

Constitution of a Community of European States (CES)¹

(Rough draft)

I. Introduction

Because of the diversity of European cultures, languages, countries and regions, Europe is likely to succeed on a sustainable basis only as a **democratic, diverse community of nation States**: called, e.g., a **Community of European States (CES)**.

This Community shall be **open to all European countries**. And It should offer to each country the place its citizens want it to take: to those countries that seek an ever-closer political integration, but also to those that do not want this, yet would like to benefit from a mutually prospering cooperation with all European countries in many fields, e.g. in trade and transport, research, education and culture.

The following Constitution is based on **today's European Union (EU), its Constitution, its problems and plans for further political integration**, in particular in the field of economy and society, migration, security, defence and foreign policy. The new Constitution allows the citizens, in particular, to define their country's place in Europe and its cooperation in the different sectors, i.e. - to continue, expand or limit it (variable geometry).²

Decisive for a democratic, diverse Europe are constitutionally defined rights and duties of the citizens and the principles of subsidiarity and federalism (according to the German definition for a decentralized country, a confederation). In this regard, the draft at hand relies especially on the **Swiss Constitution**.

In comparison with to-day's Switzerland, the CES is however:

- **More diverse:** The CES includes many more cultures and languages than Switzerland, and the Swiss cantons are less autonomous than the countries of

¹ Community of European States (preliminary name): Alliance of more and less politically integrated European countries

² This draft Constitution includes 3 categories of countries: the politically integrated core Europe (incl. the European economic and monetary union (EMU), the common market / European economic area EEA, incl. the free movement of goods, services and capital, but without the free movement of persons and without a common currency; and a vast free trade zone. The Constitution could be simplified, if the citizens in all countries reject one or the other of these categories of countries at a first pan-European referendum.

- **Less directly democratic:** Member countries of the CES keep their very different political structures and institutions, in particular parliamentary democracy (even in the politically integrated core Europe).

In comparison with the EU, the CES is:

- **Larger:** All countries between Vladivostok and Reykjavik are invited to participate in the new Europe according to their citizens' decision;
- **More democratic:** At the CES level, there are regular, constitutionally defined referenda, the constitutional initiative and the legislative referendum, as well as democratic elections of the CES parliament, government and court of justice;
- **More diverse, less centralized:** Apart from the integrated core Europe, member countries keep their political, economic, social and cultural independence. They can nonetheless participate - by means of bilateral agreements – at common projects, programs and tasks (e.g. in the fields of refugees, research, education, transport and communication);
- **More subsidiary:** No task shall be transferred to the CES, that member countries can themselves deal with as well or even better than the CES. The citizens decide, which competences they want to delegate.

A democratic Europe can only come into being democratically - with the citizens. Its Constitution has therefore to be **simple, easy to understand and short**. The details shall be regulated by **laws**.

The Constitution has to be deliberated and adopted by a **Constitutional Council**, elected by the citizens of all participating countries, who then shall ratify and put it into force in a **referendum**.

II. Wording of the Constitution

Preamble

To create a democratic and diverse, strong and peaceful, prospering and subsidiary, free and fair Europe, open to all European countries, the citizens of the participating States adopt the following Constitution of a Community of European States (CES):

A. General provisions

Art. 1. The Community of European States

1. The following countries constitute the Community of European States (CES): ...
2. Any European country may, at any time, submit to the CES an application to join, adopted in a national referendum. Accession requires a Constitutional amendment (in Art. 1, par. 1, according to Art. 16).
3. Each Member State may at any time decide in a referendum to withdraw from the CES, thus vitiating all mutual rights and obligations.

Art. 2. Values and Goals

1. The CES protects the freedom and rights of its citizens.
2. It promotes welfare, sustainable development and cultural diversity of Member States and their regions.
3. The CES is committed to the sustainable conservation of nature and to a peaceful and equitable international order.

Art. 3. Member States

1. CES Member States are sovereign, insofar as their sovereignty is not limited by the CES Constitution. They exercise all rights, except those that are explicitly transferred to the CES by the Constitution.
2. The CES and its Member States take account of the international law.

Art. 4. Official Languages

The official languages of the Member States are the official languages of the CES.

B. Legal Principles

Art. 5. Equality Before the Law

1. All human beings are equal before the law.
2. No one may be discriminated against by reason of origin, race, sex, age, language, social status, religion and disability.

Art. 6. Fundamental Rights

1. CES Member States warrant the following fundamental rights:
2. Everyone has the right to life, personal freedom, marriage, family and primary education.
3. The freedom of belief and conscience, of expression and information, of the media, languages, science, art, assembly, association, establishment and economic freedom apply in all Member States.
4. Those who are in distress and unable to care for themselves are entitled to help and care and to the means that are necessary for a dignified existence.
5. No one may be sentenced to death or to forced labour, executed, tortured or inhumanly punished.
6. Limitations of these fundamental rights require a legal basis.

C. Duties

Art. 7. Tasks of the CES and of Member States (Principle of Subsidiarity)

1. The CES only performs the tasks defined by the Constitution.
2. The CES preserves the independence of its Member States, leaving to them as much freedom of action as possible and taking their particularities into account.
3. The CES regulates only what is absolutely necessary to achieve its goals and what Member States can not adequately realize themselves.
4. Member States implement the CES law.
5. The CES and Member States settle problems and conflicts within and outside their borders by peaceful and democratic means. They respect the principle of subsidiarity and protect their minorities. - This applies also to regional demands for independence and autonomy, which shall be regulated by the member state concerned, also by using, in particular, regional referenda.

Art. 8. Relations with Third Countries and with International Organizations

1. Relations with third countries and with international organizations are, in principle, a matter of Member States.
2. Member States may delegate certain tasks to the CES.
3. In accordance with its national law, each Member State may refrain to take part at these common tasks and their financing. It must not, however impede it, nor may it co-determine the implementation of these tasks, but may give its opinion.

4. In their relations with third countries and international organizations, the CES and Member States shall, through appropriate measures, alleviate world poverty and promote human rights, democracy, a peaceful coexistence of peoples and the preservation of natural resources.

Art. 9. Security, National and Civil Defence

1. Security, national and civil defence are basically a matter of Member States.
2. Member States may delegate certain tasks to the CES.
3. The CES can create a European Response and Peacekeeping Force and a Volunteer Corps to back its humanitarian goals.
4. Each Member State may release itself, according to its national law, from taking part at joint actions and their financing (par. 2 and 3). It must not, however, impede nor can it co-determine the implementation of these tasks, but may give its opinion.
5. No Member State can be forced to take part at common military actions.

Art. 10. Refugees

1. Willing Member States can create a European Refugee Union to ensure an orderly and humanitarian reception of the refugees.
2. The Union protects its external borders. It may set refugee quotas for its Member States and conclude bilateral agreements with third countries.
3. CES countries, which are not members of the Union, can participate at the common refugee policy on the basis of bilateral agreements.

11. Research, Development, Education

1. The CES promotes cooperation between Member States in the fields of scientific research, technical development and vocational and academic education.
2. The CES coordinates joint projects and programs in these fields, in which European countries which are not members of the CES can also participate.

Art. 12. Health, Environment and Protection of Animals

1. Based on the principles of precaution, prevention, subsidiarity and on the 'polluter pays' principle, the CES may - for the attention of Member States - define recommendations, guidelines and minimum standards on health, safety, environmental protection and energy efficiency.
2. Animals must be protected and treated as sentient beings.

Art. 13. Public Works, Transport and Communication

At the request of Member States or groups of them, the CES coordinates cross-border issues concerning public works, transport and communication.

Art. 14. Economy

1. The willing member countries of the CES create a European Economic Union (EEU) to implement a common economic and financial policy, which includes i.a.:
 - a. a common budget;
 - b. the common currency (Euro);
 - c. open and free common markets for goods, services, persons and capital;
 - d. fiscal transfers between Member States;
 - e. as an option an EEU tax decided unanimously by EEU Member States.
2. CES member countries not willing to join the EEU constitute the European Economic Area (EEA), which implies the free movement of goods, services and capital.
3. The CES can establish guidelines and recommendations for its Member States to ensure fair competition, compliance with the polluter-pays principle as well as humane production and supply structures. The CES applies these principles in its relations with third countries.
4. The CES invites all European countries to participate at the European Free Trade Zone (EFTZ).

Art. 15. Financing

1. The CES is financed by contributions from Member States.
2. The contributions of Member States depend on their economic strength as well as on their participation at decisions, activities and programmes of the CES.
3. The introduction of each new CES tax requires an explicit Constitutional basis as well as the agreement of all Member States that are affected by the tax (Art. 14, par. 1e).

D. Citizens' Rights

Art. 16. Initiatives and Referenda

1. Ten million citizens having the right to vote in a Member State or one third of all national parliaments may request a revision of the CES Constitution (Initiative), five million citizens or one fourth of national parliaments may ask for a referendum against a new CES law (facultative referendum).
2. Any amendment to the Constitution and membership in international organizations has to be submitted to the citizens and Member States in a referendum (compulsory referendum).
3. A Constitutional amendment is adopted if majorities of voters both in the CES taken as a whole as well as in at least half of all Member States approve it; a new law is adopted, if a majority of approving voters in the CES approve it.

E. Public Authorities

Art. 17. General Provisions

1. All citizens of all Member States can be elected to the Parliament, the Government (Council) and to the Court of the CES.
2. The members of Parliament, Government and of the CES Court may not at the same time belong to another of these authorities, nor hold any other CES office. The members of the CES Government and Court may not engage in any other gainful employment.
3. In preparing CES laws, decrees, important transactions and international treaties the CES Council invites all Member States and the main directly involved parties in each individual case to comment (Consultation proceedings).

Art. 18. Parliament

1. The CES Parliament is the legislative authority of the Community. Parliament also decides on CES expenses (budget), it selects the members of the CES Council and of *the Court of justice and supervises the Council.
2. Parliament consists of two Chambers, the Citizens' Council and the Senate.
3. All decisions of Parliament have to be taken by both Chambers.
4. The Citizens' Council consists of 500 citizens (Deputies) of Member States. They are elected in general, direct, free and secret elections every four years according to the following rules:
 - a. Each Member State forms a constituency.
 - b. The seats are distributed among Member States according to their population.
 - c. Each Member State has at least one seat.
5. In the Senate, each Member State is represented by two Senators. They are elected according to the laws of their Member State.
6. Both Chambers elect their Bureau from among their members.
7. The voting rights of Members of Parliament (Deputies and Senators) depends on their country's participation at CES programmes and tasks, to be discussed by Parliament (no right to vote on programmes and tasks in which their countries do not participate; Art. 8-15).
8. The sessions of Parliament are open to the public; its documents are generally available to everybody.

Art. 19. Council (CES Government)

1. The Council is the executive authority (government) of the CES.
2. The Council elaborates the CES policy and objectives. It establishes the budget and the CES accounts; it is in charge of the CES administration, maintains relations with Member States and represents the CES in the common foreign and security policy vis-à-vis third countries and international organizations.

3. The Council consists of 15 Councillors. They are elected for a 4-year term after each election of Parliament by Parliament from among all members of Parliament. In doing so, Parliament respects an appropriate representation of regions and gender. No country can be represented in the Council by more than one Councillor. Councillors can be re-elected once. Apart from that, the Council constitutes itself.
4. After the election of the Council, Parliament elects the President of the Council also for a 4-year term from among the Councillors in a joint session of the two Chambers. The President can be re-elected once.
5. The Councillors' voting rights depend on their country's participation at CES programmes and tasks, to be discussed by the Council (no right to vote on programmes and tasks in which their countries do not participate; Art. 8-15).

Art. 20. CES Court

1. Members of the CES Court are elected by Parliament for a term of six years.
2. All Member States are represented in the Court.
3. The Court assesses in particular complaints about violations of Constitutional rights and of State treaties as well as disputes between Member States subject to public law.

Art. 21. Ministerial Conferences

1. The Conferences of Ministers of Member States, together with the respective CES Minister, coordinate the joint tasks of CES and Member States.
2. The Conferences elect their President.
3. The decisions of Ministerial Conferences are recommendations to Governments and Parliaments of Member States and the CES.

III. Explanations

Preamble

The preamble summarizes the basic values of the Community of European States.

The citizens of Member States are the Constitutional authority of the CES. They also determine in which areas and how their country participates in the Community.

A. General provisions

Art. 1. The Community of European States (CES)

The CES is open to all European countries. Joining and leaving the CES is possible at any time and requires both an amendment of the Constitution (Art. 1.1) and a national referendum.

The founding States decide in a first all-European referendum on their participation at the CES: in the politically integrated core Europe, in the European common market / economic area (EEA) or in the free trade zone

Art. 4. Official Languages

All citizens and the authorities of all CES Member States have the right to communicate with the CES authorities in an official language of their country. Legal texts of the CES are published in all its official languages. The use of languages in other CES documents, meetings and conferences of the CES has to be regulated at the legislative and ordinance level.

C. Duties

Art. 7. Tasks of the CES and of Member States (Principle of Subsidiarity)

Member States are free in their policies and legislation under the CES Constitution.

The CES and its Member States settle problems and conflicts within and outside their borders by peaceful and democratic means; they respect the principle of subsidiarity and protect their minorities. - This also applies to regional demands for independence and autonomy, which shall be regulated by the member state concerned, also by using, in particular, regional referenda.

Art. 8. Relations with Third Countries and with International Organizations

Foreign policy remains a matter of Member States (par. 1).

In certain cases, a common policy may be necessary (par. 2). Member States that do not participate at joint actions and at their funding must not impede them, nor do they have any right to co-determine their implementation, but only to give their opinion (par. 3).

The Foreign Ministers' Conference of Member States (Art. 21) coordinates the CES foreign policy. The CES Foreign Minister represents the CES in terms of the common foreign policy vis-à-vis third countries and international organisations (Art. 19, par. 2).

Art. 9. Security, National and Civil Defence

As in matters of foreign policy (Art. 8), Member States In principle are responsible for their security in a comprehensive sense, for national and civil defence (par. 1). They consult each other and the CES on a regular basis, especially in the Conference of Defence Ministers of Member States (Art. 21).

In certain areas, Member States may decide on a common security policy or common troops (par. 2 and 3). Countries that do not want to participate at joint actions and their financing must not impede them, nor do they have any right to co-determine their implementation, but only to give their opinion (par. 4).

No Member State can be forced to participate in an armed conflict inside or outside the CES (par. 5).

Art. 10. Refugees

Willing CES Member States can create a European Refugee Union. The remaining CES Member states can participate in the joint CES refugee policy through bilateral agreements.

The Refugee Union protects its external borders. It may define refugee quotas for the participating countries and conclude agreements with third countries to strengthen and coordinate the European refugee policy - including countries where refugees come from and through which they transit.

Art. 11. Research, Development, Education

The CES strengthens the European cooperation in the fields of scientific research, technical development, as well as vocational and academic education, especially by means of joint projects and programs open to all European countries.

Art. 12. Health, Environment and Protection of Animals

Different national regulations, taxes and subsidies lead to distortions of competition within the CES. The CES can therefore define, for the attention of Member States, recommendations, guidelines and minimum requirements, in particular environmental, safety and energy standards for buildings, equipment and motor vehicles (par. 1), and for the protection of animals (par. 2).

Legally binding provisions are subject to a facultative referendum (Art. 16, par. 1).

Art. 14. Economy

The CES creates a European Economic Union (EEU) with the willing Member countries. The Union implements a common economic and financial policy, which includes the Euro as the common currency, a common budget, fiscal transfers among Member countries, the free movement of goods, services, capital and persons, and possibly an EEU tax (Art.14, par. 1).

CES Member countries that do not want to join the EEU constitute the European Economic Area (EEA), which includes the free movement of goods, services and capital, but not the free movement of persons (Art. 14, par. 2).

In order to ensure fair competition and optimal macroeconomic prices, common rules are needed, in particular to comply with the polluter-pays principle. This means that the costs of environmental pollution, protection of landscape and of humane supply structures shall be paid by the consumer (Art. 14, par. 3).

For this purpose, the CES can establish recommendations and directives to Member countries. Legally binding orders are subject to a facultative referendum (according to Art. 16, par. 1).

To strengthen the economy, innovation, research and training are supported, in particular in the fields of energy, environment, health, transport and communications (Articles 11, 12, 13).

Art. 15. Financing

The CES is financed, in principle, by contributions from Member States. The only exception is the option of an EEU tax (Art. 14, par. 1e). Any new CES tax requires explicitly a special Constitutional amendment as well as the agreement of all Member States affected by the tax.

Member countries that do not participate at certain joint CES programmes and activities do not have to pay for them either. They must not, however, impede them nor do they have any right to co-determine their implementation, but only to give their opinion.

D. Citizens' Rights

Art. 16. Initiatives and Referenda

The people, i.e. all the citizens entitled to vote in one of the CES Member States, have the last word in all Constitutional and legal matters of the CES (direct democracy).

The role of Member States and of their parliaments is enhanced by the double majority required for a Constitutional amendment of both citizens and Member States (federalism, subsidiarity, protection of minorities), as well as by the right of national parliaments to ask for a constitutional amendment or for a referendum against a new CES law (Art. 16, par. 1).

E. Authorities

Art. 17. General Provisions

The separation of powers is defined by the Constitution (par. 2).

The so-called consultation procedure is an important element of the elaboration of laws, directives, decrees, international treaties and other important transactions (par. 3). It obliges the CES Council to consult all Member States as well as the main directly affected organizations (trade unions, environmental organizations, regions etc.) in each individual case.

Art. 18. Parliament

The bicameral system, especially the Senate, strengthens the importance of Member States (federalism, subsidiarity, protection of minorities). All laws and enactments must be approved both by the Citizens' Council and the Senate.

Art. 19. Council (CES Government)

The CES Council consists of 15 Councillors, who are elected by Parliament among its Members after each parliamentary election for a 4-year term. In doing so, Parliament will respect an appropriate representation of regions and gender. No country can be represented by more than one Councillor.

After the election of the Council, Parliament elects the Council's President among the Councillors, also for a 4-year term. Apart from that, the Council constitutes itself.

The power of the Council's President and of the Councillors is limited by the fact that they are no more eligible after two terms of four years in office.

Art. 21. Ministerial Conferences

The Conferences of the Ministers of Member States coordinate CES activities in their Government sectors (for example the Conferences of the foreign Ministers (Art. 9), of Ministers of defence (Art. 10) and Ministers of economic and financial affairs (Art. 14).