

European Constitution Contract CDU and CSU Proposal

Presented by CDU-CSU-Project Committee
"European Constitution Contract"

under the direction of

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Constitution Contract Proposal Reflecting a Reassignment of Responsibilities Between the EU and its Member Countries

CDU (Christian Democratic Union) and CSU (Christian Social Union) embrace the “Declaration on the Future of the Union” the European Council resolved in Nice, France, which is designed to initiate a broad discussion of the European Union’s future development. Both parties will intensively participate in this discussion and are herewith submitting initial detailed recommendations that focus primarily on setting boundaries between the responsibilities of the European Union and those of its member countries.

1. The European Union is facing new major challenges:

- a) In the second half of the 20th century, the creation of the European Union is the key European success story. In conjunction with the Transatlantic Pact, it brought about an era of stable peace after two world wars and has increased the economic and social prosperity of all of its members. In fact, European unification was so attractive that it helped tremendously in overcoming the East-West conflict as well as the separation of Germany and Europe.

- b) A unified Europe stands taller in an increasingly globalized world and in the face of new threats to our safety. The unification of Europe goes hand in hand with the excellent opportunity to effectively preserve the European human image and the community of values for tomorrow’s generations. Consequently, Europe is in a position to make a meaningful contribution to a better world.

- c) Now that communism has conceded to failure, the expansion of the European Union allows us to permanently overcome the unnatural division of our continent and to remove any remaining effects of this separation. We are now in a position to turn Europe into the largest zone of stability, safety, prosperity and social justice on earth. The economic integration yields job security and enables us to be competitive.

- d) To this effect, the European Union's ability to act and react must be strengthened – internally as well as externally. This reinforcement and the expansion of the European Union give the integrative process a whole new dimension. It is becoming increasingly important to win the approval of our citizens, who, in spite of all successes, sometimes suspect that bureaucracy, not efficiency is the name of the game in everyday European life. In some cases we may even have to reestablish their trust. To achieve this, the European action radius and the preservation of national and regional identities must be in perfect balance.

- e) The progressing integration process has a considerable impact on the constitutional and political structures of the EU member countries. Competency issues pose new challenges not only on the national, but also on the regional level and local parliaments. These require clearly defined solutions. The answer to the question – “What is to be decided by Europe?”- also delivers a reason for the European unification process that will renew peoples' trust.

- f) The European Union's core responsibilities should encompass foreign, security and defense policies, a uniform European market within a scope of healthy economic competition, uniform exterior representation and a common currency, reformed agricultural politics and – if these areas have a cross-border impact – legal policies, domestic security, transportation, infrastructure, environmental and health protection programs.

The European Union should also be responsible for cross-border regulations that protect the basic freedoms provided in the European contracts. This should, however, not lead to directive competency for entire subject areas.

Anything related to traditions that have evolved in the countries' civilizations and cultures, on the other hand, should always remain within the scope of each member state's responsibility. This includes, for example, the interior governmental structure of the membership countries along with autonomous municipal administration, family structures as well as social security, the job market, immigration, voluntary and non-profit organizations and their work, education, cultural programs and sports.

2. Objectives of the Required Reform Steps

We are aiming at building a strong and large Europe that honors its heritage, meets its future responsibilities and attains the approval of its citizens. To achieve this, the structure of the EU must be revamped to be more democratic, more approachable and more transparent. It must focus on those tasks that can only be resolved on a European level. This requires the transfer of additional responsibilities to the European Union as well as the retransfer of current responsibilities from the European Union to its membership countries. The European Union's ability to make prompt decisions and take quick action must be substantially improved.

- a) Citizens' acceptance of political decisions is contingent upon their ability to clearly identify who is responsible for what decision. Making the borderlines between the competencies of the member states and those of the European Union visible is therefore a crucial goal of this reform process and the key to its successful implementation. Institutions and relevant procedures will also have to be reorganized.

- b) Up until now, the European unification process often evolved based on the principle “integrate wherever possible”. This method has reached its limits. We have now reached the point where we must bring a sense of order into the distribution of tasks within a relationship governed by unity as well as diversity. The union now has 27 member states. More are likely to join in the longterm. Consequently, there will be far more economical, social and cultural differences between the members than there were between the original six “founding fathers”. Centralized decisions will not completely satisfy many areas of growing diversity. The Union will therefore have to focus on its core European tasks and safeguard its ability to act and react appropriately.
- c) Europa will continue to be a continent of nations. These nations must always be responsible for the distribution of tasks between the European and domestic levels. Europe needs its people’s commitment to their national states, which is an important result of European history. Each national state, on the other hand, needs Europe since it can no longer handle important task on its own. Nations and Europe are interdependent. The European Union will not grow into a state in the traditional sense of the word. It will be something new. To this effect, the Bundesverfassungsgericht (German Federal Constitutional Court), for example, has created the term “Staatenverbund” (Union of States), membership in which is permanently voluntary.
- d) The member countries have transferred part of their traditional tasks to the European level. This transfer must not lead to the retraction of important political areas from democratic legitimization and control. The setup and procedures of relevant institutions must therefore be in compliance with democratic requirements. This requires the reorganization of institutional structures insofar as the political responsibility for the handling of European affairs is clearly assigned. The efficiency of respective actions must also be ensured.

3. Task Redefinition Criteria

- a) The assignment of tasks is governed by the subsidiary principle. Only such tasks are to be transferred to the EU that in view of future challenges cannot be handled adequately at the member country level.

The “unionization” of other responsibilities should remain the exception and does require the citation of specific reasons. The benefits of making an issue a European task must be carefully weighed with the potential negative effect such an approach might have on the highly valued organic European diversity. Not every problem that exists in Europe requires a European solution.

- b) In principle, the presumed responsibility is with the member states. EU responsibility must be expressly established via concrete and clearly defined action authorizations.

The competencies of the EU must be positively described. This does not apply to those of the member countries or regions. In areas of EU responsibility, however, competencies may be restricted in favor of the membership states.

- c) In addition to “unionized” responsibilities, for the time being, the instrument of inter-government cooperation will have to remain in place to allow joint action in those areas that not all member states are willing to turn over completely to the Union. Implementation will only be possible in coordination with the EU authorities as well as the utilization and continued development of the instruments “intensified cooperation” and “opting out”.

- d) Action areas of the contract (regulation/harmonization, bi-lateral acceptance, completion, promotion, coordination, execution) that lacked structure in the past are to be listed in the closing remarks of the contract and their content is to be defined.
- e) At the same time, the action instruments are to be precisely described. The directive (EU Basic Statutes), for example is to be reduced to its original function of a basic regulation. It must be differentiated from other instruments such as statutes (EU laws), decisions, comments and recommendations.
- f) Approved action types and instruments are to be stated in the individual action authorizations. It must be verified if the action types and instruments can be assigned to various competency categories (this excludes mandates, principle mandates and additional mandates).

In any event, only real mandates are to be referred to as mandates in the contract. It should be stated that with the exception of exclusive EU responsibilities, member countries are authorized to act if the European Union has not already implemented regulations within the framework of its mandates.

- g) It should be clarified that contractual objectives do not provide foundations for EU mandates. EU responsibilities must be detectable, predictable and restricted. General contract objectives that describe the integrative direction do not meet these requirements.
- h) The same applies to cross-sectional clauses that provide that certain Union objectives are also to be observed when executing other policies (such as cohesion, environmental protection, equal rights for men and women,

consumer protection).

- i) A clearly defined delegation of competencies aims at waiving the application of general clauses, such as article 308 EU-CONTRACT. The application area of the single market clause (article 95 EU-CONTRACT) should be defined more precisely.
- j) Numerous life situations that remain the exclusive responsibility of the member countries or that are being governed by special provisions in the contract also have economical aspects (consumer protection, health policies) and are thus driving tendencies to utilize single market regulations to regulate such situations as well.

A competitive clause should therefore clarify that acts within the framework of an EU task do not entitle the EU to co-regulate key areas of politics that are to be governed by the member states. It must also be pointed out that in the relationship of EU standards with each other; special application-oriented standards prevail over the single market clause with its horizontal and dynamic effect.

- k) Efforts to improve the boundaries between the areas of competency must not be swayed by instruments, such as the “open coordination“ method, “European governance” or “soft law”, which are not covered by the contract. The contract should clearly stipulate that European directives and objectives that require national implementation, European monitoring and evaluation – and that includes those derived from international agenda processes – only apply within the framework of existing EU competency.
- l) The contract should also clarify that the principle of loyalty to the Union (article 10 EU-CONTRACT) works not only in favor of the EU, but also the other way around, i.e., in favor of the member countries and that the EU must

exercise caution in executing its responsibilities. Consequently, it must respect the national and the regional identities of its members (see article 6, section 3 EU-CONTRACT, Charter of Constitutional Rights, Preamble).

- m) European solidarity, as currently expressed primarily through the distribution of the structure and cohesion funds, is an important and crucial element of the European unification process. The “politics of the golden harness”, which govern the program at this time and attempt to make financial support largely contingent upon expansive goals take us down the wrong road. It yields excessive bureaucratic complications that an expanded Union will find impossible to handle and allows the manipulation of member state or regional rights, which is in conflict with the subsidiary principle and reaches beyond the contractual framework.

Consequently, we propose to replace the structure and cohesion fund system with a solidarity fund that makes contributions to the most performance challenged member countries without requiring them to meet expansive objectives. Wealthier member states will have the option to finance measures that have, up until now, been financed through the EU structure fund, themselves.

- n) Economic wealth based (GDP purchase power standards) EU financing requires restructuring.

4. Individual Political Area Competency Assignments

The individual political areas of the European contracts were reviewed pursuant to the aforementioned guideline. Relevant proposals have been consolidated into the “Reform der einzelnen Politikbereiche” (Individual Political Area Reform) document.

5. Institutional Reforms

While clear boundaries must be established for all EU competencies, their execution must also be transparent, democratically legitimate and controllable in the eyes of the constituents. Additionally, procedural safeguards that protect the competency regulation must be implemented. The following institutional reforms should be implemented in conjunction with establishing clear competency boundaries:

- a) Where competencies have been “unionized” the European decision making process must be transparent. Pertinent political accountability must be determinable. Bilateral control and a balance of power between the Union authorities are prerequisites.
- b) Legislation including budget law is always jointly governed by the European Parliament and Council. The idea is for each delegate to the European Parliament to represent approximately the same number of citizens. The minimum representation of small member states must be protected.
- c) Parliament, Council and Commission have the right to initiate legislation.
- d) The Commission is the politically responsible executive. The president of the Commission is elected by the Parliament with the approval of the

Council. The president requires the approval of both Parliament and Council for the Commission to be established by him/her. The number of delegates to the reformed Commission should be restricted to ensure its permanent functionality.

- e) The Council always makes majority-driven decisions within its area of “unionized” responsibilities subject to weighted Council Member votes.

Unanimous Council votes are required for decisions such as the application of general clauses (for example pursuant to article 308 EU-CONTRACT) or the own resource resolution.

- f) The Council (Executive Council) makes all of its inter-government cooperation decisions unanimously. The Commission takes on the role of Council Secretary. Parliament and Commission have the right to launch initiatives. The Parliament also has the information right.
- g) The Council is the legislative body (Legislative Council). Its meetings are public and are attended by fixed members.
- h) The member states govern the contracts and are therefore solely entitled to make contractual modifications that require ratification. New member agreements are subject to European Parliament approval.
- i) In the event of competency disputes between the EU and its member states, relevant decisions are made by the competency senate of the European Court of Justice (European High Court of Justice), which may also require the participation of national constitution judges.
- j) The coordination of European decisions between member state governments and member state parliaments is subject to national law.

6. Constitution Contract

All principle regulations, in particularly those concerning the assignment of responsibilities between the European Union and its member states, the financial constitution, European Union institutions and procedures are to be consolidated with the Charter of Constitutional Rights into a constitution contract (basic contract).

The basis, objectives and idealistic values of the European unification document are to be stipulated in a preamble.

Provisions stipulated in the current contract that cannot be considerable material EU constitution legislation due to their technical nature are to be transformed into simple Union legislation (secondary legislation).

Addendum

Reform of Individual Political Areas

Based on these goals and criteria, CDU and CSU mandate the following reforms of EU authorities in the individual political areas:

1. Labor and Employment Policies

At this time, the EU is restricted to supporting and completing labor and employment policies. Nonetheless, it is imposing ever more concrete provisions upon its member states. The increased sharing of labor/employment experiences and information between the member countries can of course be beneficial for the job market situation in the member states and strengthen European economies so that they can compete globally. Centralized EU decisions should, however, not wash out the political responsibilities of national governments and unions and undermine the competition for the best possible policies. A homogenous EU approach would also block competitive impulses originating in the single market.

Mandates:

- ? Clarification of the labor and employment competency of the member states;
- ? Restriction of the EU labor and employment competencies to the following areas:
 - ? Improved sharing of experiences and information, in particular where proven procedures, the provision of comparative analysis and evaluations as well as the promotion of innovative approaches are concerned;
 - ? Improvement of the basic macro-economical conditions (within the framework of EU competencies that already exist in other areas) through measures such as employment-driven single market statutes, liberal export policies, EURO stabilization initiatives and a new

European business law concept;

- ? Streamlining of the European guideline process (article 128 EU-CONTRACT):
 - ? Restriction of the “European Employment Strategy“ to the basics,
 - ? Exclusion of detailed guidelines, in particular those with quantitative objectives;
 - ? Implementation of longer guideline and national action plan intervals (currently done annually);

- ? Waive general objectives (articles 125, 126, article 2 EU-CONTRACT).

2. Single Market

The European Union competency for the free movement of goods, people, services and capital is an integral element of European integration. An internally and externally open single market promotes economic growth and creates jobs while strengthening the international competitiveness of local companies and decreasing consumer prices. In its practical application, the generalizing character of the single market clauses (articles 94, 95 EU-Contract) does, however, frequently infringe upon other political areas. This means that EU provisions are also implemented in sectors where this is not absolutely necessary for the realization of the single market concept. Citing single market requirements, the EU governs areas for which it is not responsible.

Mandates:

- a) **Replacement of general single market clauses** by clearly defined individual authorizations based upon the four single market freedoms, if required. Some examples that should be evaluated are:
- ? Legislative foundations for certain areas that are typically cross-border relevant (electronic commerce, civil consumer protection statutes, partnership law, in particular corporate law, Union-wide commercial legal protection, such as patents, utility and design patents, industrial property rights in seed varieties and copyrights);
 - ? Creation of an EU mandate for the alignment of technical standards;
 - ? Possibly the creation of a legal foundation for the establishment of single market specific EU legal institutes that do not impact the laws of the member states and provide a framework for Union-relevant situations such as the “European Patent”;
 - ? Establishment of a EU mandate for the liberalization of certain utility sectors with pan-European relevance (telecommunications, energy providers, postal services). In this context it should be clarified that the service portfolios as such continue to be resolved by the member states. EU instructions to service providers are to be restricted to areas where they are absolutely required to complete the liberalization resolution and competitive distortions can only be averted if such instructions are applied;
 - ? Evaluation of the establishment of new EU legislative foundations for the harmonization of parts of civil law (for example commercial law,

contract law) to avert legal splintering due to certain EU regulations that have thus far been based on general single market clauses. This could possibly be achieved by giving the public and corporations the option to select the applicable law in EU regulations;

b) As an alternative to replacing the general clauses, EU authorities should at least be restricted more precisely through the implementation of the following contract modifications:

- ? **Restriction of the articles 94, 95 EU-CONTRACT application scope** to areas that primarily and directly aim at the single market realization and completion and are absolutely required to achieve both,
- ? **Addition of individual authorizations to the general clause** as stipulated in the alternative to the “Replacement of the Single Market Clause” and
- ? **Creation of a collision clause** to prevent the reapplication of the general clause in cases where a legal intent is actually covered by a special authorization (priority of the special authorization)

3. Research

At this time, EU research support focuses on strengthening the scientific and technological foundations and on ensuring its industries' competitiveness. The demands of high level research may exceed the capabilities of some member states, so that a consolidation of the activities appears to be a sensible solution. Member state sharing of information and experiences can support national research activities and technological developments while reinforcing the European Union's competitive standing on a global scale. The current utilization of research measures to support Union objectives, however, should be reviewed. The utilization of research politics for cohesive purposes would, for example, be to the detriment of the promotion of higher quality projects or to the attainment of European added value. The fact that research goals also express different political decisions of member states (for example genetic and nuclear research) should also be taken into account. Consequently centralized EU provisions must not undermine political member country accountability for research policy decisions and financing.

Mandates:

- ? Restriction of the EU research policy mandate description to financial support for cost intensive research that can no longer be secured by individual member states and to areas where cross-border solutions provide added value on a European level and compliment the efforts of the member countries. The remaining mandate should be reduced to international research cooperation within the inter-governmental framework;
- ? It should be clarified that the EU is not authorized to regulate other political areas within the scope of research promotion;
- ? It should be clarified that the sole competency for the organization and financing of national research policies remains with the member states;
- ? EU research policy provisions or guidelines, in particular those that contain quantitative objectives as well as monitoring and control rights should be expressly excluded. Restriction of the "European research zone" differentiation within the scope of the "open coordination" to exchange of information and experience;
- ? Extension of member state flexibility in providing venture capital to businesses aiming at the development of new technologically superior

products;

- ? Waiver of the general objectives contained in article 163 EU-CONTRACT and integration of absolutely required article 163 EU-CONTRACT attributes into the EU research policy authorizations (e.g., article 164 EU-CONTRACT);

4. Tourism

The EU has not been assigned any mandates for the regulation of tourism policies and issues. Nonetheless, the European Commission attempts to utilize competency standards from other political areas to implement EU provisions covering tourism policy issues.

Tourism is largely contingent upon regional circumstances. There is no need for the EU-wide coordination or regulation of tourism policies.

Mandates:

- ? Clarification of the fact that the EU is not entitled to impose tourism-related regulations through:
 - ? Deletion of the comments on tourism in article 3 u EU-CONTRACT;
 - ? Deletion of article;

5. Public Health

European Union public health policy contributions to the health policies of the member states and the fostering of relevant cooperation can have a positive impact on preventative healthcare programs for the entire population of the EU. Most importantly, the sharing of health policy experiences and information at the EU level provides an opportunity for member countries to receive support and handling health risks that cannot be tackled by the individual members in isolation. This can also be helpful in improving the healthcare portfolios offered in the member states.

Healthcare policies do, however, also reflect the different conditions in the member states. If they were to be harmonized, this would not only possibly lead to inadequate consideration of local circumstances, but would also undermine the autonomy of the member countries in financing their public health policy standards and healthcare systems. Centralized EU health policy standards would hamper rather than help the structural public health reforms that need to be implemented in many member countries due to the exclusion of system competition.

Mandates:

- ? Restriction of the EU public health policy promotion measures mandate (article 152 section lit. c EU-CONTRACT) to information and experience exchange;
- ? Explicit exclusion of EU provisions or guidelines, in particular those that contain quantitative objectives (e.g., provisions that require health insurance company to pay minimum benefits) as well as health protection monitoring and control rights;
- ? Clarification that the member states have the sole mandate for the organization and financing of public health and relevant services provided

6. Domestic Policies

a) Asylum, Visa, Refugee and Immigration Policies

The elimination of the interior EU borders makes a unified approach in certain asylum, visa, refugee and immigration policy areas absolutely necessary.

Those who apply for asylum, refugees and third nation citizens should find identical conditions for their acceptance, stay and the termination of stays in place in all member countries. A uniform approach to the deportation of illegal immigrants or individuals who remain in the EU illegally is helpful in preventing abuse by the elimination of the interior borders. Last, but not least, the unified handling of these issues can relieve the immigration load and improve the equal distribution of pressure and solidarity on a European level.

On the other hand, European regulations may also lead to uncontrolled immigration or increased interior transience. This can, for example be caused by allowing third nation relatives that are not immediate family members to relocate to the EU to follow relatives that are already residents of the EU or by increasing the minimum age for minors who join their families. Such developments perpetuate existing integration problems and threaten social peace. EU provisions in this area also have a significant impact on the job market, national social systems and education. Every time such a Union regulation is implemented, the member states, who are in charge of these policies, find themselves struggling with a "fait accompli". Consequently, the member countries are unable to take action in areas for which they are politically responsible.

Mandates:

- ? Creation of a new EU competency for Union measures governing the distribution of loads (The "promotion of equal distribution of financial and numerical loads" does not sufficiently address this issue);
- ? Clarification that the EU has no mandate in regulating the acceptance of applicants for asylum, refugees and immigrants into the workforce;
- ? Re-transfer of EU immigration policy mandates where it appears to be necessary to protect the right of the member states to determine the number of type of immigrants. This applies in particular to the re-transfer of the mandate concerning immigration and residency requirement as well as to long-term visa approval and residency permit

title procedures, including those that govern the reunification of families, article 63 no. 3 a EU-CONTRACT;

b) Cooperation of Law Enforcement Authorities

European cross-border criminal activities and organized crime increasingly require European law enforcement authorities to cooperate closely and with a sense of inter-departmental trust. Within the current scope of tasks, EUROPOL is the correct approach.

At this time, there does not appear to be a need for assigning EUROPOL to original investigative tasks and its own executive authorities. Rather, police work and authority must remain under the control of the member states since local and regional familiarity is essential for successful investigations. A scenario that would make the cooperation of individual police units with each other so ineffective that it could only be handled by a European police investigation authority is not foreseeable.

Mandates:

A need to modify the current tasks of the EU in respect to law enforcement cooperation has not been identified.

7. Judiciary Policies

At this time, the EU has specific judiciary mandates. In civil and civil procedure law, for example, the EU is responsible for judiciary cooperation in civil matters that involve cross border benefits. The EU also handles individual corporate law and consumer protection issues.

Certain areas of civil law with cross-border relevance, such as electronic commerce and some parts of corporate law may require the application of European minimum standards to ensure single market functionality.

Practical reasons may also provide valid arguments to “unionize” specific parts of civil law to optimize the single market and to prevent, in particular, the splintering of legal mandates as a result of different national and selective Union regulations.

Overall, working European legal aid is crucial in civil and criminal law cases that have international relevance during the ongoing process of European integration.

Criminal law regulations have a special impact on the sovereignty of the membership states and their basic legislative decisions. This is, for example, evident in the criminal prosecution of illegal drug use and trade, abortions or active euthanasia. Decisions made in these areas reflect relevant legal cultures that have grown organically in each country. EU regulations that govern criminal law should therefore be restricted to cases that have a Union-wide impact.

Mandates:

- ? In civil law, to optimize the single market and create for Union-wide legal foundations for certain areas that are typically cross-border relevant such as electronic commerce, civil consumer protection statutes, partnership law, in particular corporate law, Union-wide commercial legal protection, such as patents, utility and design patents, industrial property rights in seed varieties and copyrights. (For comments on the deletion or more precise wording of the single market clauses, see section “Single Market”);
- ? Evaluation of the homogenization of parts of civil law that are typically cross-border relevant (e.g., commercial law, contract law, but not: Family law and inheritance law) to prevent legal splintering caused by national and selective EU regulations (alternatively: Creation of Civil EU law that can be utilized by civil law subjects when entering into legal agreements as an alternative to domestic law;

- ? Clarification of Union competencies in creating legal instruments to combat fraud against the Union and to protect legal scenarios that pertain exclusively to the EU (e.g., manipulation of election results during EP elections);
- ? Clarification that Union competencies that reach beyond judiciary cooperation in criminal law and proceedings only apply within the scope of the third pillar and only pursuant to the conditions cited as standards in article 31 lit. e EU-CONTRACT, i.e., in case of major criminal acts that are typically cross-border relevant. A coordinating Union function, on the other hand, would be feasible in support of domestic investigations;
- ? Clarification in article 47 EU-CONTRACT that EU regulations must not harmonize the education system for lawyers;
- ? Union competency transfer for legal aid in criminal cases to the first pillar (currently in the 3rd pillar, see article 31 lit. a – d EU-CONTRACT).

8. Social Policies

a) Employment Law

The EU employment law mandate supports the free movement of people thanks to the application of labor protection regulations in all member states. Excessive regulations in this area, however, have a negative impact on the ability of weaker member countries to compete and do not provide sufficient flexibility to specifically accommodate local conditions or changes in the overall scenario.

Mandates:

- ? Employment law relevant EU provisions should focus on minimum standards and only on areas that are of material relevance to the protection of the workforce (e.g. labor protection);

b) Social Law

Union-wide regulations are a prerequisite for freedom of movement and mobility. Minimum standards can be crucial in maintaining social peace and are therefore for the benefit of the Union.

Nonetheless, social policies do primarily reflect the traditional versatility of the social security systems and the different conditions in the member states. They must be based upon each country's national economy. The competitive standing of the countries is contingent upon its social policies. In this economic and currency union, this area is one of the few pressure valves that remain to allow members to compensate for their different economic capacities. EU regulations would also infringe upon the member countries' autonomy in financing their social standards.

Mandates:

- ? Restriction of the EU mandate to the coordination of provisions that guarantee the freedom of movement and mobility and to the promotion of information/experience exchange and to the evaluation of experiences.
- ? Explicit exclusion of EU regulations or guidelines, in particular those featuring quantitative objectives as well as social protection monitoring and control rights;

- ? Clarification that the member states have the sole mandate for the organization and financing of social security, as well as relevant services provided, in particular:
 - ? Health insurance,
 - ? Retirement insurance,
 - ? Accident insurance,
 - ? Unemployment insurance,
 - ? Nursing care insurance;

- ? Clarification that the member states have the sole mandate for:
 - ? Youth policies, in particular social work involving adolescents and the protection of minors,
 - ? Family policies, in particular support for families and kindergartens,
 - ? Senior policies, senior care;

- ? Replacement of the cross-sectional anti-discrimination clause (article 13 EU-CONTRACT) through the anchoring of the clause to equal rights provisions in the contract;

- ? Clarification that the member states maintain jurisdiction over legal third country EU residents' access to the job market.

9. Tax Policies

a) EU Taxation Rights

The EU is primarily financed through member state funding in the form of EU budget contributions referred to as EU resources. The EU is not entitled to imposing its own taxes and is consequently not politically accountable for the size of its income.

An EU tax would provide an option for making the EU income source more transparent and to assign parliamentary accountability for the EU income to the EP.

Taxation laws, however, are core elements of government sovereignty. A (partial) transfer of these rights to the EU would severely restrict the political tax control options of the member states. An EU tax would have a negative impact on the budgetary discipline at the EU level and would, in the end, translate into higher overall taxes for EU citizens.

Mandates:

? CDU/CSU rejects separate EU tax proposals;

b) Harmonization of Member State Taxes

Tax competition yields reductions of excessive taxes and compels governments to utilize their resources efficiently. It leads, in particular, to the reduction of subsidies and makes government focus on their key tasks. Union-wide tax regulations would tend to increase taxes overall and consequently weaken the competitive standing of the EU.

The harmonization of member country taxes does, however, make sense if it assists the attainment of basic liberties and the prevention of unfair distortions caused by basically healthy tax competition.

Mandates:

? Tax harmonization only in areas where it is absolutely necessary to complete the single market. Such programs must never infringe upon member state jurisdiction over tax types and rates imposed in each member state.

? The EU subsidy control regulations (article 87 ff EU-CONTRACT) should clarify that unfair taxation practices (for example selective corporate or business sector tax exemptions) infringe upon competitive

laws. A legal foundation for the evaluation of tax subsidies should possibly be created;

- ? Introduction of a legal basis for a harmonized (minimum) capital income (compensation) tax in all member states;
- ? Harmonization of member state eco-taxes if these
 - ? support cross-boundary environmental protection or
 - ? the attainment of the environmental objectives is contingent upon “unionized“ action;

10. Structural/Regional Policies

Union-wide structural and regional policies are an expression of solidarity between wealthy member states and those in need of support. They avert excessive disparities between the regions of the European Union, in particular through the reduction of competitive disadvantages in developing single market member countries.

The current structural EU policies do, however, need to be urgently reformed. The integration of distribution policy issues into questions concerning the political influence of the Commission and the Parliament, as well as the maintenance of property in the member countries and the need to utilize regional political instruments for the redistribution of the contributions from relatively wealthy member states, have led to a scenario that is no longer acceptable. Detailed EU regulations stipulating the utilization of funds keep eating away at the regional political platforms of the member states. The detailed provision of subsidy requirements within the EU is also ineffective since the member states and their regions are actually in a better position to decide for themselves how and where to use such funding effectively to combat specific regional problems. Moreover, the current subsidy system utilizes these tax resources inefficiently. The majority of the funding is returned precisely to those member states that have actually paid them into the funds. Due to its complex regulations and administrative structure, the current system is subject to frequent errors and is consequently not adequate for utilization in the expanded EU. If the EU is expanded, the continued implementation of current policies would also require a substantial increase in member state contributions.

Mandates:

- ? Reform of EU structural policies. We recommend a switch to a “Solidarity Fund“:
 - ? Lump sum EU transfer payments should be restricted to the most needy (= below average) member states,
 - ? Few EU regulations should apply to the funds. Membership states should be able to freely decide how to use the funds:
 - ? Utilization for investment projects, development of endogen potential and qualification,
 - ? Utilization in the weaker regions of the receiving countries;
 - ? Co-financing obligations should be waived;
 - ? Wealthier member states should be given the option to finance measures that have previously been financed through EU structure funds with their own funds;

- ? Union initiatives for structural problems that must be solved on a Union-wide basis should be maintained

11. Transeuropean Networks (TEN)

EU contributions to the expansion of transportation, telecommunication and energy infrastructures support the development of the single market, in particular through the cross-border availability of liberalized services. TEN unions and interoperability cannot be sufficiently attained on the member state level. EU contributions to such traffic projects do make sense if their realization is primarily for the benefit of the Union or in cases where infrastructure for partial cross-border utilization is financed nationally.

The utilization of TEN funding must be based on the actual people and goods movement, not on cohesive aspects.

Mandates:

- ? The creation of additional EU mandates that support the stabilization and additional penetration of liberal energy markets in Europe should be evaluated, such as those that would remove national obstacles in cross-border pipeline construction (for example for the prevention of different national decisions in property claim proceedings);
- ? Deletion of the TEN objectives, especially of the cohesion objective (article 154 section 1 EU-CONTRACT) and exclusion of the availability of funding for TEN projects from the cohesion fund. EU support activities for the set up of telecommunication infrastructures in weak regions fall under the mandate of regional politics. In the interest of clear task definitions, this aspect should therefore be excluded from the EU mandate in its entirety

12. Environmental Policies

EU mandates currently allow regulations in all specifically environmental areas (such as nature conservation, water and climate protection, immission protection and industrial certification, equipment technology, genetics). They do not adequately differentiate between the areas that should be addressed on the Union level and those that should be handled on the member state level.

Environmental action on the part of the European Union is justified in all cases where environmental issues cannot be properly solved by individual membership states even by way of bilateral or multilateral cooperation due to their cross-border relevance. To this effect, individual cases should be evaluated to determine whether the application of Union standards in the interest of the environment is absolutely necessary.

The prevention of competitive distortions, on the other hand, does not provide sufficient cause for a EU mandate.

Uniform EU regulations in areas that do not require EU handling also undermine the autonomy and democratic control of those who are politically in charge on the local level.

Mandates:

- ? EU environmental activities should focus on
 - ? The handling of environmental issues that have a Union-wide (cross-border) impact, such as EU air quality regulations based on emission and immission standards;
 - ? Homogenous EU material regulations that result in truly better environmental protection than member state regulations;
 - ? Absolutely necessary Union standards that benefit the environment;
- ? Environment-related procedural regulations should always remain within the jurisdiction of the member states, since such regulations are often problematic due to the subsidiary principle. Moreover, they frequently can not be incorporated into the interior legal and administrative structure and cause system breaks. This does not affect the imposition of blanket procedural rules if those are absolutely required for the compliance with and the application of EU environmental statutes;
- ? Directive that clarifies that neither tax regulations nor the selection of energy resources nor autonomous space management policies nor regulations for the quantitative utilization of water resources can be based on environmental EU regulations.

- ? It should be clarified that the EU does not have a mandate to regulate the contents of member state environmental laws and to monitor their execution through its own executive bodies.

13. Consumer Health Protection

European Union governed consumer health protection ensures a level of protection in the food sector. Food, feed and ingredient origins as well as quality control cannot be traced 100 %. Safety can therefore only be attained through the application of high EU standards. Consumer protection regulations protect the interest the consumer while they also foster intra-Union product competition. In the process of harmonizing consumer health protection regulations, local conditions should, such as production traditions, should be taken into account.

Restraint should be exercised in the creation of EU health policy control rights in the member states. Such rights are in conflict with the principle of leaving the executive jurisdiction with the member states. EU control rights may very well reveal administrative deficits in the member countries, but they cannot eliminate them. In those exceptional cases where administrative EU action is absolutely necessary, it should be verified if the current inadequate protection against EU execution measures and sanctions could be improved by reforming the contract infringement procedure or by implementing a preceding arbitration process.

Mandates:

- ? Restriction of EU consumer health protection mandates for all commercial and agricultural products and services that are being provided within the scope of intra-Union commerce. Consumer protection emphasis to be placed upon food statutes and related animal feed, veterinary and herbicide regulations;
- ? In the process of implementing EU consumer protection regulations it should be clarified that the execution of Union statutes always falls under the jurisdiction of the member states. The utilization of existing institutions has priority over the establishment of new institutions. Consumer information should also remain under the control of the member states;
- ? Replacement of the cross-sectional article 153 section 2 EU-CONTRACT clause through the incorporation of consumer protection policy attributes into EU authorizations;

14. Transportation

Cross-border carrier (e.g. railway, freight forwarder) operations and availability of services require technical standard adaptation, network access (railway systems) and the harmonization of approval requirements. The creation of a common transportation market and the simultaneous homogenization of competitive terms increase transportation efficiency. Service liberalization (especially cabotage) leads to improved product quality along with lower prices, decreasing traffic volumes and lessens the negative impact on the environment.

Union transportation policies should take into account that the autonomy for public commuter transportation projects in the interest of general welfare remains with the member states. As far as traffic safety regulations are concerned, the member states are, as a rule, capable of creating adequate traffic safety statutes and provisions for violations based on local conditions on their own.

Mandates:

- ? Replacement of Union transportation policy objectives that lack specification at this time by specific goals with clearly defined mandates;
- ? The EU traffic safety mandate should be restricted to technical regulations (traffic licensing and certification statutes);
- ? Clarification of member state jurisdiction over public commuter transportation decisions;

15. Competitive Policies

a) Anti-Trust Law

Union anti-trust legislation provides for fair competition and legal security on intra-EU and international competitive platforms.

Union anti-trust legislation is, however, threatening to undermine member state anti-trust laws with purely domestic relevance. This would infringe upon the different competitive orientations and traditions in the member states. The vast scope of EU anti-trust legislation also causes latent legal insecurities with corporations due to the "legal exception system" the Commission is planning to implement, which would impose the risk of nullification upon businesses. The fact that the Commission's current administrative resources cannot handle the cases that are subject to EU law at this time poses yet another problem.

Mandates:

- ? Creation of an independent European anti-trust supervision board and simultaneous separation of anti-trust EU legislation and supervision board.
- ? Restriction of the European anti-trust law to (crucial) cross-border scenarios.
- ? Creation of a binding system for pre-application for the release of competition restricting agreements.

b) Subsidy Law

The goal of the EU subsidy law to provide for fair competition within the EU by preventing a subsidy race should be vehemently supported. More precise primary law requirements in areas of European relevance would also lead to more legal security for affected corporations.

The EU subsidy should, however, not excessively infringe upon autonomous member state and regional handling of regional politics. They must be in a position to overcome regional disparities (based on their own regions, not upon the EU average).

Subsidies for the provision of existential funds should be allowed, as long as they target the fulfillment of general welfare requirements.

Mandates:

- ? More precise definition of the term <subsidy> insofar as for example
 - ? Competition and trade must be substantially impacted to justify claims of unacceptable subsidiaries;
 - ? General location benefits¹ that do not benefit only one individual company, but every company that applies for it (for example non-discriminatory tax advantages for corporate establishments in certain areas) are legally approved subsidies;

- ? Contractual provisions that allow member states and regions the freedom to apply more autonomous regional policies in overcoming regional disparities and problem areas (e.g. areas in border proximity, companies under duress, regions that are going through industrial changes, conversions);

- ? Subsidy guidelines are to be resolved exclusively in Union legal proceedings, not just facultatively as it is currently being required in article 89 EU-CONTRACT;

- ? Existential Funding:
 - ? Clarification of the legality of government provisions designed to compensate for added expenses a company entrusted with services for the common good incurs in providing services for common welfare;
 - ? Clarification that subsidy regulations do not apply to <non-commercial> activities
 - ? Clarification that the definition of existential funding provided by the member states and the funds utilized by the members to fulfill these tasks are subject only to anti-abuse control.

¹ Not: Investment subsidies;

16. International Relations (Foreign and Security Policies)

Europe faces huge challenges in international relations. Globalization, terrorism and the global security status demand increased efforts. In assigning mandates it must be taken into account that European politics will have to develop more dynamically in this area than in most other areas.

It is of vital interest to the European Union and its member countries, to businesses and citizens that Europe presents a unified and powerful front to the outside world, displaying its strength as an economic powerhouse. This is also a key element in developing European self-confidence. The European mandate regulations must therefore reinforce Europe's ability to stand up for itself within existing alliance systems.

The member states, on the other hand, are hesitant to give up their own international and security sovereignty. The instrument of inter-governmental cooperation will therefore play a key role in this area in the interim.

Mandates

- a) The following areas should be handled by the EU:
- ? Foreign policies (includes the area of services and intellectual property, the external aspects of the single market as well as select, stringently defined globalization issues;
 - ? International currency policies, exterior representation of the EURO zone;
 - ? Military and civil space policies and defense (as part of single market or industrial policies) with joint procurement policies (European weapon agency);
 - ? Exterior representation of the Union in non-EU countries and in international organization as well as at conferences pertaining to issues it is exclusively responsible for;
 - ? Contracts with non-EU countries and international organizations pursuant to EU mandates in relation to member states, associations defined as good neighbor policies.

- b) The following areas are currently being handled on the inter-governmental level:
- ? Military support guarantees within the EU (if applicable in the form of increased cooperation);
 - ? Step-by-step development of the crisis reaction force into a European army (to be utilized only as crisis reaction forces outside of the alliance, not for collective self-defense) with relevant political and military structures and abilities;
 - ? In the area of common foreign and security policies:
 - ? In the fight against international terrorism;
 - ? International arms, arms reduction and non distribution of arms policies;
 - ? Non-EU country relations;
 - ? Civil crisis reaction in non-EU countries, civil crisis prevention;
 - ? Cooperation within and with the NATO;
 - ? Liaison of foreign cultural policies;
 - ? Cooperation within the United Nations, which is also ensured through a joint EU seat in the Security Council;
 - ? Basic support policies for developing countries;
 - ? Fulfillment of consular tasks through joint consulates.

Given that this area of politics is still subjected to considerable changes and developments on the European level, the instruments <increased cooperation> and <opting out> (constructive neutralism) must be applied to allow the expansion of Union institutions, mechanisms and instruments.

If and as long these political areas are being addressed inter-governmentally, relevant procedures must be adapted to the unique requirements of international relations. The European Council acts as the decision making authority. It's decisions must be made unanimously. The Council reports to the Foreign Minister (Executive Council). Committees that report to the European Council require majority votes for their decisions.

Given that the international community requires clearly defined contacts in the event of crisis or conflict and that clear chains of command are key in terms of military and civil safety, the Commission has jurisdiction over

common foreign and security policies. Insofar it acts as the Secretary to the European Council. To this effect, the positions of Foreign Commissioner and High Council Representative for Foreign and Security Policies are being held by one person.

The European Parliament participates via the entire household law, through the ratification of international Union treaties as well as through information and commentary rights.