jointly create a Federal body and ask that body to look after a small set of common interests on their behalf and of their Citizens.

Clause 1 lists the name of the Common European Interests. This gives a good idea of what these interests mean. For a better idea of their content, see Appendix III A. The Appendix describes the procedure for the vertical separation of powers which gives indications of the subjects of policies that are entrusted to the care of the Federal authority.

Clause 2 explains what a centripetal federation is: the parts create a whole, a centre, which is empowered by the parts to look after common interests that individual States can no longer look after on their own. Although the list of Common European Interests is exhaustive, Clause 2 offers a window for increasing or decreasing it if new circumstances warrant. Naturally, this must be done via the procedure of Appendix III A and of the procedure to amend the Constitution. New circumstances can be: a new insight in the meaning of the values and norms of the constitution; a new insight in the meaning of Common European Interests that affect at least three states and have the potential to escalate to other states; the realization that the scale of new circumstances requires a uniform, efficient federal response.

Clause 3 refers to Appendix III A that regulates the procedure of the vertical separation of powers. See the end of this Explanation on Article III.

More powers than the ones in Section 2

It is to be expected that the practice of the European Federal Union will show that the Houses of the European Congress - just like those of the US Constitution - feel that they do not have enough powers with the exhaustive Common European Interests mentioned in Section 2. A system of 'additional powers' will undoubtedly develop. An expansion of the complex of powers of both Houses that may be at odds with the intentions of the Constitution. One should think here of the following - potential - developments.

One of the most important is called 'Congressional Oversight'. This oversight - organised mainly through parliamentary committees (both standing and special), but also with other instruments - concerns the overall functioning of the Executive branch and Federal Agencies. The aim is to increase effectiveness and efficiency, to keep the executive in line with its immediate task (execution of laws), to detect waste, bureaucracy, fraud and corruption, protection of civil rights and freedoms, and so on. It is a comprehensive monitoring of the entire policy implementation. This, by the way, is not something of the recent past in the US. It arose from the inception of the Constitution and is an undisputed part of the ingenious system of checks and balances. It will undoubtedly develop in the same way in Europe.

The Constitution does not know this 'Congressional Oversight' in so many words, but it is supposed to be an inalienable extension of the legislative power: if you are authorised to make laws, you must also be authorised to control what happens in their implementation. It is self-evident in an administrative cycle. Of course, there have been attempts to demonstrate with a strict interpretation of the US Constitution that this form of 'Implied Powers' is not in accordance with the Constitution. However, the US Supreme Court has always rejected this claim. This is in line with the vision of President Woodrow Wilson, who saw this parliamentary oversight as being just as important as making laws: "Quite as important as legislation is vigilant oversight of administration."

Explanation of Section 3

Clause 1 restrains policies and actions that may be crushing for biodiversity or that, for example, polluting energy companies are opened or remain open in violation of climate agreements. This ban must make a positive contribution to energy and food availability and security.

[5] For more information on these issues, see Chapter 10 of the aforementioned Toolkit: https://www.faef.eu/wp-content/uploads/Constitutional-Toolkit.pdf.

According to **Clauses 2 and 3** of this Section, neither the States of the Federation, nor the Federation itself, may introduce or maintain regulations which restrict or interfere with the economic unity of the Federation. Again, powers not expressly assigned to Congress by the Constitution in Article III, Section 2 rest with the Citizens and the States. This is the other side of the coin called 'vertical separation of powers'. Nevertheless, in the USA it was considered useful and necessary at the time not only to place limits on Congress in their Article I, Section 9, but also to remind the States that their powers are not unlimited. To this end, their Article I, Section 10 - our Article III, Section 3 - stipulates what the States may not do.

Clause 4 imposes the same limitation on the legislative power of the States as that of the Federation in order to maintain legal certainty, not to affect the exercise of judicial power and to safeguard rights of Citizens in force or enforced. It is also important, a subject that has often been addressed by the US Supreme Court, that States may not legislate to override contractual obligations. Legal certainty for contractors and litigants is of a higher order than the power to declare a contract or a court decision ineffective by law.

In Clause 5, the provision that none of the member States of the Federation may create its own currency (taken from James Madison's Federalist Paper No 44) is a clear warning to some EU Member States considering returning to their own former national currencies. Nevertheless, states are allowed to issue bonds and other debt instruments to finance their deficit spending. In other words, we are proposing to create a financial system like that of the USA.

Clause 6 states that export and import duties are not within the competence of the States unless they are authorised to do so. They may, however, charge for the expenses they incur in connection with the control of imports and exports. The net proceeds of permitted levies must fall into the coffers of the Federation. This matter is likely to have a high place on the agenda of the previously recommended six delegates of the House of the States (without voting rights) delegated by the ACP countries to the European House of the States.

Clause 7 emphasizes once again that defence is a federal task. On the understanding that the European Congress may decide that a Member State shall accommodate on its territory a part of that federal army and keep it ready to act in case of emergency.

Explanation of Section 4

In this Section 5 we have included a number of additional rules to combat political corruption. Because gigantic sums of money are spent on election campaigns in America, there is a saying: "Money is the oxygen of American politics". In our federal constitution for the United States of Europe, Article III, Section 5 contains Clauses justifying the adage: 'Money should not be the oxygen of European politics'.

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

By ratifying the Constitution, the Citizens adopt the limitative and exhaustive list of the Common European Interests. The question, however, is: how can one properly determine which powers are necessarily needed to enable the Federal Authority to do its job? For that, a procedure is needed. A procedure of debate and negotiation within which the Citizens (direct democracy) and the States play a prominent role.

For this purpose, Clause 3 refers to Appendix III A which is an integral and therefore mandatory part of the Constitution, but for any future adjustment it is not subject to the amendment rules of the Constitution.

If the Constitution is ratified by enough Citizens to establish the Federation the limitative and exhaustive list of the Common European Interests will be established. The meaning of this is: the Citizens have spoken; that list is non-negotiable during the debate and negotiation necessary to determine which powers should be entrusted – by means of that vertical separation of powers - to the Federal Authority, to enable the Federation taking care of the Common European Interests.

Let us repeat once again that the Member States retain their sovereignty in the sense that they do not transfer or confer parts of their sovereignty to the federal body and would thus lose those sovereignty. What they are doing is entrusting some of their powers to the federal body because that body can look after Common European Interests better than the Member States themselves. Thus, the Member States make their relevant powers dormant. The effect is shared sovereignty.

The vertical separation of powers will always be a matter of debate and will sometimes require adjustment. That is why the outcome of the debate and negotiation on the vertical separation of powers will be another Appendix to the Constitution: Appendix III B. The Appendix III A on the procedure of the process of the vertical separation of powers and the future Appendix III B, containing the result of that procedure, are integral parts of the Constitution but might be adjusted during the years without being subjected to the constitutional amendment procedure. This is to prevent that any necessary adjustments of the vertical separation will force to amend the Constitution itself.

On the basis of three principles, the founding fathers of this Constitution lay down the following procedure for determining the vertical separation of powers.

Principle 1 – from bottom to top

It would be a severe system error to arrange the allocation of powers from top to bottom. Wherever possible in the construction of a federal state, one should always work from the bottom up. That is a 'commandment' of the centripetal way on which this federal Constitution is based. This requires asking the Member States which parts of their complex of competences they wish to make dormant, so that the federal body can dispose of them to take care of the Common European Interests.

One must be careful not to think in terms of decentralization. Decentralization is 'moving from top to bottom': the center shares parts of its powers with lower authorities. This does happen in federal states that are centrifugally built: a centre creates parts. But the effect of such a course of action is that there will always remain unitary/centralist aspects. First of all, the central state may, at any time, without consulting its citizens, decide to get back all of its powers, because there is not a Federal Constitution that states otherwise. If countries such as Spain and the United Kingdom were to decide to further decentralize their already existing devolved autonomous regions into parts of a federal state, they would run the risk of creating a relatively imperfect federal state as well.

Principle 2 – debate and negotiation on Common European Interests

If the electorates of some European states ratify the Constitution by a majority, and if their parliaments follow the will of their people, the debate and negotiation on the powers that the Member States entrust to the Federation starts.
This process is as follows:

a) Internal deliberation by individual Member States
Each Member State has two months to prepare a document in which it puts forward proposals on the powers it wishes to entrust to the Federal body. In total, they draft one document for each Common European Interest. In doing so, they give an insight into the way in which they think the Federal body should be vested with substantive powers and material resources. A Protocol establishes the requirements that the documents must meet to be considered, among which the organization of the way Citizens participate in that process (direct democracy). The central requirement is that they must deal with the representation of Common European Interests that a Member State cannot (or can no longer) represent in an optimal manner itself.

b) Aggregation of the documents
Under the leadership of FAEF, a Transition Committee is created beforehand to regulate the transition from the treaty-based to the federal system. This is where the Citizens come in as well: direct democracy. Led by FAEF, that Committee consists of (a) non-political Experts on the Common European Interests and (b) non-political Citizens. Point (a) is required for expertise. Point (b) is required to prevent the deliberation and decision-making on the vertical separation of powers from degenerating – as has been the case in the treaty-based intergovernmental EU-system since 1951 – into nation-state advocacy. The Transition Committee aggregates the documents of the Member States into a total sum of powers to be vertically separated, and the substantive and material consequences. Two months are available for this.

c) Final decision-making
The aggregated document is the agenda for a one-week deliberation on each Common European Interest. Under the leadership of the Transition Committee, final decisions are taken on the best-balanced allocation of powers from the Member States to the Federal body. This final document will be an integral Appendix III B of the constitution. After its implementation in the federal system practice will show when, why and how Appendix III A on the procedure of the vertical separation of powers needs improvements, so that the Appendix III B on the result of that procedure must undergo improvements as well.

d) The start of the construction of the federal Europe
The result of c) marks the beginning of the building of the federal Europe. Guided by a Transition Committee of Citizens, the Member States determine concretely how the federal body with a limited number of entrusted powers of the states should represent a limited amount of Common European Interests. It marks a barrier between the tasks of the federation and the fields in which the Member States remain fully autonomous and the federation cannot become a superstate.

Principle 3 – debate and negotiation on Common European Interests

Taking from the limitative and exhaustive list of Common European Interests of Section 2, Principle 3 contains non-exhaustive examples of topics on which the debate and negotiations may take place. The formula is as follows:

The European Congress is responsible for taking care of all necessary regulations with respect to the territory or other possessions belonging to the European Federal Union, related to the following Common European Interests.

1. The livability of the European Federal Union,
by regulating policies against existential threats to the safety of the European Federal Union, its States and Territories and its Citizens, be they natural, technological, economic or of another nature, or concerning the social peace.

Potential topics for debate and negotiation on the vertical separation of powers:
(a) to regulate the policy on all natural resources and all lifeforms, on climate control, on the implementation of climate agreements, on protecting the natural environment, on ensuring the quality of the water, soil, air, and on protecting the outer space;
(b) to regulate policies on preventing and fighting pandemics
(c) to regulate the policy on the safety and availability of food and drinking water;
(d) to regulate the policy on preventing scarcity of natural resources and dysfunctional supply chains;
(e) to regulate the policy on social security, consumer protection and child care;
(f) to regulate the policy on employment and pensions;
(g) to regulate the policy on health throughout the European Federal Union, including prevention, furthering and protection of public health, professional illnesses, and labor accidents;
(h) to regulate the policy on justice and on establishing federal courts, subordinated to the European Supreme Court of Justice.

2. The financial stability of the European Federal Union,
by regulating policies to secure and safe the financial system of the Federation.

Potential topics for debate and negotiation on the vertical separation of powers:
(a) to regulate the policy on federal tax, imposts, and excises, uniformly in all territories of the European Federal Union, on the debts of the Federation, on the expenses to fulfill the duties imposed by this and on borrowing money on the credit of the Federation;
(b) to regulate the policy on installing a fiscal union;
(c) to regulate the policy on supervising the system of financial entities;
(d) to regulate the policy on coining the federal currency, its value, the standard of weights and measures, the punishment of counterfeiting the securities and the currency of the Federation.

3. The internal and external security of the European Federal Union,
by regulating policies on defence, intelligence and policing of the Federation.

Potential topics for debate and negotiation on the vertical separation of powers:
(a) to regulate the policy on raising support on security capabilities, among which the policy on one common defence force (army, navy, air force, space force) of the Federation, on compulsory military service or community service, and on a national guard;

(b) to regulate policies in the context of external conflicts, policies on sending armed forces outside the territory of the Federation, on military bases of a foreign country on the territory of the federation, on the production of defensive weapons, on the production of weapons for mass destruction, on the import, circulation, advertising, sale, and possession of weapons, on the possibility of bearing arms by civilians;
(c) to regulate the policy on declaring war, on captures on land, water, air, or outer space, on suppressing insurrections and terrorism, on repelling invaders, and on fighting autonomous weapons;
(d) to regulate the policy on fighting cybercrimes and crimes in outer space;
(e) to regulate the policy on one federal police force;
(f) to regulate the policy on one federal intelligence service;
(g) to regulate fighting and punishing piracy, crimes against international law and human rights;

4. The economy of the European Federal Union,
by regulating policies on the welfare and prosperity of the Federation.

Potential topics for debate and negotiation on the vertical separation of powers:
(a) to regulate the policy on the internal market;
(b) to regulate the policy on transnational production sectors like industry, agriculture, livestock, forestry, horticulture, fisheries, IT, pure scientific research, inventions, industrial product standards.
(c) to regulate the policy on transnational transport: road, water (inland and sea), rail, air, and outer space; including the transnational infrastructure, postal facilities, telecommunications as well as electronic traffic between public administrations and between public administrations and Citizens, including all necessary rules to fight fraud, forgery, theft, damage and destruction of postal and electronic information and their information carriers;
(d) to regulate the policy on the commerce among the Member States of the Federation and with foreign nations;
(e) to regulate the policy on banking and bankruptcy throughout the Federation;
(f) to regulate the policy on the production and distribution of energy supply;
(g) to regulate the policy on consumer protection;

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

Potential topics for debate and negotiation on the vertical separation of powers:
(a) to regulate the policy on scientific centers of excellence;
(b) to regulate the policy on transnational alignment of pioneering research and related education;
(c) to regulate the policy on the exclusive rights for authors, inventors, and designers of their creations;
(d) to regulate the policy on progress of scientific findings and economic innovations.

6. **The social and cultural ties of the European Federal Union,** by regulating policies on preserving established social and cultural foundations of Europe.

   Potential topics for debate and negotiation on the vertical separation of powers:
   (a) to regulate the policy on strengthening unity in diversity: "Acquiring the new while cherishing the old";
   (b) to regulate the policy on arts and sports with a federal basis.

7. **The immigration in, including refugees, and the emigration out of the European Federal Union,** by regulating policies on the improving the level of wisdom and knowledge within the Federation.

   Potential topics for debate and negotiation on the vertical separation of powers:
   (a) to regulate policies on access – or denial of access - to the Federation, on security measures against terrorism and cybercrime related immigration, on mode of housing, employment, social security;
   (b) to regulate policies on leaving the Federation.

8. **The foreign affairs of the European Federal Union,** by regulating policies on strengthening the Common European Interests in the interest of global peace, social equality, economic prosperity, and public health.

   Potential topics for debate and negotiation on the vertical separation of powers:
   (a) to regulate the policy on external cooperation to strengthen the policies on the foregoing Common European Interests.
   (b) to define the means by which this common interest is promoted, e.g. through cooperation by States, especially concerning international trade (what is trade, with whom, under what conditions), developmental projects (what projects, with what partners, under what conditions), disaster relieve, projects to mitigate (the consequences of) climate change/global warming.
   (c) to regulate policies to promote global federation.

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

1. The Common Interests are the same as a Kompetenz Catalogue. It is a limitative and exhaustive list of concrete interests of a common European nature. They must be formulated in an abstract, generic way. In other words: the common interests must have a name. For example, 'The financial stability of the European Federal Union'.

2. Although the list of Common European Interests is exhaustive, the Constitution must provide for the possibility of adapting that list. The constitutional amendment procedure and that of Appendix III A shall apply.

3. These common interests must be promoted by means of policies. To design and implement policies, the federal body needs powers. This requires a so-called vertical separation of powers: the states entrust a limitative and exhaustive list of powers to the federale entity.

4. Because we are building a classic centripetal federation (i.e., from the bottom up), it is up to the Member States to decide which powers they want to entrust to the federal body. This is the key to limiting a possible Pandora's box of an endless list of policies for free application by the federal body.

5. This methodology is a natural limitation to the bottom-up determination of what member states want to entrust to the federal body. They might want to limit themselves and in that (defensive) attitude lies the perfect opportunity to clarify together what the real European interests are. The purpose of making a federation is not to enable a federal body to act as a new ruler but to look after essential European interests.

6. When working on the vertical separation of powers three subjects play an important role:
(a) Stick to the principle of working from the bottom up. This stems directly from the Political Method of Johannes Althusius who formulated the building blocks of federal statehood around 1600.
(b) Require the Member States to write down, each for itself, which powers it wants to entrust to the federal body. A Transition Committee of experts and other Citizens (proces-steering democracy), led by FAEF, aggregates these Member State documents, and decides on it as the final decision on vertical separation. Only with the composition of that document does it become clear which powers, and thus which policies, will be represented by the federal body.
(c) Require, in addition to working with a Transition Committee of (expert) Citizens, that the Member States consult Citizens in the process of weighing up the options within their own state. This is another opportunity deliberative democracy.

7. That bottom-up process determines how many specific policies are taken out of the box to take care of the generic common interests. It leads naturally to an agreement between the Member States because they themselves have determined what they want to entrust to the federal body. And the federal body has to accept that. This indicates how much a federation differs from the treaty-based EU.

8. In other words, we should not already in the Constitution, nor in the Explanation, establish the vertical separation of powers or drive it in a certain direction. We must stick to a procedural way of working bottom up.

9. For this reason, the topics are intended only as possible subjects for debate and negotiation in the procedure of vertical separation of powers.

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

Explanatory Memorandum of Article IV

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.

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This explains the extensive Committee system and Staff in both Houses . 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 President and Vice President are elected simultaneously by the citizens of the Federation. The President leads the executive. So, 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.

Clause 2 departs also 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 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 view of the likelihood of more than two persons running for president, Clause 2 states that a second round of elections shall take place between the two highest-ranking candidates within one month of the first if it appears that none of the candidates has obtained the majority of votes in the first round.

[6] 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 3 stipulates, in derogation from the American Constitution, 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 4 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 the Federation and has lived somewhere officially in the Federation for at least twelve years.

Clause 5 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 6, the compulsory oath or promise of the President, to be taken at the hands of the President of the Supreme 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 sentence of **Clause 1** is the impeachment provision. This first Clause 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 President, all the way? Well, the latter has been the case since 1967: the Vice President becomes the President.

The Clauses 3, 4 and 5 of this Section 2 are improved versions of the U.S. Amendment 25, ratified in February 1967 . In Clause 4, the reference to an 'institution' is a protection of the President against a possible plot, forged by the Vice President and a majority of the members of the President's Cabinet, to overthrow the President. The law specifies how such an - independent - institution is formed and how the Vice President and that institution determine that the President is no longer capable of properly carrying out his duties.

Clauses 5 and 6 are taken from American Amendment 20, ratified in January 1933.

[7] 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.

PLEASE HELP US

WITH OUR PROCESS **TO ACHIEVE A FEDERAL EUROPE** WITH A **CONSTITUTION RATIFIED BY THE EUROPEAN CITIZENS**