

# EDITION EUROPA

## Kapitel 2

Wenn möglich wurde jeweils das gesamte Dokument aufgenommen. In einigen Fällen mussten jedoch von den sehr umfangreichen Dokumenten Auszüge dargestellt werden, diese sind dann vermerkt.

*Verfassungsentwürfe zur Gründung einer Europäischen Union*

*Herausragende Dokumente von 1923 bis 2004*

Herausgegeben von Anton Schäfer

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**Europäische Union**

Ausgewählte Dokumente zu den  
Verfassungsentwürfen von 1923 - 2000



## II.39 Verfassungsentwurf der Jungen Europäischen Föderalisten

Dieser Verfassungsentwurf entstand im Zeichen der neuen Kommunikation über das Medium des Internets. Jeder Benutzer und Interessierte war aufgerufen, an diesem Verfassungsentwurf mitzuarbeiten und Idee einzubringen. Daraus resultierend ist der Entwurf in Englisch abgefasst. Die Jungen Europäischen Föderalisten als virtuelle Arbeitsgruppe verfassten den Verfassungsentwurf bzw. stellten ihn zusammen.

### II.39.a Grundsätze für eine Europäische Verfassung der Jungen Europäischen Föderalisten

Dieser Entwurf wurde der Internetseite der Jungen Europäischen Föderalisten entnommen ([http://www.jef.de/kampagne/verfassung/vag/Entwurf einer Europäischen Verfassung](http://www.jef.de/kampagne/verfassung/vag/Entwurf_einer_Europaeischen_Verfassung)) Der Seitenumbruch, Zeilenformatierung und Spaltenaufbau wurde dabei verändert, eine Anpassung an die heutigen Rechtschreibregeln wurde jedoch nicht vorgenommen. Anmerkungen wurden jedoch weggelassen.

#### Erste Bausteine für eine Europäischen Verfassung

Teil I

Grundrechte

1. Menschenwürdegarantie

#### I. Freiheitsrechte

2. Recht auf freie Entfaltung der Persönlichkeit (aber nicht im Sinne einer allgemeinen Handlungsfreiheit)
3. Recht auf Leben und körperliche Unversehrtheit (darin auch enthalten: Schutz gegenüber Gesundheitsschäden durch staatlich verantwortete Umweltverschmutzung);
4. Gedankenfreiheit (inkl. Religions- und Weltanschauungsfreiheit);
5. Freiheit der Privatsphäre (inkl. Brief, Telekommunikation, Wohnung, Familie, Lebensgemeinschaften, informationelle Selbstbestimmung);
6. Meinungs- und Informationsfreiheit;
7. Versammlungsfreiheit
8. Vereinigungsfreiheit (inkl. Gewerkschaften);
9. Freiheit der wirtschaftlichen Betätigung (inkl. Berufsfreiheit, (Arbeitnehmer-)Freizügigkeit, Niederlassungsfreiheit, Dienstleistungsfreiheit, Freiheit der Betätigung im Waren- und Kapitalverkehr);
10. Eigentumsfreiheit (inkl. Sozial- und Umweltpflichtigkeit);
11. Bewegungsfreiheit (nichtwirtschaftlich (s.o.), innerhalb der EU und Ausreisefreiheit);
12. Freiheit der Wissenschaft und der Kunst;
13. Erziehungsrecht / -freiheit und -pflicht der Eltern;

#### II. Gleichheitsrechte

14.
  - (1) Allgemeiner Gleichheitssatz Allgemeiner Gleichheitssatz (mit Verbot der Diskriminierung wegen Geschlecht, Staatsangehörigkeit, regionaler Herkunft, sozialer Herkunft, ethnischer Herkunft, Hautfarbe, Behinderung, Sprache, Kultur, sexueller Orientierung etc.);
  - (2) Die Förderung der Gleichstellung durch Gesetz ist zugelassen. Die Gleichstellung von Frauen und Behinderten hat der Staat durch angemessene Maßnahmen zu fördern;
15. Gleicher Zugang zu öffentlichen Ämtern;

#### III. Soziale und wirtschaftliche Rechte

16. Die folgenden Leistungsrechte sind nicht summenmäßig einklagbar. Ihr konkrete Ausgestaltung ist durch Gesetze der Mitgliedstaaten zu regeln. Der Leistungsanspruch richtet sich nur gegen die Mitgliedstaaten, die ihre Verfassung erforderlichenfalls anpassen müssen, und nicht gegen die EU;
17. Recht auf soziale Grundsicherung;
18. Recht auf Bildung und Ausbildung;

19. Recht auf Arbeit. „Der Staat hat alle geeigneten Maßnahmen zu ergreifen, um einen hohen Beschäftigungsstand zu erreichen, insbesondere Maßnahmen zur (Re-) Integration von Beschäftigungslosen in den Arbeitsmarkt.“
20. Recht auf Unterkunft. „Der Staat hat alle geeigneten Maßnahmen zu ergreifen, um das Zurverfügung stehen von ausreichenden und angemessenen Wohnraum zu erreichen.“
21. Recht auf Gesundheitspflege. „Der Staat hat alle geeigneten Maßnahmen zu ergreifen, um eine ausreichende und angemessene Gesundheitsversorgung der Bevölkerung zu erreichen.“
22. Recht auf Schutz der engen Lebensgemeinschaften (Familie, Ehe, sonstige enge Lebensgemeinschaften. Besonderer Schutz für Lebensgemeinschaften mit Minderjährigen oder sonstigen Hilfsbedürftigen);
23. Recht der besonders Hilfsbedürftigen (insbesondere Kinder, ältere Menschen, Behinderte);

#### **IV. Politische Mitwirkungsrechte**

24. Unionsbürgerschaft als Ergänzung der Staatsangehörigkeit;
25. Wahlrecht (zum Europäischen Parlament, auf regionaler und kommunaler Ebene am jeweiligen Wohnsitz / auf nationaler Ebene nach Wunsch des Unionsbürgers entweder im Wohnsitzstaat oder im Staat, dessen Staatsangehörigkeit er innehat);
26. Recht auf Volksbegehren, Volksinitiative, Volksbefragung, Volksabstimmung auf europäischer Ebene (Bei Volksabstimmung: Mehrheit der abgegebenen Stimmen in der Union und Mehrheit der abgegebenen Stimmen in mehr als der Hälfte der Mitgliedsstaaten, mindestens 25% Abstimmungsbeteiligung, eventuell Beschränkung auf bestimmte Sachgebiete / Ausschluß bestimmter Gebiete);
27. Recht auf Zugang zu politisch wichtigen Informationen;
28. Petitionsrecht (zum Europäischen Parlament und zum Europäischen Ombudsmann = Bürgerbeauftragten);

#### **V. Sonstige Rechte**

29. Recht auf Asyl;
30. Recht auf Schutz der natürlichen Lebensgrundlagen;
31. Recht auf diplomatischen Schutz in Drittstaaten (durch die Vertretungen der EU und der anderen Mitgliedsstaaten);

#### **VI. Verfahrensgrundrechte**

32. Rechtsschutzgarantie;
33. Recht auf den gesetzlichen Richter;
34. Ne bis in idem
35. Recht auf erforderliche Unterstützung im Rechtsschutzverfahren;

#### **VII. Geltungsbereich der Grundrechtsvorschriften**

36. Unmittelbare Wirkung der Grundrechte für alle staatlichen Institutionen;
37. Beschränkung von Grundrechten (durch Gesetz möglich, aber Begrenzung der Beschränkung und Garantie der Erhaltung des Wesensgehalts der Grundrechte);
38. Hohes grundrechtliches Schutzniveau. „Die Staaten sind auch bei Gebrauchmachen von den Beschränkungsmöglichkeiten zur Erhaltung eines insgesamt hohen Schutzniveaus verpflichtet.“
39. (mittelbare) Drittwirkung der Grundrechte auch zwischen Privaten (über Generalklausel im Privatrecht
40. Schutzpflicht des Staates und der EU (hinsichtlich der Gefährdung von Schutzgütern der Freiheitsgrundrechte durch Dritte (= Private oder dritte Staaten));
41. Verbot des Rechtsmißbrauchs;
42. Rückwirkungsverbot (Verbot des rückwirkenden Entzugs von Rechtspositionen).

## **II.39.b**      Verfassungsentwurf der Jungen Europäischen Föderalisten als virtuelle Arbeitsgruppe

Dieser Entwurf wurde der Internetseite der Jungen Europäischen Föderalisten entnommen (<http://www.jef.de/kampagne/verfassung/draftconst.htm>) Der Seitenumbruch, Zeilenformatierung und Spaltenaufbau wurden dabei verändert. Eindeutige Druck- oder Rechtschreibfehler, erkennbare Übersetzungsfehler und Auslassungen sind korrigiert. Eine Anpassung an die heutigen Rechtschreibregeln wurde jedoch nicht vorgenommen.

## Verfassungskampagne

This is a proposal for a Federal constitution of Europe. Even if it is **not official** JEF policy, it is still an important document. It is brought forward by a working group, appointed by the Federal Committee of JEF. The constitutional working group had a large number of working meetings and consisted of several members of the FC.

### Federal Constitution for Europe

#### Constitutional Working Group

#### Preamble

We, the peoples of the European Union,

- acknowledging our commitment to co-operation, solidarity, tolerance and respect for our diversity and different identities,
- recognising the importance of regional co-operation and understanding for peace and prosperity in Europe,
- believing that the peoples of Europe, having shown how ancient enmities and hatreds can be replaced by peace and friendship, must complete their progress towards an all-European federation, and that in doing so they will set an example to the world,
- knowing that the only path forward for our continent is one of ever deeper integration and of ever closer union between the peoples of Europe,
- convinced that many of the biggest problems confronting us today, such as social exclusion, pollution, unemployment and racism can no longer be adequately dealt with by our individual states, and therefore need a transnational solution,
- believing that a truly democratic and federal European Union respects and protects our different identities and cultural heritage and has the necessary legitimacy to lead us into the next century,
- supporting the objective of bringing democracy as close as possible to the citizens by placing the competence's at their most appropriate level, according to the principle of subsidiarity,

Hereby declare as our Constitution

## CONSTITUTION

### Chapter I: General Articles

#### Article I

The territory of the European Union shall be that of its member states.

#### Article II

The European Union derives all its powers from the shared sovereignty of its member states and its citizens.

#### Article III

No citizen can be discriminated against on the basis of one's beliefs, religion, race, nationality, gender or sexual orientation.

#### Article IV

All citizens of the member states of the European Union are citizens of the European Union.

#### Article V

Any citizen, permanent legal resident or member state has the right to petition the Court of Justice to hear its case under European law.

#### Article VI

All citizens of and legal residents on the territory of the Union have the right to vote and stand for office in all European elections.

#### Article VII

Any language having an official status in a member state, or in part of a member state, is an official language of the European Union and can be used by its citizens in all communication with the institutions of the Union.

### Chapter II: The Legislature

#### Article VIII

The European Assembly is the legislature of the European Union. It consists of two chambers: The European Parliament and the Council.

Either chamber, as well as the Commission following the procedure laid down in Article XXI of this Constitution, has the right to propose legislation and a simple majority in both chambers is necessary to make the laws of the European Union, except in the cases foreseen by this Constitution.

All laws of the European Union have direct effect and are directly applicable.

#### Article IX

After a proposal for legislation receives the necessary majority in either chamber of the European Assembly, it shall be submitted to the other chamber.

This latter will indicate to the originating chamber within sixty days whether it rejects or accepts the proposal with or without amendment's. If it fails to do so, the proposal will become law. If it rejects the proposal, the proposal is defeated.

If the two chambers of the European Assembly reach the necessary majority on two differing versions of a proposal for legislation, their versions are brought before the Conciliation Committee of the European Assembly, consisting of an equal number of representatives of each chamber.

The Conciliation Committee will endeavour to make a common version from the two differing versions. If such a common text is agreed upon by a majority within the representation of both chambers, it will return for a final vote in the two chambers.

#### Article X

The European Parliament consists of maximum 650 members, elected every five years by a uniform election procedure, laid down in the electoral laws of the European Union.

#### Article XI

The Council will consist of one member per member state, appointed by the government of their member state, notwithstanding the provisions of Article XII of this Constitution.

## Article XII

Representatives of regional authorities invested with legislative and executive powers over the subject concerned by the Council may fully participate in the decision-making process of the Council. The representatives of regional authorities only represent their regional authority and its citizens, not their member state.

Their votes are relative to the number of inhabitants they represent, as indicated in Article 14 of this Constitution. This number and any future changes to it are notified to the Council.

For the determination of the majority of member states, they will be counted not as one member state but as a fraction, representing the number of their citizens divided by the total number of inhabitants of the member state of which they form a sub-entity.

## Article XIII

A simple majority in the Council is a majority of its members, representing a majority of the population of the Union.

A qualified majority in the Council is a three quarter majority of its members, representing three quarters of the population of the Union.

A simple majority in the European Parliament is a majority of the members present and voting, without counting abstentions.

A qualified majority in the European Parliament is a three quarter majority of the members present and voting.

Neither chamber of the European Assembly can vote on legislation, without a majority of its members voting.

## Article XIV

All sessions of the European Assembly are open to the public and the agendas, minutes and voting records of all plenary sessions are to be published and available to the public.

## Chapter III: The Executive

### Article XV

The executive powers are vested upon the Commission

### Article XVI

The European Assembly elects by simple majority the President of the Commission, upon proposal of the European Parliament.

### Article XVII

The European Assembly elects the members of the Commission by a simple majority, upon proposal of the President of the Commission.

### Article XVIII

The Commission can only be dismissed by the European Assembly by the appointment of a new Commission.

### Article XIX

The Commission takes all decisions collectively.

### Article XX

The Commission represents the European Union in external relations, in the implementation of its foreign, security and defence policies and in international organisations.

### Article XXI

The Commission has the right to propose legislation. A proposal by the Commission has to be presented to the European Parliament.

### Article XXII

The President of the Commission negotiates and concludes all treaties on behalf of and within the areas of exclusive competence of the European Union.

Treaties concluded by the Commission enter into force after ratification by the European Assembly, by a simple majority.

### Article XXIII

The President of the Commission will have the right to engage European Union forces outside the territory of the European Union, if a qualified majority in the European Assembly gives it the mandate to do so, notwithstanding the provisions of Article XXIV.

### Article XXIV

The President of the Commission will be in command of the European Union forces. No military unit can be engaged outside of the territory of the European Union over the objections of the member state to which this unit belongs.

## Chapter IV: The Judiciary power

### Article XXV

The judicial power of the European Union is vested upon the Court of Justice. It extends to all cases in law, arising under this Constitution, the laws of the European Union and the treaties established under this Constitution.

Any dispute over the competence's of the European Union and the competence's of its institutions will be resolved by the Court of Justice.

### Article XXVI

The Court of Justice will be composed by a number of judges equal to the number of member states, appointed by the Conciliation Committee of the European Assembly by a majority vote in the representations of both the Council and the European Parliament. Those chosen will be selected from among the most eminent jurists for a mandate of nine years. A judge can only serve for one mandate.

The mandate of a judge can only be terminated before its expiration, for cause of death, resignation or by a ruling of the Court of Justice. The Court of Justice can only rule on the termination of a judge's mandate for violations of the laws, criminal conviction or behaviour which could lead to the disrepute of the Court.

### Article XXVII

The judges of the Court of Justice will choose from amongst their midst a President for a renewable mandate of three years. The president chairs the meetings of the Court of Justice and represents the Court of Justice in its dealings.



### Article XXVIII

The rulings of the Court of Justice will be binding within the territory of the European Union. They shall take precedence over and the Court of Justice can annul all legislative acts, which it finds in conflict with this Constitution.

### Article XXIX

The Court of Justice has the right to hear any case on European Union legislation brought before it.

### Article XXX

The European Assembly has the right to establish, by a qualified majority, lower courts, without prejudice to the competence's of the Court of Justice as set out in this Constitution.

### Article XXXI

This Constitution and the laws and treaties adopted, or to be adopted, under it will be the supreme law of the European Union and judges in every member state will be bound hereby, any thing in the constitutions or laws of the member states notwithstanding.

### Article XXXII

The European Union is a party to the European Convention of Human Rights and the Convention and its covenants will take precedence over all laws of the European Union.

### Article XXXIII

Any conflict arising between this Constitution, the legislation and treaties made under it or the constitutions or laws of any of the member states of the European Union and the European Convention on Human Rights, will be decided upon by the European Court for Human rights and its verdicts will be binding on all courts within the territory of the European Union.

## Chapter V:

### The competence's of the European Union

### Article XXXIV

The European Union shall be competent to the exclusion of its member states in the following areas:

- I. Within the field of Economic and Commercial Policy for:
  - The creation, the maintenance and the adaptation of a single market, with free movement of goods, persons, capital and services, within the European Union, including: Copyright and trademark legislation Competition Policy State aids Fisheries Agricultural policy Energy and nuclear power Transregional networks Mutual recognition of diplomas of higher education Monetary policy and the management of a single currency Customs union and tariffs, antidumping legislation, external trade and commercial policy
- II. Within the field of Foreign and Security Policy for:
  - Defence of the territory of the Union and its outside frontiers, upholding of the principles of the United Nations around the world. The making of treaties on behalf of the European Union within its exclusive competence's
- III. Within the field of Justice and Home Affairs for:
  - Immigration and border controls The fight against organised, transnational crime
- IV. Environmental legislation in cases where more than one member state is affected.

This does not preclude the European Assembly to entrust the member states with the execution of the laws it passes within its exclusive competence's, under the supervision of the Commission.

### Article XXXV

The European Union and the member states have shared competence's in the fields of:

- I. Within the field of Economic and Monetary Policy for:  
Consumer protection Social policy Research and technology Natural resources
- II. Within the field of Foreign and Security Policy for  
Foreign aid
- III. Citizenship and Human Rights
- IV. Culture and Higher Education
- V. Tourism

Within these areas the Union has the right to harmonise the legislation's of the member states and to pass legislation providing a framework within which its member states can act.

The implementation of this legislation shall be supervised and co-ordinated by the Commission acting in co-operation with the governments of the member states.

#### Article XXXVI

The member states of the European Union shall have exclusive competence in all areas not foreseen in this Constitution and not entering in the scope of Article XXXVII of this Constitution

#### Article XXXVII

The European Assembly shall have the power to make all laws, which shall be necessary and proper for carrying into execution its competence's and all other competence's vested by this Constitution into the institutions of the European Union.

In all areas that do not affect the interests of more than one member state, the member states, or the appropriate regional or local authorities will have the right to pass legislation in as far as this legislation does not impinge upon an overriding interest of the European Union.

#### Article XXXVIII

The European Assembly promulgates the laws of the European Union and the Commission executes them, unless this Constitution decides otherwise.

#### Article XXXIX

The budget of the European Union is voted by a simple majority in the European Assembly, in as far as it does not exceed 3% of its gross domestic product.

A budget rise of the European Union beyond 3% of its gross domestic product, has to be approved by the European Assembly with a qualified majority in both Houses

### Chapter VI: Amendments to the Constitution

#### Article XXXX

Any of the institutions which have the right to propose legislation, have the right to submit to the European Parliament, their proposals for amendment's to the Constitution.

At the end of its mandate, the European Parliament can then by a simple majority propose to the next European Assembly amendment's to the Constitution.

The newly elected European Parliament and the Council can then amend the Constitution by qualified majority in both chambers.

#### Article XXXXI

The current Constitution will enter into force after a three quarter majority of the member states, by a procedure laid down by the member state, approve it and the European Assembly ratifies it by a qualified majority. The European Union will take over the *acquis communautaire*.

#### Chapter VII: Changes to the Territory of the European Union

#### Article XXXXII

Every democratic European state will have the right to become a member of the European Union, if its accession agreement is approved by a qualified majority in both houses of the European Assembly.

#### Article XXXXIII

Every member state will have the right to secede from the European Union if its population expresses itself for secession from the European Union. One year after notification of the European Commission the seceding member state will be freed from all obligations towards the European Union and its membership will be terminated.

