

QUESTIONS & ANSWERS

ABOUT

FEDERALISING EUROPA



FAEF's book about federalising Europe



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Why Questions and Answers on Federalisation of Europe?

European Parliament elections will take place again in June 2024. In the run-up to these, there are increasing calls to - finally - make the European Union a Federation. To clarify what a federal Europe is, what it means for member states of the federation and their citizens, in what respect it differs from the current EU operating system and what Europe stands to gain from it, the Federal Alliance of European Federalists (FAEF) is launching a series of Questions and Answers (Q&A) on federal state-building, prepared by Dr Leo Klinkers, former President of (FAEF). Some answers are drawn from situations in the Netherlands, Klinkers' home country. However, the examples are recognizable within the whole of Europe.

General aspects of federalism

1. What is federalism?

Federalism is a way of organising. When organisations realise that they have common interests that an individual organisation cannot look after, but still want them to be properly looked after, they decide to entrust the care of an exhaustive set of common interests to a body that takes care of them on their behalf. The members of that federal body retain their independence. The cornerstones are:

- (a) The realisation that the care of common interests cannot - or can no longer - be taken care of by individual organisations themselves.
- (b) That the members remain sovereign and retain all relevant powers, but entrust the use of some of those powers to that federal body to look after the concern for common interests on behalf of the members.
- (c) That those common interests are limitatively defined.
- (d) That the federal body is authorised to make decisions on - only - those interests.

2. Shall we first discuss what a private federal organisation is?

Talking about a federal Europe is a politically sensitive issue. To cope with that sensitivity, knowledge is a good tool. If you first know what a private federation entails, then afterwards you will better understand why a federal Europe as a public federation a good thing is. Especially when you find out that the Netherlands has thousands of private federations that citizens enjoy. One first example.

What in English-speaking countries is a Condominium is called the Vereniging van Eigenaren (VVE=Association of Owners) in an apartment building in the Netherlands. This is an example of private federation. In an apartment building -

small or large - the owners form an association by law, but organizationally they are a federation. This is as follows.

They are masters of their own house. Do they want to eat vegetarian food every day? No one can forbid them. Do they like to sit on camping chairs or do they prefer designer furniture? Go ahead. No one has the authority to instruct them to shower only once every two days, do their laundry on Mondays and eat fish on Fridays.

But those owners have common interests. For example: caring for the maintenance of the roof, the central heating boiler, the lifts, the stairwells, the balconies. They cannot take care of those interests on their own. Therefore, as members of the association, they elect a board and entrust that body with the care of that limitative list of common interests.

They remain sovereign masters of their own house and, by paying a monthly deposit, enable the board to do its work. The board can influence their behaviour only in the context of that work. For example. If the building's central heating needs to be renewed - to be paid for out of the earmarked monthly deposits - the board may issue a notice that on that and that day, between that and that hour, the hot water supply will be cut off to install a new central heating boiler.

Note. The fact that it is an association indicates its legal identity. The way it is organised indicates a federal identity.

An owner becomes a member of such a VVE at the time of purchase at the notary. He then receives the VVE regulations. These set out the mutual rights and obligations. For example, that - to ensure the common interest of peace and quiet for all residents in the building - it is not allowed to drill in the walls after eight o'clock in the evening.

In a public federation, a constitution is the equivalent of the VVE regulations. And monthly deposits are the parallel to federal taxes.

3. Are there also large private federations?

Well and truly. But few people know that. I notice this every time I ask during courses or lectures to name some really big private federations. Rarely is there an answer. Even though almost everyone knows them. Let me name a few. The KNVB, the NOC*NSF and the VNO-NCW.

The KNVB is the federal body that looks after common interests of amateur and professional football. It regulates - for example - some training courses and the annual match calendar. All clubs remain sovereign at home. The KNVB cannot force Ajax and Fijenoord to merge, or build a new stadium. It is legally an association. But its organisation is a federation. Together with 53 other European football associations that look after the common interests of football in other countries, it forms the UEFA. The UEFA looks after football at European level and, together with a handful of continental federations, forms FIFA. The first letter means 'Fédération'.

The KNVB is a member of the NOC*NSF. The 'F' stands for federation. And that in turn is a member of the International Olympic Committee (IOC), including FIFA. So your child or grandchild can get a gold medal within numerous sports. And it allows billions of people besides the players themselves to witness it.

The Netherlands has another very large private federation in the form of the VNO-NCW, the association of companies. It is a gigantic federal organisation of employers' organisations, so big that I cannot manage to establish how many organisations via branches within industries are members of it, let alone calculate how many millions of Dutch people in those member organisations keep the economy running and earn their income.

4. Why is the Patients' Federation of the Netherlands a strikingly private federation?

To conclude these aspects of private federalisation, I broadly outline the structure of the Patients' Federation Netherlands. All of us are sick at some point in our lives, and thus patients. Hence the spotlight on that federation for a moment.

If there is one private federation that lives up to the concept of 'caring for common interests', it is the Patiëntenfederatie Nederland, which has existed for 30 years. It has 57 member organisations which, in turn, are divided into some 200 patient organisations. These represent the interests of people with certain diseases or conditions.

Check for yourself via the internet that list of those 57 member organisations and which organisations they federally represent. Each organisation describes the common interests they represent.

In this way, you can build up knowledge about how federations are put together with the most important cornerstones: promoting an exhaustive range of common interests and preserving the sovereignty and individuality of member organisations.

In short: all citizens of the Netherlands - without knowing it themselves - are covered from cradle to grave by an extraordinarily large number of private federations. In the 50 years that I have been dealing with this subject, I have never experienced citizens of the Netherlands opposing that form of organisation. The same applies - to a greater or lesser extent - to other countries.

5. So what is the main problem in pursuing a federal Europe?

Perhaps this information on private federalisation offers a learning perspective for those who, after 200 years of resistance to a federal Europe, realise what the usefulness of a federal organisation of Europe can be. That resistance stems from a combination of not knowing what federal statehood is and unwillingness to allow relevant knowledge to enter the brain. Leading to wrong discussion about good law and proper organisation for European citizens.

That, and how, a given organisation is federated is always legally underpinned. With private federations, it is in the statutes. If we are talking about a public federation, such as a federal Europe, legal logic obliges to formulate the equivalent of 'statutes as the foundation of a private federation' as a 'constitution as the foundation of a public federation'. Statutes (private law) and Constitutions (public law) are each other's equivalents in terms of legal foundation. This logic takes place all over the world. Each of the world's 27 federal states is based on a constitution.

Unfortunately, that logic is trampled upon in Europe. In the discussion since 1800 on federalisation of Europe, leading politicians do always affirm the usefulness and necessity of making Europe a federal state, but they refuse to put a constitution as a foundation under it. Thus, after World War II, they opted for a system of treaties to cooperate. This is called intergovernmentalism: cooperation at government level. Therefore, with the establishment of the European Coal and Steel Community in 1951, treaty-based intergovernmentalism became the prevailing operating system of what is now the European Union.

6. What split are European politicians caught in?

A public federation is by definition a state. A state by definition has as its legal foundation a constitution. Even though the United Kingdom has no written constitution, it does have a conglomerate of documents - including the *Acts of Government* - that together serve as its constitution.

For an operating system of Europe, it is one of two: either one chooses to continue treaty-based intergovernmentalism, but then one cannot call that system a federation, because it is not a state. Or one chooses a federation and thus a state-like organisation; but then it must have a constitution as its foundation.

In other words, politicians (and their followers) who do advocate a federal Europe (as we increasingly hear these days), but still insist on a treaty basis, do not know what they are talking about. If they do know, but do not act according to that knowledge, they are guilty of '*deceitful trickery*'.

That split has been known for many years and the subject of repeated strivings by federalists, especially since WWII, to finally turn the black page of two hundred years of wars in Europe and guarantee European citizens a war-free future on the European continent.

But the black-and-white choice between an intergovernmental or a federal Europe has always been advanced by - what legalists call - the use of a 'magic formula' when politicians know what the right thing to do is (a question of morality), yet fail to do the right thing by falling back on a construction '*sui generis*'. What that is is in the answer to the next question.

7. What is a construction 'sui generis' and why should one avoid it?

A construction 'sui generis' is the creation of a 'legal form' that (stands) on its own. This is a political contrivance that does not fit into common legal doctrines, but acts as a means of delaying a politically competent and legally sound approach to a sensitive issue for as long as possible by designing a dubious intermediate solution, tacitly agreeing not to take it to a principled and functional level. Shoving under the carpet a principled and functional approach to an issue that undermines interests (in this case, common European interests) is a serious systemic failure.

A systemic error is a failure of the system such that it causes additional errors, which together - sooner or later - cause the system to explode or implode. A well-known example is the space shuttle Challenger disaster in 1986. It exploded after 73 seconds with seven astronauts on board. A compartment was measured on the drawing board in inches, but when it was built it was measured in centimeters. The excessive pressure in that compartment caused the system to explode. The reverse happened in June 2023 with the submarine that was supposed to carry six people to the Titanic. That imploded because the walls could not withstand the pressure of the water due to hairline cracks.

An organisation built with a system failure suffers the same fate. It in turn generates series of internal system failures. As a result, the system is eroded from within, creating a structurally conflictual culture internally, with loss of resilience to external factors - in this case geopolitical changes - that threaten survival through ever-increasing external pressure.

8. What is an example of such a 'sui generis' construction in the European context?

Around 2000, the EU understood that treaty-based intergovernmentalism was beginning to bog down. They organised the Convention on the Future of Europe between 2001 and 2003. That had the explicit aim of creating a basis for a federal Europe. That intention made federalists happy. The leadership of that Convention came in the hands of former French president Valéry Giscard d'Estaing. After three years, the result was announced as a 'Constitutional Treaty'.

This is a good example of how the magic formula of 'sui generis' works. So it was called a constitution based on a treaty. However, a constitutional treaty does not exist as a legitimate form of law because it is an 'oxymoron'. That is a linguistic phenomenon of two concepts being mutually exclusive. Something is a constitution, or it is a treaty. A correct legal middle ground is not possible. By the way, it is not a contradiction in terms, because that indicates a contradiction. Here we are talking about two concepts that are mutually exclusive. Like a round square, for example.

This 'sui generis' concoction was thrown in the bin because both France and the Netherlands rejected it by referendum in 2005. Not so much because citizens

understood that it was gibberish, but because French and Dutch politicians pressured their citizens to brush away any thought of a federal Europe. It is important to note that the express purpose of that 2001-2003 Convention - namely to lay the foundations for a federal Europe - was stripped of any federal element by the EU institutions after that Constitutional Treaty was voted down. That led in 2007 to the entry into force of the intergovernmental Lisbon Treaty, consisting of two partial treaties.

Nevertheless, the EU institutions continued to realise that the European Union was in danger of disintegrating. Therefore, they organised another Conference on the Future of the EU between 2021 and 2022. This time explicitly rejecting any federal perspective. And with the message that the outcome will begin to form the basis for yet another adjustment of the existing EU treaties. A concrete push for this is likely to appear ahead of the European Parliament elections in June 2024.

9. What systemic failures are leading the treaty-based EU into the abyss?

I will limit the enumeration of systemic errors of the treaty-based EU system to the most important ones.

Treaties have no democracy. Not popular sovereignty with political sense of values of what European interests are is the guiding motive to conclude EU treaties, but to safeguard national interests with the administrative need to make decisions from above - unhindered by the obligation to be accountable to a parliament.

It is well known that there must be a parliament to which administrators are politically accountable, but it is constructed by the nation-state electoral system, and composition, in such a way that the unelected European Council of 27 heads of government and state has the last word, can take top-down any decision it deems to serve the goals of the Lisbon Treaty and can block initiatives from the European Commission, the European Parliament or Citizens with a built-in veto power. In other words, the EU has no true transnational representative nor parliamentary (=parliament in charge) democracy.

Because the Treaty allows the European Council to take any decision it considers serves the purpose of the EU (Article 352 c.a.), the EU operates with directives (=laws) top-down (=coercive) and the subsidiarity principle enshrined in the Treaty (=leave to member states what member states can do better themselves) is illusory. The EU therefore does not integrate but assimilates. And this causes constant internal resistance that becomes more numerous and fiercer.

Treaties are only respected if they serve the nation-state interest of a member state. If it feels threatened - culturally, economically, legally - it ignores treaty obligations or fights them. This is called 'treaty anarchy'. Treaties are a sum of national and nationalistic interests. For this reason, they contain a wide range of exceptions to the Lisbon Treaty's provisions, so-called opt-

outs. To invalidate generally binding rules with exceptions to those generally binding rules is the worst kind of lawmaking.

Treaties are the playground of administrators. They serve the autocratic genes that are more strongly developed in administrators than in non-administrators, some more so and more demonstratively than others. The different level of autocratic behaviour between - for example - Orban, Rutte and Macron, to name some, is only relative.

The disintegrating treaty system only holds as long as there are external threats. For example, the war in Ukraine and threatened and complicated trade interests with China.

The treaty system does not have the power to create its own European defence force as a priority common European interest. Nor a common climate policy, immigration policy and nature policy, to name some common European interests. For this reason, the likely outcome of the 2021-2022 Conference on the Future of the EU will strongly drive this issue.

10. What problems do these systemic failures create?

Because the European Union is a sum of national interests rather than a vision of a handful of European interests based on a normal legal foundation (=a federal constitution), it is a 'giant on mud feet'. Any attempt to serve a recognised common European interest competently - i.e. in accordance with standards and norms of federal statehood - is blocked, either in the European Commission, or in the European Parliament, or in the European Council, on the grounds of threat to one or more national interests of one or more member states.

This state of affairs - previously referred to as 'treaty anarchy' - created over years a culture and structure of internal conflict that increasingly flared up like a rampant peat fire. Instead of facing up to the root causes of that culture and structure, they are always 'solved' with symptom-fighting ad hoc measures such as allowing even more exceptions than are already the case under the opt-outs the Lisbon Treaty. Including appeasing the conflict with extra money, or forcing the 'disobedient' member state to 'surrender' precisely by withholding money.

11. Why do these things indicate an imminent break-up of the EU?

With concepts of systems theory, thermodynamics and organisational theory, this can be interpreted. In extremely succinct terms:

- (a) A system full of system failures eats up energy from within the system through a self-reinforcing process (=positive feedback).
- (b) More and more and more intense conflicts then arise, which require ever shorter-acting ad hoc 'solutions' and are worked out ever faster (=within put overload).
- (c) As a result, more and more energy is consumed than stored to both maintain and renew the system.

(d) As a result, the organisation falls into an ever greater state of disorder and decay (=entropy) to finally, after an identity crisis, implode or explode. A small tap is enough.

Elementary in this context is the concept of crisis. Necessary but radical innovations that also address the root causes of the problem take place only after a foreseeable but ever-delayed crisis until it dictates what should have been done much earlier.

12. What if the European Union succumbs to its systemic failures?

If the EU succumbs to its systemic failures - there is nothing to suggest that it will not - a political-administrative vacuum will be created. A dangerous situation. Such a vacuum will be filled in no time with autocrats who, for their lust for absolute power, not only consider the interests of their own country superior but will also seek to expand their country at the expense of another. Every country has its own 'Putins'. They will emerge when the opportunity presents itself.

That way, they will lead Europe back to the 'nation-state anarchy' that continued to ravage the European continent with series of wars between 1648 (=the Treaty of Westphalia) and 1945 (=end of WWII). By now, the history of all those wars and annexations should teach us that the path of strong men is usually paved by prior bad governance. The current treaty anarchy within the EU is a case in point.

Remember what happened 100 years ago. The Weimar Republic could not withstand the turmoil and unrest caused by the harsh demands of the 1919 Treaty of Versailles and paved Hitler's path. It is unwise to shrug off that. Nor to muddle on with patchwork. Let alone parading (extreme) right-wing groups.

13. What is the power of constitutional federal state formation?

In order to avoid the misery of an administrative vacuum with the risk of autocratic, possibly even fascist interpretation, or at least to minimise the damage to common European interests, in the creation of a constitutional European federation lies the answer to the question of what the strength of such a federation is. It reads simply: democracy as an elaboration of popular sovereignty: *"All sovereignty rests with the People"*.

A federal constitution establishes democratic relations. With as cornerstones the accountability of political responsibility, the separation of the three powers and having a system of checks and balances to keep those powers effectively separated and a commitment to looking after only an exhaustive set of common interests. An unelected body like the European Council that is allowed to take top-down decisions with absolute power, assured by an individual right of veto, is unthinkable under the aegis of a democratic federal constitution.

A constitutionally based federal Europe derives its mandate from the people of Europe because it has a transnational electoral system: the territory of the federation is a single constituency instead of the nationally demarcated

constituencies of the EU which may vote for candidates of its own people for its parliament only.

Above all, a well-designed federal constitution is very limited in terms of articles. Unlike the more than 400-article Lisbon Treaty, a federal constitution can suffice with 10 articles. This is proven by the *Federal Alliance of European Federalists (FAEF)* which designed a federal constitution for Europe between October 2021 and March 2022 with its own Citizens' Convention of 70 people. Only 10 articles.

14. Why does a federal constitution require very few articles?

The answer lies in three things:

(a) Understanding that a federal constitution is only about the legal foundation for looking after only a handful of common European interests.

(b) It does not regulate the interests of member states as the Lisbon Treaty does and therefore needs more than 400 articles.

(c) It is designed by professionals, not people unskilled in that type of work, the most important work for the citizens of Europe.

Indeed, the federation should not interfere in the internal order of member states unless it is an elaboration of a common European interest. In their legal and organisational structure, but above all in their cultural identity, member states remain exactly as they are. Unlike a treaty, a federal constitution does not deal with the interests of member states but only with common interests.

15. What makes designing a federal constitution vulnerable?

Just as no one would hesitate to allow people who do not know anything about it to design and build a nuclear power plant, a shuttle to the moon, an electrically powered Airbus, or a kilometers-long bridge across the Alps, one must ensure by the strictest measures that only professionals design a federal constitution for Europe. The aforementioned 10-article federal constitution of the *Federal Alliance of European Federalists* (2022) might be improved, but it should be limited to those 10 articles at all costs. If you let that go and allow non-specialists to work on a constitution, you get a legal monster like the current Lisbon Treaty.

The problem is that those who are ignorant about the standards and norms of designing a nuclear power plant, a lunar shuttle, an electric Airbus or a very long bridge across the Alps know themselves that they will not be allowed in if they knock on the door of the respective construction sites asking to join in. But a federal constitution, that is what many, and especially politicians, want to interfere with. If you give those persons space, they produce another legal product of hundreds of articles to protect national, regional, party political and other interests that are not about the essence, namely common European interests.

Harsh as it may sound, in designing the legal basis of a federal Europe, non-specialists must be kept out. The tragedy of the Convention on the Future of

Europe (2001-2003) and the aforementioned Conference on the Future of the EU (2021-2022) may have provided sufficient learning.

This naturally begs the question: do citizens then not play a role in that constituent and institutionalizing process? See the next question.

16. What roles do citizens play around a federal constitution?

Distinguish three main roles for European citizens, all three stemming from the adage "*All sovereignty rests with the People*". They are examples of *direct democracy*.

At the centre of a federal constitution is the identification of the limitative set of common European interests. Who but the citizens of Europe can-may-must pronounce on these? Through a procedure to be devised, the citizens should be given the opportunity to identify that set by choosing from, say, 10 to 15 possible common interests. The result should be binding on the professionals who then compose the federal constitution.

After those professionals have designed the federal constitution in accordance with standards and norms of constitutional regulation - using FAEF's 2022 federal constitution as a model - it is up to the citizens to ratify that constitution. Thus, it is then a constitution of, by and for European citizens.

Ratification is not a referendum, but a constituent act consisting of two steps. First, ratification by the citizens. After that, it is up to the respective parliaments to follow the citizens' vote. From then on, the parliaments that follow the vote of their citizens make their state a member state of the inaugurated but not yet functional federation of Europe.

Then the work of dismantling the European Union begins, transitioning what the federation can take over from the EU and building the federation's institutional structures and procedures. In that work, citizens play a guiding role. It is taking me too far to explain this further within this Q&A. Appendix III A of FAEF's Citizens Convention Federal Constitution, as laid out in "*The Making of the Constitution for 'The Federated States of Europe'*" (see the image on page 2) contains detailed information on this.

Most importantly, the making of a federal constitution should be craftsmanship involving the exclusion of the uneducated and three other important roles in that process (identifying common interests, ratifying constitution, driving institution building) are played by citizens.

17. What are obvious common European interests?

Anticipating the identification of a limited, limitative set of common European interests by the citizens of Europe, it is possible to name a few already. After all, 27 federal states that currently house over 42% of the world's population have already preceded us in doing so.

Think, for instance, of common defence and foreign affairs to prevent wars and manage global trade within geopolitical shifts; of a conclusive system of banking supervision to prevent new economic recessions; of a visionary climate, energy, nature and environmental policy to perpetuate life on Earth; of a humane immigration policy, including labour and knowledge migration to strengthen diversity as a source of power for innovative social energy; of a European economy less dependent on superpowers; of poverty and health policies. This is just a personal selection.

If one asks: what will European citizens gain from a federal Europe, the answer is: the guaranteed democratic and professional representation of these kinds of common interests. These are defined by the citizens themselves. And it is the citizens who are at the foot of the institutional construction of the structures that should provide the guarantees.

Mind you, it cannot be said often enough: the member states remain in federalism exactly as they are today. The European constitutional monarchies and republics, the decentralized or centralized unitary states remain. With their own parliaments, governments, judiciaries, electoral system, taxes and policy sectors. The constitution explicitly prohibits the federation from interfering in the internal order of member states. They do not lose their sovereignty, not their constitutional structure, nor their cultural identity. Matters now under pressure or even damaged by the nation-state, treaty-based EU basis.

18. Are there different types of public federations?

Reading superficially about federalism, one gets the impression that there are quite a few different types of federations. But I would like to clarify that, depending on their building construction or institutional structure, it essentially boils down to four types of public federations. Now first the two types of federations that differ in terms of their building structure: centripetal and centrifugal federations.

You don't come across the word centripetal every day, but it is still easy to understand. It is the creation of a center that is not yet there. When countries realise that there are interests that they cannot (any longer) look after on their own, but still want to see those interests well taken care of, they start working together through the creation of a federal body. So the parts then create the whole by a central body that was not there before and which then becomes the centre for looking after the whole, their common interests.

A centripetal federation is particularly powerful because it is built from the bottom up. It is not imposed from above. Therefore, it relies on the will of the participating peoples and parliaments. Examples include the federation of the - then 13 and now 50 - states of the USA in 1787 in America, and of Germany in 1949 - 16 federal states. Not coincidentally, centripetalism proved to possess the constitutional 'genes' for the development of these two powerful and powerful states. The same applies to Switzerland.

It is different with a centrifugal federation. Whereas in a centripetal federation the parts build a whole, in a centrifugal one it is exactly the opposite: the already present whole builds the parts.

The centrifugal nature of a centrifugal federation - think Belgium and India, for example - makes it less powerful than a centripetal federation. For such countries, however, establishing a centrifugal federation instead of a centripetal one is not a conscious political choice, but the only way to establish a federation. Here's the thing.

When unitary countries are internally composed of different peoples and cultures with a diversity of languages and dialects, and therefore often face (ethnic and religious) conflicts, an excellent solution is to transform the character of the unitary state into that of a federal state. Such a decision is taken by unitary states that find that the unitary state does not work or does not work enough to make everyone in the country happy.

Belgium, for instance, with a process of very bold constitutional changes from the 1960s onwards, transformed the decentralized unitary state into a federation, consisting of Wallonia, Flanders and a small German-speaking part.

19. Why is a centrifugal federation weaker than a centripetal one?

The answer is: resistance to loss of power from the long-established central part, the parliament and especially the administrators in government.

Nothing is more difficult than federalising from above according to standards. For then the central institutions have to transfer state power to member states that were previously regions or regions or provinces. This never happens naturally or generously.

In Belgium, for example, this is why constitutional federalism has not been fully completed. Article 35 of the constitution is still not in force. It reads: *"The federal government is competent only for those matters that the Constitution and laws enacted under the Constitution itself expressly confer on it"*. That means: the Belgian central government can still direct from above - not bound to a limitative set - what should happen in Wallonia and Flanders. And that is contrary to the standard that the federal centre interferes only in common interests and does not lift a finger on the internal order of the federal states.

India's constitution too has examples of 'unity-driven steering' from above.

President Draupadi Murmu - not to be confused with Prime Minister Narendra Modi - has the power to appoint governors (=presidents of the states). These are therefore not elected from the state parliaments. This allows the President to direct the executive powers of the states. For the record, the Federal Republic of India has 28 states and 15 official languages laid down under the Constitution.

20. Is establishing more centrifugal states in Europe conceivable?

Establishing a federal Europe is by definition centripetal: the parts are there, but the federal whole is not yet. However, the EU has some member states for whom it is only a small step to turn their state into a centrifugal federation.

Not only Belgium, from 1836 onwards, sat with some peoples who could not like each other. In which Wallonia economically oppressed the Flemings for more than a century and a half. There are more European countries that are internally divided to a greater or lesser extent and can restore peace through internal federalisation.

Consider the United Kingdom, consisting of the parts England, Scotland, Wales and Northern Ireland. Each already equipped with its own parliament, government and policy space. Scotland has a strong movement to leave that statehood. To avoid that, there are ideas in the UK to extend the current 'devolution' (=a form of the already far-reaching devolution) to a federal UK. Centrifugal federalisation could take the wind out of the sails of the push for Scottish leaving the United Kingdom.

The same is happening in Spain. The autonomous regions of Catalonia and the Basque Country are seeking independence. Transforming Spain into a centrifugal federation could take much of the pain away. Also in Italy. The northern part, the Po Valley, economic centre of Italy, would have little objection to becoming fully autonomous. A federal Italy would do great honour to Altiero Spinelli, the famous advocate of a constitutional federal Europe.

21. What are symmetric and asymmetric federations?

Now to the other kind of two different federations: symmetric and asymmetric. To begin with, we encounter here a not entirely unambiguous definition of the two. It will be clear that one concept is about federations that are put together in the same way - symmetrical - and the other is not. The question, however, is: what do you look at to assess which concept of the two is relevant?

For each member state of a future European federation, without exception, they will be dealing with one and the same federal constitution. They are equal in that context. So symmetrical. But because the existing European countries all have their own constitutional and cultural identities that a European federation must absolutely not tamper with, they would be asymmetrical to each other as member states of a European federation. The existing monarchies, republics, centralized and decentralized unitary states, all with their own constitutions, would remain exactly as they are: diverse, so not equal, asymmetrical.

As an aside. They may have and keep their own constitutions, but these must not contain provisions that conflict with the federal constitution.

Another example of an asymmetric federation comes into play when special rules apply to some member states or events. For example, in terms of status. It can be decided that some states have unique powers that do not belong to other member states. We see this in Belgium: the federal state/region of Wallonia

regulates some of the powers of the German-speaking region because, with around 80,000 inhabitants, it is too small. Asymmetry can also play out in the tax system. For example, in the US. Member states are in charge of collecting and remitting federal taxes, but some get back more money than others for aid due to frequent storm damage, for example. That is embodied in a Fiscal Transfers Union. Building such a system within a federal European structure would remove much of the current conflict dust between the rich northern and poor southern EU countries as the rich keep seeing their money drain away to the south to prop up economies there.

22. Is a federal state left or right, secular or religious and does federalism exist?

A federal state is not left, not right, not religious and federalist policies do not exist. However, policies of the federation do exist.

How a federal state is structured in terms of political values is determined by the members of the federal parliament. Who ends up there is determined by the European citizens in elections. That fact and not the concept of federation determines the political colour of the federation.

The religious past of European states is long behind us. A federal Europe will be a secular republic, something that must be constitutionally defined.

Federalist policies in the sense of policies that would be typical of a federation do not exist. So one cannot speak of federalist agricultural policy, but rather of the agricultural policy of the federation. The content is determined by those in parliament.

23. Why, where, when and by whom was the first federation established?

After the Declaration of Independence of 4 July 1776 in which 13 English colonies declared independence, each colony established its own state. They began laboriously experimenting with its organisation and functioning, but under their confederal (=intergovernmental) treaty - the *Articles of Confederation* - they disintegrated into three groups, had increasing disagreements and fell into identity crises. Exactly what is happening now in the EU.

James Madison, a member of Virginia's parliament, watched this entropic process of decline with sorrow, asked for and received permission in 1787 from Commander-in-Chief George Washington to convene a convention in Philadelphia to consider this situation. From the Confederate Congress, that group was tasked with improving the treaty that was supposed to hold the 13 disintegrating states together. Instead, the 55 delegates concluded that the treaty itself was the root cause of their internal strife and of a threatening war between them. They discarded the treaty, without asking Congress' permission, and, drawing on writings by political philosophers from Aristotle to Montesquieu (all Europeans!), invented the federal constitution. For the first time in centuries, a small group of

people were able to convert thoughts and ideas from the sphere of popular sovereignty into written law. What was unique was their finding that a treaty was entirely dysfunctional for effective cooperation; that only representative democracy could protect them from a seizure of power by a new exploitative ruler like the King of England; that with their constitution, they gave shape and substance to representative democracy within federal constitutionalism for the first time in history;

Not only did they disregard their mandate to amend the treaty, but they also disobeyed the Confederate Congress in two other ways. They determined on their own authority to submit the draft of their seven-article constitution first to the citizens of the 13 states (i.e. not to the Confederate Congress) and that the federation would come into force if the citizens of 9 of the 13 states accepted that constitution. Which was a fact after only a year.

In the view of the aforementioned Federal Alliance of European Federalists (FAEF), this is an example to be followed: throwing the Lisbon Treaty in the bin, never again thinking of treaties as the legal basis of European cooperation, let alone adapting the EU treaties to turn them into a quasi-federal constitution, but offering the people of Europe a 10-article constitution, to be ratified by them - and then by their parliaments - to bring the federation into force.

It should not go unmentioned that James Madison along with Alexander Hamilton and John Jay wrote 85 articles in daily newspapers - the *Federalist Papers* - setting out for the public how the constitution was to be understood. Anyone who takes the trouble to study their argument on the harmfulness of working with treaties will be cured once and for all of the idea of assuming that one can make the citizens of Europe happy with continued treaty-based intergovernmental EU governance.

24. Are there any federations that failed: 'failed federations'?

Currently, the world has 27 federal states, housing over 42% of the world's population. Some stronger than others. The difference in strength has to do with whether or not a federation conforms to standards. Because politics in the form of power politics always plays a role, there is often a tendency to interpret and use standards according to the extent to which they serve those political goals. This is why federations have collapsed in various places around the world. Also in Europe, for instance with those of Yugoslavia and Czechoslovakia. For the Netherlands, the creation of the federation of the United States of Indonesia played a role in the post-war conflict over Indonesia's independence. This came into force after Queen Juliana, together with Mohamed Hatta, signed the *Act of Transfer of Sovereignty* in The Hague on 27 December 1949. That federal constitution, however, is one of the worst I have ever studied. So bad that it took President Sukarno just eight months - thanks in part to dubious guidance from a UN commission and a weakly protesting Netherlands - to dismantle the federation

and establish the centralist Republic of Indonesia. Whereupon the Moluccas fell from one colonizer into the hands of another. Still to this day.

25. Why is Russia a 'failed federation'?

Besides the failed federation of the United States of Indonesia, Russia's federal constitution is another wry example of how to give absolute power to an autocrat. After the dissolution of the unitary Soviet Union in 1991, a federal constitution came into being in 1993. This was the first real constitution for Russia. It has 22 states with republic status. Each with its own identity, constitution and parliament. Besides those republics, there are dozens of independent entities with their own control. Diversity, especially of other cultures and languages, is guaranteed. Together with the federal states, they form about 85 different constitutional units, including, for example, three constituent cities. In other words, the Russian Federation has exceptional protection for the diversity of ethnic and cultural identities that comprise it. It even borrows elements from US and German constitutions.

For this reason, one might be tempted to call it a centripetal constitution, but given how the federation actually works, it is better to think of it as a centrifugal one. Indeed, the Russian federal constitution differs from other constitutions by one striking, unique element. The president's system of powers is a self-contained fourth power. The federal constitution therefore has not three, but four powers. Not a trias politica, but a quadruple politica. In addition to the legislative, executive and judicial powers, the constitution, in Articles 80 to 93, grants the president an extensive and far-reaching complex of powers that transcends the trias politica: the creation of a presidential power. And therein lies the constitutional legitimacy for a totally autocratic presidential rule. Those articles include:

- (a) He appoints persons to the important posts, such as those of the judiciary and the apparatus that prosecutes people.
- (b) He heads the Security Council.
- (c) With (a) and (b) together, he controls the judiciary and the prosecution agency.
- (d) He decides when to hold elections.
- (e) He can dissolve parliament.
- (f) He can make federal laws.
- (g) He can suspend laws.
- (h) He can issue decrees.
- (i) With (d) to (h), he controls legislative and executive power.
- (j) And he cannot be held accountable for any of that because he has constitutional immunity.

This places the president of the Russian Federation above the law: the favorite place of an autocrat. The constitution allows him to rule as he pleases. The world knows rulers who would give a right arm for it.

Article 1 of the constitution states that the Russian Federation is a democracy, a federal state, a constitutional state and a republic, with sovereignty belonging to the multinational people, with referendums as examples of direct democracy. Empty words. With the power complex granted to him, this president can exercise absolute rule. He can disrupt the checks and balances as he sees fit. Which he is then doing by his war in Ukraine and his actions in Russia to silence the media and ban openness about the devastation Russia is wreaking in Ukraine by law. As a safeguard against autocracy, the checks and balances in Russia's federal constitution are illusory.

President Putin is a follower of 'The Fourth Political Theory' by Russian philosopher Alexander Dugin, the creator of Neo-Eurasianism, a vision of the state, economy, culture, autonomy and sovereignty that is diametrically opposed to the Atlanticism of the Western world. A vision that divides the world into 12 great - supranational - spaces, including the 'Russian-Eurasian Great Space'. It is this context that allows Putin to exercise absolute power. Knowing that such people usually end badly gives hope that things will get better afterwards.

The tsar derived his autocracy from succession. The Russian president bases it on a constitutional mandate. The comparison with Indonesia comes to mind. In that case, the many constitutional system failures allowed the president to seize absolute unity power. Like Russia's current president, he could not be held accountable because of constitutional immunity. The difference with the Russian constitution is that the Russian constitution has one overarching systemic flaw: a fourth, presidential power, which operates within the rules of Russian law, but which is nevertheless a flagrant violation of what is meant by the rule of law. Russia's fundamentally corrupt constitutional law allows the president to do anything prohibited by correct constitutional law. That mistake reduces the legal, social and moral value of the entire Russian constitution to zero. Perhaps this may be an additional reason not to allow bunglers into the composition of a federal constitution for Europe.

Specific aspects of federal state formation

26. Why do the concepts of 'subsidiarity' and 'federal state' coincide?

The subsidiarity principle enshrined in the Lisbon Treaty means that the EU should always ask itself, when making directives (=laws), whether member states could not regulate things better themselves. In practice, nothing comes of this. The EU operates top-down in any area where the EU thinks it should intervene, even though the Lisbon Treaty defines an exhaustive number of subjects the EU has competence to do. As mentioned in an earlier question, this is based on Article 352 c.a. of the Lisbon Treaty. Essentially, this means that the European Council may take any decision that it considers serves the objectives of the Union. That one

must observe the concept of '*proportionality*' (=you may intervene but don't make it too crazy) does not work. One can always get around that.

This problem does not arise in a well-built European federation. 'Well-built' in this context means that common European interests are not only formulated by the European citizens themselves, but are also clear, not open to interpretation in line with the delusion of the day, limited in number and limitative, and in the hands of a parliament and government that face nation-state interests only in the context of caring for common European interests.

If one can handle that, 'subsidiarity' and 'federal state' coincide. After all, a federal constitution prohibits the federal body from interfering in the internal order of member states, other than in the elaboration of a common European interest. For this reason, a federal constitution needs not include the principle of subsidiarity.

27. Can states of a federation compete with each other?

That member states of a European federation can compete with each other is certainly possible. They all have their own parliament, government, judiciary and policy space.

In the US, for example, California and Texas compete with each other on their tax system. In California, taxes are higher than in Texas. In this way, Texas tries to lure citizens and businesses from California to move to Texas.

28. Can states of a federation leave the federation?

Yes, they can. But it is not easy to do so. Each federal constitution has its own rules for doing so. But in essence, these rules revolve around three issues: who must give permission for a member state to leave, can it be done by simple majority or must it be done by qualified majority? And how is it financially settled?

29. Can federated states still have their own foreign ministry?

Yes, they can. In Belgium, for example, the federal government has a foreign affairs ministry. But the federated states of Flanders and Wallonia have such a ministry and foreign embassies of their own. But these do not bear the name 'embassy' and may only deal with subjects that do not fall under the authority of federal foreign affairs ministry.

30. Is it possible to create a federal Europe within the EU?

It is not certain if it is possible, as it has never been tried. However, the Lisbon Treaty has a provision in the partial treaty 'Concerning the European Union' in Article 20 that allows at least nine member states to enter into closer, enhanced cooperation in certain areas. However, nowhere is it defined what the content of those 'certain areas' should or may be. Nor a prescribed form of that 'enhanced

cooperation'. This begs the question: so why not a federation as an enhanced cooperative relationship?

With a look back to the way the Philadelphia Convention in 1787 decided in its own right that the federation of the United States would come into force when nine states had ratified the federal constitution, in that Article 20 lies an opening for nine EU countries - realizing the usefulness and necessity of a federal Europe - to jointly create a federation and station it within the treaty-based EU system.

Whether they dare to do so is the question. Whether the EU institutions will go along with this is doubtful. Should it come to that, the burden of ruling on whether or not that Article 20 is valid will fall on the European Court of Justice. Assuming that such an initiative by nine countries will only get off the ground if they know that their citizens support it, it is conceivable that the Court will interpret Article 20 in favour of such a construction. And then other member states are likely to follow.

31. What is the significance of transnational/paneuropean political parties?

One of the worst nation-state behaviors, counter to the sense of concern for common European interests, is the EU electoral system. One is only allowed to vote for candidates from one's own country. So, even political parties that look beyond national borders with a pan-European vision can participate in those elections only if they are registered in their own country and are allowed to list only home country candidates.

Anyone who understands that European cooperation is only about European interests and not those of the member states because they take care of those themselves, also understands that transnational political parties should be able to field an electoral list with candidates from several countries. Of course with only one constituency: namely, the territory of the federation. The US district and country system, including the discriminatory '*Gerrymandering*' principle, may by now have taught us enough about the importance of proportional representation within one constituency. Citizens should be empowered to cast a vote for candidates from each country.

It is that US electoral system - not the federal structure - that is increasingly causing unrest and discontent in the US. This district-based electoral system automatically creates a two-party system. This evolved, as in the UK, into exclusive concern for one's own party and its supporters, not for all citizens of the state. With ever-increasing corruption in the sense of decay.

In this context, the pernicious nation-state structure and culture of the European Union caused a striking conflict ahead of the European Parliament elections in June 2024. That parliament decided to expand the number of MEPs from 705 to 716. Several countries then jumped up to claim one or more of those extra seats: a nation-state reflex, far removed from a sense of concern for common European interests.

32. What role could a federal Europe play in relation to a World Federation?

A World Federation to replace the intergovernmental United Nations is a dot on the horizon that is getting closer. As it becomes clearer that the UN is neither capable of guaranteeing peace around the world nor able or willing to expel dozens of member states that structurally violate human rights under Article 6 of the UN Charter from the UN, there is a growing realisation that the UN, like the EU, has come to the end of its political life cycle and must make way for a federal world system. An Earth Constitution and an associated parliamentary system are already in place.

Federalising Europe will accelerate that process. If the European Union breaks up, probably as a result of a comprehensive European system crisis in a context of violence in various parts of the world, the fourth European state system since 1500 will come into effect: a federal Europe. Over the centuries, we first had the state system of the nobility. After the Treaty of Westphalia of 1648 came the system of nation states. After World War II, the system of treaties. And now a federal system is on hold. If Europe federalizes, about 50 per cent of the world's population will live in federal states. Together, they can form the foundation for the expected federalisation of the world.

The significance of people and events in relation to federal statehood of Europe

33. What was the significance of Johannes Althusius around 1600?

Johannes Althusius was a German political philosopher who used his own method to design the building blocks of federal state formation. Characteristic was thinking of a state order from bottom to top. That is, thinking in terms of centripetal state formation, starting with the family, the municipality and moving upwards to the formation of a centre, the state.

An important detail is the fact that he was a protégé of William of Orange, the founder of what is now the Netherlands. Both were Calvinists, an aspect that plays a role in some of the following questions.

34. What was the significance of the Peace of Westphalia after 1648?

The Peace of Westphalia of 1648 ended a plethora of long-running wars in Europe under noble anarchy. It was the birth certificate of the so-called nation-states: it was agreed that countries were sovereign, owned their own borders and citizens, were not to be attacked, nor conquered.

Unfortunately, wars on the European continent persisted, ever more gruesome. Up to and including World War II. That was the phase of nation-state anarchy.

After that World War, the introduction of the treaty-based system of intergovernmental cooperation tried to build a non-conflictual European system. But this EU system, too, is now crumbling.

The fourth European state system - a federal Europe - is emerging. Whether that endures will depend on the competence and suitability of the political office holders who have to lead it.

35. What was the significance of Pasquale Paoli around 1760?

Pasquale Paoli led the island of Corsica, owned by the Italian republic of Genoa, to freedom. With the help of political philosopher Jean-Jacques Rousseau, he designed the first constitution in Europe, equipped with Rousseau's ideas on social contract and other cornerstones of a democratic constitutional foundation. However, it did not last long. In 1769, France took possession of Corsica. The constitution was not a federal constitution in the sense of Althusius's building blocks, but is nevertheless considered important in relation to the French Revolution of 1789, after which Napoleon Bonaparte, Corsican by birth, tried to subjugate Europe with a series of wars - driven by the French nation-state.

36. What was the significance of Pope Leo XIII around 1890?

In 1891, Pope Leo XIII released the encyclical *Rerum Novarum* (=of new matters). It was a renewal of Roman Catholic teachings, especially focusing on social aspects of Catholicism. For example: a fair wage for work, the right to property, care for the weak in society. He derived these insights from the method of Johannes Althusius: work from the social basis of society upwards.

37. What was the significance of Abraham Kuyper around 1900?

Abraham Kuypers was not only a theologian in the teachings of Calvin, but also a statesman. Among other things, he was prime minister of the Netherlands between 1901 and 1905. And founder of the Free University in Amsterdam. Based on concepts of Johannes Althusius and Pope Leo XIII, he designed the adage "*Sovereignty in one's own circle*" the basic principle of federal statehood.

38. What was the significance of Aristide Briand and Gustav Stresemann in the Interwar period?

Aristide Briand, minister of foreign affairs in France, and his German colleague Gustav Stresemann worked together between World War I and World War II (the Interbellum) on a common economic concept, on the way to a united Europe. Motivation: through economic cooperation - starting with France and Germany -

eliminate germs of a new world war. They realised that the treaty system of the League of Nations was too weak to hold the exhausted post-war Europe together. They called their work federalisation, but it was no more than the first outline of an attempt at treaty cooperation. It failed.

39. What was the significance of Lord Lothian (Philip Kerr) between 1930 and 1940?

Like Briand and Stresemann, Lord Lothian (real name: Philip Kerr) was extremely concerned for the emergence of a new world war as a result of devastated Europe, as well as a result of the harsh demands made on Germany by the 1919 Treaty of Versailles.

As private secretary to Prime Minister David Lloyd George, he was involved in the drafting of that treaty and derived his concern for the survival of post-war Europe from it. He became leader of a major movement in the UK - the Federal Union - that sought a federal Europe, including the UK, and even including the United States.

This push to federalise Europe also failed. He was appointed UK ambassador to Washington. Four days after his departure, Hitler invaded Poland.

40. What was the significance of Altiero Spinelli between 1941 and 1950?

As an exile of Mussolini on the island of Ventotene, Altiero Spinelli wrote the Ventotene Manifesto. In it, he substantiated the view that after the end of the World War, only a federal state could ensure Europe's secure survival. What is special about that Manifesto is that Spinelli harkened back to the *modus operandi* of the Philadelphia Convention of 1787 and emphatically explained that the legal basis of a federal Europe should be a democratic constitution.

He founded the Union of European Federalists in 1946. But soon this UEF adopted a different position, that of cooperation based on treaties. No constitution. In the background was the fact that a year earlier, in 1945, the United Nations had been established. A treaty-based system. The UEF considered that a better basis for European cooperation but retained - to this day - the thesis that it should be possible to base a federal Europe on a treaty.

41. What was the significance of Robert Schuman and Jean Monnet in 1950?

The treaty-based turn the UEF gave to Spinelli's constitutional aspirations dominated the debate on European cooperation between 1946 and 1950. After numerous conferences, even in the presence of leaders of governments and heads of state, the emphasis always remained on 'federalisation by treaty'.

In May 1950, Robert Schuman, French foreign minister, cut the Gordian knot with his 'Schuman Declaration'. In it, he argued twice emphatically that Europe

should federalise, but finally put the approach to this in the hands of heads of government with the task of arranging that federalisation through treaties.

A year later, this found its first imitation with the creation of the 'European Coal and Steel Community'. This grew into today's European Union.

Seen from the perspective of 'if you work together you don't quarrel', Schuman's position is understandable. Even if only because between 1946 and 1950 a constitutional federation was hardly thought or talked about. But from the perspective of correct federalisation, Schuman's Declaration ultimately did Europe a disservice. The system of promised and lauded treaty cooperation turned out to be turned against Europe by its nation-state structure and treaty anarchy.

Jean Monnet, adviser to Schuman and working for some time in WWII in close proximity to President Roosevelt, and therefore familiar with the fact that for a federation you need a constitution, should have prevented Schuman from making that fundamental mistake. Anyway, statues to both have been erected and chairs established at universities.

What is at the heart of FAEF's federal constitution for Europe?

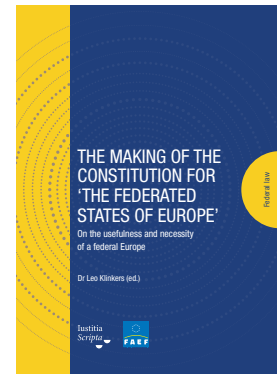
42. Why did FAEF itself organise a Citizens' Convention?

The creation of FAEF in 2018 was a response to the strong pressure within the EU to try to curb the internally conflictual nature of the EU on the one hand and, on the other, to quell aspirations for a constitutional federal Europe with the constant amendment of treaties. As a non-political organisation driven by scientific principles of how you should establish a European federation, FAEF wanted to start sharing that knowledge. To counterbalance EU's wrong legal way of caring for the citizens of Europe.

When the EU announced that it would organise another Conference on the Future of the EU between 2021 and 2022, with input from citizens, but with the express aim of using the outcome of the conference to amend the treaties once again, FAEF decided to set up its own Citizens' Convention. That, with 70 members, partly persons scientifically familiar with constitutional federal state formation and persons otherwise possessing that knowledge, designed a federal constitution for Europe from October 2021 to the end of March 2022.

That work - as much as possible in line with that of the Philadelphia 1787 Convention - was based on the European Federalist Papers written by Leo Klinkers and Herbert Tombeur in 2012-2013, with a 10-article constitution. The mandate to the Citizens' Convention was short and sweet: *"Try to improve on Klinkers' and Tombeur's constitution, but stay within ten articles."*

The result of that process was published in "*The Making of the Constitution for 'The Federated States of Europe'*" (Iustitia Scripta 2022).



43. What is at the heart of the Preamble to FAEF's federal constitution?

With a six-month peer-review, the 70 members of FAEF's Citizens' Convention designed FAEF's democratic federal constitution for Europe. The Preamble and subsequent 10 articles are explained in detail in an Explanatory Memorandum.

The Preamble distinguishes three groups of values. The first group deals with the view that government exists to help citizens pursue their happiness. This brings 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 norms of federal organisation. One important value is the observation that the federal system is based on a vertical separation of powers. The federal government has jurisdiction only in a small list of matters of common European interest. All other powers rest with the member states and their citizens. This is shared sovereignty.

Finally, this group of values enshrines the trias politica and its checks and balances at both the federal and member state levels. This third group of values stipulates that citizens not only have the right to change the composition of governments through elections, but also the inalienable right to depose federal authorities if they violate the values of the two previous groups.

The naming of federal Europe was a topic of discussion in the Citizens' Convention. From the various proposals, we chose the name '*The Federated States of Europe*'. The final name is a matter for discussion when this constitution is submitted to the citizens of Europe for ratification.

The following is a global and therefore limited outline of Articles I to X of the federal constitution.

44. What does Article I of FAEF's federal constitution stipulate?

Article I provides that ratification of the federal constitution by the citizens of Europe should be its formal basis. If the citizens ratify by simple majority, it is up to their parliaments to decide whether they follow the wishes of their citizens.

The political-philosophical basis lies in the adage '*All sovereignty rests with the People*'. The Federation is all about the sovereignty of its citizens, member states and the Federation itself. Sovereignty means the right and duty to 'govern';

not to 'rule'. This means: (a) For Citizens to govern their households on socio-economic principles to maintain prosperity through financial freedom. (b) For States to govern their households on socio-cultural principles to achieve well-being through cultural equality. (c) For the Federation to govern its household on judicial principles to achieve prosperity and well-being through morality and the rule of law.

It is a federation of, by and for its citizens and member states. They are co-owners. A non-hierarchical division of powers between the federal body and the member states defines their shared sovereignty.

The Federation sees it as its task to participate in and be part of a World Federation.

45. What do Articles II and III of FAEF's constitution stipulate about legislative power?

Articles II and III deal with the structure and powers of the federation's legislature. The European Congress consists of two Houses: the House of Citizens and the House of States. The House of Citizens is filled with the elected representatives of the people. Based on the principle of proportional representation within one constituency, the territory of the federation. The House of States consists of delegates from the parliaments of member states. Each member state appoints nine delegates who then cease to be members of their member state's parliament. This is to avoid double mandates.

The size of the House of Citizens is determined by demographic factors. If the population of the federation does not exceed four hundred million then the House of Citizens contains four hundred members. If more member states join the federation, the number of members increases by 20 seats for every 25 million inhabitants. But the total number of members of that House cannot exceed six hundred. One is eligible for election from the age of 18.

The constitution prescribes by law requirements for the ability and suitability of those who join the House of Citizens. This is a unique rule: the quality of those who represent the citizens should be excellent.

There is also the provision for this House to hold a multi-day discussion every year with panels of citizens on how the federation can improve the care of common European interests. This is a form of direct democracy in addition to the fact that citizens have signed the ratification. This topic will come up several more times below.

To be appointed to the House of States by one's home parliament, one must be twenty-five years old. That House, like the House of Citizens, must hold an annual multi-day meeting with delegates from member state parliaments on how to improve the care of common European interests. This is part of the checks and balances between the two Houses. One represents the common interest from the point of view of citizens, the other from the point of view of member states.

It is up to the House of States to impeach political office holders. This then concerns the President, Vice-President and members of the European Congress. As the European Congress, both Houses meet once a year to discuss the state of the federation. The House of States also has requirements of competence and suitability imposed on its members by law.

It is a power of the European Congress, i.e. of both Houses together, to make rules for the Federal Supreme Court, the Federal Central Bank, the Federal Audit Office and the Federal Ombudsman.

Both Houses have the power to make laws. But only the House of Citizens may draft tax laws. A key precept is that principles of inclusiveness, deliberative decision-making (=a form of direct democracy), representation in the sense of respect for and protection of minorities should be adopted in law-making to avoid oligarchic decision-making and ensure the value of diversity.

Article III includes a handful of common European values. It is up to the people of Europe to establish a final exhaustive list of those interests. Furthermore, Article III stipulates a number of restrictions on member states and the federation.

Important to note is the fact that Article III refers to an Appendix III A. That contains a procedure how - with the designing and guiding influence of citizens - member states should come together to define common European interests. Knowledge of that Appendix is essential because it contains the essence of what has been said elsewhere in this Q&A about centripetal federalisation: designing a federal state from the bottom up, starting with citizens.

46. What do Articles IV and V of FAEF's constitution stipulate about executive power?

Executive power is in the hands of a President and two Vice-Presidents. Together they form a Praesidium that makes decisions together on weighty matters. The day-to-day running of the federation is too important to leave to just one person. They must be at least thirty-five and have lived in the federation for at least 12 years. All three are elected by the people.

Part of Article IV includes provisions on impeachment, the manner of filling a vacancy in the Praesidium and the procedure if the President is no longer able to hold that office.

This Article IV also contains the manner in which a federal Ombudsman will be established and what powers it will have. Including some executive powers, something that is certainly new in the world of Ombudsmen.

Article V lists the powers of the President and the Praesidium. Again, the provision that the executive is bound to make decisions in compliance with principles of inclusiveness, deliberative decision-making and representation in terms of respect for and protection of minorities.

The President is the commander-in-chief and in charge of federal security organisations. By law, Presidential powers are established when emergency

measures are required. The Praesidium decides on matters such as amnesty and pardon. It has the power to make treaties, but these require the approval of the House of States.

If a World Federation invites the Federation to join, the Praesidium organises a binding referendum on joining that World Federation. Here again there is direct democracy. Once a year, the Praesidium organises a consultative referendum among all citizens to hear their views on how federal policies are implemented. Once a year, in a joint meeting of the European Congress, the President speaks about the state of the federation and what measures it requires. It is up to the Praesidium to receive ambassadors and ensure that the federation functions as a democratic institution based on the Rule of Law.

47. What does Article VI of FAEF's constitution stipulate about the judiciary?

The Supreme Court is the highest judicial body. The European Congress can establish a series of lower federal courts. Judges stay on as long as their conduct is correct, but retire when they turn 75.

Judges are appointed by an independent Praesidium of judges. This is to eliminate any influence of the other two powers on the appointment of judges, thus ensuring the independence of the judiciary.

Federal judges' powers include reviewing laws, executive measures of the government and treaties against the federal constitution and adjudicating disputes between member states.

Except in impeachment cases, criminal trials are conducted on a jury trial basis.

48. What does Article VII of FAEF's constitution stipulate about the Citizens, States and Federation?

Article VII contains a wide range of powers for citizens. They are additions that give powers to the grassroots of society over steering the functioning of representative democracy. Among these are special powers that fall under the concept of direct democracy.

As for member states, it clarifies what (exclusive) powers they have. It also contains rules on accession and exit of member states. As well as a ban on slavery and forced labour.

An important aspect that recurs several times in the constitution is the statement that the federation is not authorised to intervene in the internal organisation of member states.

49. What do Articles VIII, IX and X of FAEF's constitution stipulate?

Article VIII explains the manner in which the constitution can be amended. Article IX gives provisions on federal loyalty in the sense that all rules apply to all citizens

and member states. Article X establishes that the draft of this federal constitution will be submitted to the citizens of Europe for ratification.

50. Who wants to help design and guide the process of ratification?

This is an appeal to anyone who understands the usefulness and necessity of federalising Europe. The *Federal Alliance of European Federalists* welcomes those who want to contribute to it. Broadly speaking, FAEF sees the following cornerstones of that process:

- (a) Translating this Q&A into a number of European languages.
- (b) Making our book available at a reduced price in consultation with the publisher.
- (c) Organising small groups of federalists in all countries of Europe, not just those of the EU.
- (d) Spreading knowledge about federal state-building for Europe through those groups.
- (e) Informing the people of Europe about this process - whether or not through mainstream media, social media, publications in (scientific) media, organising webinars, podcasts and TV appearances.
- (f) Establishing networks of citizens who, in preparation for actual ratification, provide assistance to that process.

Contact: faef@administration.eu.
