

## ***First Green Draft for a European Constitution***<sup>12</sup>

### **PREAMBLE**

#### **We, the Citizens of Europe,**

- mindful of our common history and shared experiences of war and conflicts, unification and co-operation;
- confirming the importance of universal human rights;
- mindful of our cultural and linguistic heritage and the different identities and traditions on local, regional, national and European level;
- being convinced that co-operation over national borders is a driving force for peace, freedom and prosperity;
- wishing to establish a government based on the principles of democracy and the rule of law;
- being convinced that European integration and co-operation is the best way to unite a democratic and open society with efficiency in political action and economic and societal development on the European continent;
- therefore wishing to establish a European Union;
- wanting this Union to be based on universal values such as human dignity, tolerance, freedom, equality, solidarity and respect for the environment we live in;
- being firmly decided to strengthen the continued integration of our economies;
- being convinced of the important role of the European Union in the struggle for global justice, democracy and sustainable development;
- wishing to clarify the goals and the principles of the European Union for all its citizens;

have today agreed on this Constitution for the European Union as an expression of our will to build a Europe in peace and freedom.

### **CHAPTER ONE**

#### **Fundamental Rights**<sup>3</sup>

### **CHAPTER TWO**

#### **§ 1 Principles of the Union**

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<sup>1</sup> This proposal has used a draft presented by Swedish MEP Cecilia Malmström in January 2002 as a point of departure but amended her text heavily. We wish to thank Cecilia for allowing us to develop our ideas on the basis of her text. We would also like to thank Marc-Oliver Pahl for his permanent support and advice on all our questions.

<sup>2</sup> The proposal is no official position of any Green Party. It collects the ideas of some young European-minded Greens who offer this Constitution as a starting point for the Greens' debate on the future of Europe.

<sup>3</sup> as solemnly declared by the European Council in Nice:

[http://europa.eu.int/comm/justice\\_home/unit/charte/pdf/texte\\_en.pdf](http://europa.eu.int/comm/justice_home/unit/charte/pdf/texte_en.pdf)

(1) The European Union aims at ensuring peace, promoting prosperity, sustainability and democracy. The European Union consists of its Citizens and its Member States, from which all competencies of the Union emanate. The Union shall always act with the interests of its Citizens in mind. The Union shall respect the different cultures, languages and traditions that exist in the Member States and its regions. The activities of the Union shall be guided by the respect for democracy, subsidiarity, the rule of law, sustainable development and universal human rights.

(2) The Union has a legal personality.

(3) This European Constitution is the supreme law of the European Union.

## **§ 2 Objectives of the Union**

The objectives of the European Union are:

- to promote peace, respect for democracy, economic and social progress and respect for the environment and animals across the whole of Europe;
- to develop an economic area without internal borders with a free market including free movement for people, services, goods and capital, with common minimum social and environmental standards;
- to establish a federation for freedom, security and justice for all Citizens of the Union;
- to promote peace, democracy, international human rights and economic and social development all over the world in co-operation with other states and peoples
- to strive for a high level of environmental protection in all its policies
- to promote democratic participation through representative bodies and by referendum

## **§ 3 Citizens of the Union**

(1) Every Citizen of a Member State is also a Citizen of the Union.

(2) Every Citizen of the Union has the right to vote and to be elected in European, national, regional and municipal elections at his or her place of residence.

(3) Every Citizen of the Union may freely move, reside, seek employment and stay within the borders of the Union.

(4) Every Citizen of the Union has the right to seek protection at any diplomatic mission of the EU.<sup>4</sup>

(5) Every Citizen of the Union has direct access to the European Court of Justice if its rights given by the EU laws are violated by EU institutions or the national legal protection is not sufficient or violates European Law.

(6) Other persons who reside legally in a Member State of the Union shall in general have the same rights as Union Citizens. Exceptions are only allowed where the fact that these persons have a non-EU citizenship is relevant.

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<sup>4</sup> i.e. *this* Union has *one* common diplomatic service.

#### **§ 4 Languages of the Union**

(1) Languages that are official in the Member States are also the official languages of the Union.

(2) English is the working language of the European Union. It is taught in all European schools to improve the direct communication between all Citizens.

#### **§ 5 Membership in the Union**

(1) Every State that is internationally recognised, that shares the principles and objectives of the Union and whose territory, entirely or partially, is located within the European continent, may apply for Union membership. After completed negotiations the accession treaty must be approved by the European Parliament and by the Parliaments of the Member States.

(2) A Member State that does not fulfil its duties, that result from its membership, may be sanctioned.

#### **§ 6 Competencies of the Union**

##### I. Distribution of Competencies

(1) The exercise of power of the European Union emanates from what is written in this Constitution and in those laws that are made in accordance with the procedures described in this Constitution.

(2) The distribution of competencies between the Union and the different decision-making levels of the Member States shall be ruled by the principle of subsidiarity, which means that every decision shall be taken as closely as possible to those concerned by the decision, and by the principle of proportionality, which means that the measures used by the Union to reach an objective may not infringe on the internal affairs of the Member States more than is necessary to reach that objective.

##### II. Exclusive competencies

The Union has exclusive competencies to make laws and take decisions in accordance with its principles in the following policy fields:

- external economic policy
- common market
- competition policy
- foreign affairs, security and defense
- development co-operation
- monetary union
- immigration, visa and asylum policy
- cross-border environmental issues
- financial regime of the Union
- European associations and political parties

In these policy fields decisions are taken by both chambers of the European Parliament.

### III. Shared competencies

The Union and the Member States share competencies in the following policy fields:

- transport
- agriculture and fisheries
- regional and rural development
- consumer protection and food safety
- environmental protection
- research and technological development
- justice and home affairs
- mobility between the social security and education systems including minimum standards
- levying of taxes and minimum standards for taxation

The rules for the exact distribution of competencies in these fields are laid down in a European Special Act.<sup>5</sup>

### IV. Competencies of the Member States and their subnational level

All other policy fields remain in the responsibility of the Member States or their subnational level, for example

- internal organisation of the Member States
- the foundations of social security systems
- education
- health
- culture
- sports

### V. Cooperation in new policy fields

(1) The Union may not take over competencies from the Member States other than by amending this Constitution.

(2) In the last resort, the Court of Justice of the European Union shall, with the principle of subsidiarity as its guiding line, decide if a proposed new EU activity is in accordance with the principles of distribution of competencies of the Union.

(3) A quarter of the members of the Chamber of Citizens or at least two Member States acting together have the right to refer a dispute of competencies to the European Court of Justice before coming into force.

## § 7 Community measures

The Union shall decide to act with the appropriate legal instrument according to the following hierarchy of norms:

### I. Primary legislation

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<sup>5</sup> Exact distribution within a policy field needs clear definition in semi-constitutional law. Good practice in other European countries such as Belgium or Italy with such provisions shall serve as an example. Further explanation on “European Special Act” below.

The European Special Acts<sup>6</sup>, including their Annexes and Protocols, are the primary legal sources of the Union, and they are only subordinate to this Constitution. They settle the mandates of the Institutions and the balance between the Institutions and the Member States.

## II. Secondary legislation

European Direct Acts<sup>7</sup>, European Framework Acts<sup>8</sup>, General Orders<sup>9</sup> and Individual Orders<sup>10</sup> constitute the secondary legislation of the European Union.

a) European Direct Acts are binding and applicable in all Member States.

b) European Framework Acts are defining only objectives. These objectives are binding for Member States, but Member States have a certain margin how to transform these objectives into Member State law.

c) The European Parliament can give the Commission a mandate to implement parts of the legislation of the Union through establishing General Orders. Those competencies that the European Parliament in this way delegates to the Commission can be withdrawn again.

According to the principle of subsidiarity, a measure on a lower level shall always be chosen if possible.

## § 8 Openness and transparency

(1) The European Union shall be ruled by the principles of transparency and openness in order to allow public scrutiny in its decision-making procedures. As a basic principle, all documents are subject to public access. All law-making in the two chambers of the European Parliament is public. Comprehensive justification for all legislation must be given.

(2) All Citizens in the Union have the right, individually or together with other Citizens, to submit a petition to the European Parliament.

## § 9 Direct Democracy

The Citizens of the Union may hold a referendum about any European law including amendments of this Constitution if 3% of the European electorate signs a petition calling for this referendum or if either Chamber of the European Parliament calls for a referendum with simple majority. The referendum is passed if at least 25% of the Union Citizens participate in the referendum and the referendum achieves an absolute majority. The conditions and procedures for referenda are laid down in a European Special Act.

## § 10 European Political Parties

Political parties at European level contribute to the development of the European public space and to European democracy. They bring the political priorities of the Union to the

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<sup>6</sup> Today's Treaties.

<sup>7</sup> Today's Regulations.

<sup>8</sup> Today's Directives.

<sup>9</sup> In Germany "Verordnungen".

<sup>10</sup> In Germany "Verwaltungsakt".

attention of the Citizens. Status and financial provisions for the support of European political parties are specified in European Union legislation.

### **§ 11 Currency and finance**

(1) The currency of the Union is the Euro, which consists of one hundred cents.

(2) The Union has its own financial regime. The activities of the Union are financed through own financial resources. The Union has the right to levy certain taxes. The budget is decided by the two Chambers of the European Parliament.

### **§ 12 Amendments to the Constitution**

(1) This Constitution can be amended by a two-thirds majority vote in both Chambers of the European Parliament and four fifths of the national parliaments.

(2) The amendments can be put to European referendum by either Chamber of the European Parliament. For constitutional referenda not only an overall majority of the votes on Union level but also a majority of the votes in two-thirds of the Member States is required.

## **CHAPTER THREE**

The Institutions of the European Union

### **§ 13 European Parliament**

(1) The European Parliament represents the Citizens of the Union and the Member States. It is the only legislative body. Together with the European Commission it has the right of initiative.

(2) It consists of the Chamber of States and the Chamber of Citizens:

### **§ 14 Chamber of Citizens**

(1) The Chamber of Citizens of the European Parliament represents the Citizens of the Union. The Chamber of Citizens legislates in co-operation with the Chamber of States, establishes the budget of the Union, elects the President of Commission by majority of its members, approves and controls the Commission.

(2) The members of the Chamber of Citizens are elected by the Citizens in the Member States for a period of five years. The members will be elected in general elections that are to take place on the same day in the whole Union under the same legal provisions.

(3) The number of members must not exceed 650. At least 10 per cent of the members are elected on transnational lists.

(4) The elected members of the Parliament may organise themselves in political groups.

(5) The Chamber of Citizens organises its work in Committees. It elects a president, who chairs its meetings.

(6) The Chamber of Citizens takes decisions with simple majority.

(7) The Chamber of Citizens can refuse to grant the Commission discharge and can raise distrust towards the Commission as a whole or towards individual Commission members. The members of the Commission must resign if a vote of censure is adopted by a majority of its members.

(8) On the call of one quarter of its members the Chamber of Citizens may install an investigating committee.

### **§ 15 Chamber of States**

(1) The Chamber of States of the European Parliament represents the Member States of the Union. It legislates in co-operation with the Chamber of Citizens.

(2) The Chamber of States is composed of representatives of the executives of the Member States, and if the individual Member States so decide of the executives of their legislative regions.

(3) Every Member State has one vote. In general the Chamber of States takes decisions by majority voting.

(4) The Presidency of the Chamber of States rotates every six months amongst its Member States.

(5) Decisions of Chamber of States are prepared by the Ministerial Councils dealing with the respective policies. These Ministerial Councils shall be composed of the Member States' or regional ministers in charge of the respective policy field. Every minister must ensure that the decisions and negotiation positions of the Chamber of States have the support of their respective parliaments, in accordance with the respective traditions.

(6) The Chamber of States approves the president of the Commission elected by the Chamber of Citizens.

### **§ 16 Common Provisions for both Chambers**

(1) In case of disagreement between the two Chambers of the European Parliament both Chambers can refer the case to a reconciliation committee. The reconciliation committee is composed of 25 members elected by each Chamber.

(2) The meetings, votes and reports of both Chambers as well as the committees are open to the public.

### **§ 17 European Commission**

(1) The European Commission is the Executive of the Union. It supervises the implementation and controls the application of the Union law and represents the Union in international organisations. In certain areas laid down in a European Special Act instead of the Member States, which are in general responsible for the implementation and administration of Union measures, the Commission can act.

(2) The European Commission consists of a President and additional commissioners. The Commissioners should represent the diversity of Europe.

(3) The Commission is responsible to the Chamber of Citizens. Individual commissioners can be dismissed by the President of the Commission or by vote of the Chamber of Citizens. The President of the Commission can under certain preconditions dissolve the Chamber of Citizens and call for new elections.

(4) The President of the Commission decides on the general political guidelines, organises the work of the Commission and divides the areas of responsibility between the other Commissioners.

### **§ 18 Court of Justice**

(1) The Court of Justice guarantees that the Union law is respected. The Court shall settle conflicts between the institutions of the Union, Member States, legislative regions, Citizens of the Union and legal persons based in the Union.

(2) The Court of Justice is also the Constitutional Court of the Union. If a dispute on competencies arises between the Union and the Member States, the Court shall decide whether the competence in question shall be regarded as a competence of the Union or a competence of the Member States.

(3) Every Member State appoints a judge to the Court of Justice for a non-renewable period of nine years. The judges are independent and impartial in carrying out their offices.

(4) The statute of the Court of Justice, a Court of First Instance and additional judicial chambers is laid down in a European Special Act.

### **§ 19 European Ombudsperson**

(1) The Ombudsperson shall protect the interests of the citizens of the European Union by taking and investigating complaints about negligence by the institutions of the Union towards a Citizen.

(2) The Ombudsperson is nominated and elected by the Chamber of Citizens. He or she is independent in carrying out his or her office.

### **§ 20 Council on Sustainable Development**

(1) The Council on Sustainable Development shall help to guarantee the principle of sustainable environmental, economic and social development. Its role is advisory.

(2) The Council on Sustainable Development consists of representatives from all branches of civic society and the academia from all Member States. The members shall be elected by the Chamber of Citizens of the European Parliament on the basis of proposals made by the Member States and the European umbrella organisations of civic society and the academia. The number of members must not exceed 150.

(3) The Council on Sustainable Development can take legal action to the Court of Justice if its rights or the principle of sustainable development are violated.

## **§ 21 Committee of the Regions**

(1) The Committee of the Regions shall represent the interests of the subnational levels in relation to the Union. Its role is advisory.

(2) The Committee of the Regions consists of representatives from legislative regions, other regions and local authorities. The representatives shall be democratically elected to the institutions they represent. The number of representatives must not exceed 300.

(3) The Committee of the Regions can take legal action to the Court of Justice if its rights or the principle of subsidiarity are violated.

## **§ 22 European Central Bank**

(1) The European Central Bank is the central bank of the Union acting independent from decision by the other Institutions and the Member States. In the framework of the principles of the Union, the sole responsibilities of the European Central Bank shall be to issue the Euro, which is the currency of the Union, maintain its value and establish the monetary policy of the Union. The European Central Bank is working in the context of the economic and financial politics of the Union determined by the European Parliament.

(2) The Monetary Council of the European Central Bank is the highest constituting body. It establishes the monetary policy of the Union. The Monetary Council consists of the Board of Directors of the European Central Bank and the governors of the central banks of the Member States. All members are independent from Member State influence. The Board of Directors consists of a President, a Vice-President and four other directors. They are appointed for a period of eight years and are elected by the Monetary Council. The role of the Board of Directors is to implement the monetary policy.

(3) The forecasts, reports and minutes of meetings of the European Central Bank are public and published regularly. It must inform the European Parliament about its monetary policy.

(4) The statute of the European Central Bank is laid down in a European Special Act.

## **§ 23 Court of Auditors**

(1) The Court of Auditors is an independent organ which shall audit the accounts and the administration of the European Union. The Court of Auditors co-operates with national auditing authorities.

(2) Every Member State appoints an auditor to the Court of Auditors for a non-renewable period of nine years. The auditors are independent and impartial in carrying out their offices.

## **§ 24 Internal organisation of the Institutions and inter-institutional decision-making**

Further provisions regarding the internal organisation of the institutions and inter-institutional decision-making are laid down in a European Special Act.