

Constitution

Preamble

Upon entering the digital age, in which real and virtual space will equally determine the social, cultural and scientific development of mankind, the Free Software Foundation Europe has the long-term goal to raise and work on the questions this will necessarily raise.

In this regard the direct function is the unselfish promotion of Free Software as well as creating and propagating the awareness of the related philosophical and social questions.

As its acknowledged sister organization, the FSF Europe will join forces with the Free Software Foundation founded by Richard M. Stallman in the United States of America. The latter, recognized tax-exempt charitable organization in the USA, has been dedicating itself since 1984 to the promotion and distribution of Free software and in particular the GNU-System, a Unix-like operating system. This system is mostly known by one of its variants, GNU/Linux, which since 1993 has been used successfully on many computers.

The term Free Software in the sense of the FSF Europe does not refer to the price, but rather to the following four freedoms:

1. freedom: the freedom to use a program for any purpose
2. freedom: the freedom to study the program and adapt it to your own needs.
3. freedom: the freedom to make copies for others.
4. freedom: the freedom to improve a program and make these improvements available to others, so that the whole community benefits.

This definition of Free Software goes back to the idea of freely exchanging knowledge and ideas that can traditionally be found in scientific fields. Like thoughts, software is non-tangible and duplicable without loss. Passing feeds an evolutionary process, advancing thoughts and software.

Only Free Software preserves the possibility to comprehend and build upon scientific results. For scientists, it is the only kind of software which corresponds to the ideals of a free science. Accordingly, the promotion of free software is also a promotion of science.

The distribution of information and the forming of an opinion are done increasingly by digital media, and the trend is to foster the use of those means for a direct citizen participation to democracy. Therefore, a central task of the FSF Europe is to train proficient citizens in these media, thereby promoting democracy.

Digital space (“Cyberspace”), with software as its medium and its language has an enormous potential for the promotion of all mental and cultural aspects of mankind. By making it commonly available and opening up the medium, Free Software grants equal chances and protection of privacy.

Coining the awareness for the problems related to the digital age in all parts of society is long-term goal and a core aspect of the work of the FSF Europe.

Therefore the FSF Europe will seek to increase the use of Free Software in schools and universities in order to parallelize the education in real space matters with the creation of understanding and awareness of problems in virtual space.

Free Software guarantees traceable results and decision-making processes in science and public life as well as the individual rights to free development of personality and liberty of opinion. It is the job of the FSF Europe to carry Free Software into all areas that touch public life or “informational human rights” of citizens.

§ 1 Name, seat, financial year

(1) The association bears the name “Free Software Foundation Europe.” It is to be registered into the register of associations; after the registration it leads the additive “e.V..”

- (2) The association has its seat in Hamburg.
- (3) The financial year is the calendar year.

§ 2 Purpose, tasks, non-profit character

(1) Purpose of the FSF Europe is the furthering and distribution of Free Software in order to support the free exchange of information and equal chances in accessing software as well as national education according to the principles stated in the preamble.

(2) The goals of the FSF Europe are namely to be achieved by:

1. the idealistic support of governmental and private organisations in all aspects of the Free Software,
2. the cooperation and coordination of the national associations which pursue the same goals
3. the support of programmers, realizing the charitable goals of the FSF Europe by developing Free Software, through scholarships,
4. the distribution of the philosophical ideals of Free Software
5. the information and training of the public about the possibilities and educational potential of Free Software,
6. the development and providing of Free Software for the public.

(3) The FSF Europe pursues exclusively and directly publicly-spirited purposes in the sense of the section “tax-privileged purposes” of the tax code. The FSF Europe is working selflessly and does not pursue self-economic goals.

(4) Means of the FSF Europe may be used for the statutory purposes only. No person may be favored by expenses alien to the goals of the FSF Europe or disproportionately high. This applies in particular to full-time members, that can receive an appropriate remuneration for the performed work.

§ 3 Acquisition of membership

(1) Any national or foreign natural or legal person may become member of the FSF Europe. Natural persons must be 16 years old. Persons under age do not have eligibility for election.

(2) Condition for the acquisition of the membership is a written application for membership to the executive committee.

(3) The general assembly of the members decides on the application for membership with three quarters of all members, that are natural people. The executive committee can grant the application for membership passing; the application for membership must then be confirmed by the next members assembly. In case of refusal of the request no obligation exists to communicate the reasons to the applicant.

§ 4 End of membership

(1) Membership ends

- a. with the death of the member with natural persons and/or its liquidation in the case of legal persons;
- b. by withdrawal from the association;
- c. by exclusion from the association.

(2) The withdrawal is made via written declaration vis-a-vis the executive committee. The declaration withdrawal must be signed by the competent legal representative. The withdrawal can be declared at any time.

(3) For important reasons or if the bond of trust between the members is broken, a member can be excluded by decision of the executive committee from the association. Before deciding on the matter, the executive committee must give the member opportunity to state its position in writing. The decision of the executive committee is to be justified in writing and sent to the member. The member can appeal the decision at the general assembly of the members. The appeal must be lodged within two weeks after communication of the decision at the executive committee. The executive committee has to call in a general assembly within three months of punctual insertion

of the appointment, which can support the decision of the executive committee with a majority of three quarters of the remaining members. Until the final decision about the exclusion, the member remains suspended of all obligations and all rights.

§ 5 Membership fees

The members make contributions by ways of honorary activity or through holding a position in the association.

§ 6 Structure of the association

(1) The Free Software Foundation Europe forms a European federation structure and is divided into national associations. Those are associations with own juridical personality after the law on societies of the European State for its area the association are active. All members of the national associations must also be members of the FSF Europe.

(2) In order to preserve the uniformity, the national associations have to fulfill minimum requirements determined by the extended executive committee, which are written down in a constitution-template for national associations. This applies with the exception of requirements that are inadmissible according to the laws of the state in which the national association is to be created. In this case the constitution is to be modified so it reflects the intentions of the constitution-template most closely. The constitution requires the acceptance of the extended executive committee before the national association becomes part of the FSF Europe.

(3) The finances of the national associations are determined by the financial order in accordance with § 9 sec. 2 of this statute.

(4) The national associations can conclude contracts in their own name for the fulfillment of local tasks, if the means are present for the fulfillment of these contracts. They can in no case enter obligations for the FSF Europe.

(5) The national associations can only enter negotiations with authorities and organizations mainly active in their respective areas.

(6) The national associations are entitled and obliged to bear their own

name through which the affiliation with the Free Software Foundation Europe is expressed. This has to be done by adding the denomination “Chapter” with the name of the state in English to “Free Software Foundation Europe.” Additionally they can bear the name in the national language.

(7) The executive committee is entitled to extract the right for the guidance of the name “FSF Europe” from a national association that violates this constitution or its own constitution. The national association can appeal the decision at the general assembly of the members. The appeal must be lodged within two weeks after communication of the decision at the executive committee. The executive committee has to call in a general assembly within three months of punctual insertion of the appointment, which can remedy or overrule the decision of the executive committee with a majority of three quarters of the remaining members. Until the final decision about the exclusion, the member remains suspended of all obligations and all rights.

§ 7 Bodies of the association

The Free software Foundation Europe forms a European federation composed by the association of 7 organs/bodies. Organs of the FSF Europe are:

- a) the executive committee (President);
- b) the Vice-President;
- c) the administrative director (Head of Office);
- d) the extended executive committee;
- e) the general assembly.

§ 8 The executive committee

The executive committee of the FSF Europe consists of the President.

§ 9 The competence of the executive committee

(1) The executive committee is responsibly for all affairs the FSF Europe, as far as they are not transferred to another organ of the FSF Europe by statute. It has in particular the following tasks:

1. Convening and preparation of the general assembly of the members as well as list the agenda;
2. Creation of the annual report;
3. Adoption of resolutions over the admission and the exclusion of members;
4. Support and control of the national associations;
5. Agency in judicial and except-court affairs, in particular also authority traffic;
6. Relationships with the press.
7. Creation of guidelines for scholarships of programmers, who develop Free Software and are scientifically active by doing so.

(2) The executive committee leads the finances after the finance plan, which the general assembly with a majority of three quarters of all voices decides on. The finance plan must give,

1. that possible profits are used only for the statutory purposes and that the FSF Europe is working selflessly.
2. that no member may get no shares of the profits or other allowances from the means of the FSF Europe or its local associations. This also applies to separating members.
3. that funds of the FSF Europe can only partially be used for other tax-exempt charitable organizations and only if these organizations use them for constitutional goals.

4. that administrative costs, which are alien to the purpose of the FSF Europe may not be granted. Same applies to disproportionately high payments.

(3) The executive committee is not liable vis-a-vis the association for slightly negligent behaviour.

§ 10 Election and term of office of the executive committee

(1) The executive committee is elected by the general assembly of the members for the duration of two years, from the election on. It continues to be in office up to the new election of the executive committee, however.

(2) Electable are only members of the FSF Europe. If the executive committee separates prematurely, the vice-president represents the association up to the selection of a new executive committee. Additionally, an extraordinary general assembly of the members is to be called in within three months by the vice-president.

§ 11 The Vice-President

(1) The vice-president represents the executive committee in the following cases:

1. Separating of the executive committee;
2. Passing indispensability of the executive committee.

(2) The executive committee is indispensable, if he communicates this in written form to the vice-president. The vice-president takes care of all matters as long and to the extent they were transferred to him in writing by the executive committee. The executive committee is considered indispensable, if it is not attainable or cannot exercise its office more than seven days because of illness.

(3) The vice-president is elected by the general assembly for the duration of two years, from the election on. He remains in office up to the election of

the new vice-president, however. Only members of the FSF Europe can be elected for vice-president. With the end of membership in the association, the office of the vice-president also ends.

(4) If the vice-president is ruled out prematurely, the executive committee can select a successor for the remaining term of office.

(5) The vice-president is not liable vis-a-vis the association for slightly negligent behaviour.

§ 12 The Head of Office

(1) The Head of Office leads the office of the FSF Europe. He represents the association in the business area belonging to it.

(2) The Head of Office certifies the keys for encoding digital texts and documents.

(3) The Head of Office is elected by the general assembly for the duration of two years, from election on. He remains in office up to the election of the new Head of Office, however. Only members of the FSF Europe can be selected for Head of Office. With the end of membership in the association, the office of the administration director also ends.

(4) If the administration director is ruled out prematurely, the executive committee can select a successor for the remaining term of office.

(5) The administration director is not liable vis-a-vis the association for slightly negligent behaviour.

§ 13 The extended executive committee

(1) The extended executive committee consists of the President, the Vice-President and the Head of Office.

(2) The extended committee is resolutionable, if at least two members are present in person, among them the President. Decisions are passed by single majority of votes.

(3) Members of the extended executive committee are not liable vis-a-vis the association for slightly negligent behaviour.

§ 14 The competence of the extended executive committee

The extended executive committee is responsible for the following tasks:

1. The approval of the statutes of the national associations;
2. The execution of the “Guidelines,” which are decided on by the general assembly.

§ 15 The general assembly

(1) In the general assembly, each member that is a natural person, has a voice. For the practice of the right to vote another member can be authorized by written message to the executive committee. The authorisation is to be given for each general assembly separately. A member cannot practise the right to vote for more than one third of all members.

(2) The general assembly has exclusive jurisdiction for the following affairs:

1. Creation of so-called “Guidelines,” that are to lead the activity of the executive committee and extended executive committee;
2. Receipt of the annual report of the executive committee;
3. Exoneration of the organs;
4. Choice and recall of the executive committee, the Vice-President and of the Head of Office.

§ 16 The convening of the general assembly

(1) At least once a year, if possible in the first quarter, is the orderly general assembly to take place; if possible in one of the states, in which a national association exists. It is called up in writing by the executive committee under adherence to one period of six weeks under indication of the agenda. The period begins with day following the sending of the invitation letter. The invitation letter is to be considered delivered to the member, if it is addressed

to the last address or e-mail address given by the member in writing. With written agreement of three quarters of the members, the invitation period can be shortened to three weeks.

(2) The agenda is determined by the executive committee. Each member can request a supplement of the agenda in writing to the executive committee until at the latest one week before a general assembly. The executive committee has to announce the supplement at the beginning of the general assembly. About applications for supplement of the agenda, which are made at the general assembly, are decided by the general assembly.

§ 17 The extraordinary general assembly

The executive committee can call up an extraordinary general assembly at any time. It must be called up, if at least a quarter of all members require it in writing under indication of the purpose and reasons to the executive committee. To the extraordinary meeting of the members the § 15, § 16 and § 18 apply accordingly.

§ 18 Adoption of resolutions of the general assembly

(1) The general assembly is led by the executive committee, at his indispensability by the Vice-President and at the indispensability of the latter by the Head of Office.

(2) The type of election is determined by the assembly director. The election must be carried out in writing, if a third of the members present in person with the election requests this.

(3) The general assembly is not public.

(4) The general assembly is resolutionable, if it was duly called up and at least one third of all club members is present or represented by club members present. In the case of decision inability, the executive committee is obliged to call up a second general assembly with the same agenda within four weeks; this general assembly will resolutionable without consideration of the members present. This is to be referred to in the invitation.

(5) Unless stated otherwise in the statute, the general assembly passes decisions with simple majority of the delivered valid voices; abstentions are therefore left out of the consideration. Changes of the statute require a majority of three quarters of (the delivered valid) voices, dissolution of the FSF Europe requires four fifths of the voices of all members. Changing the purpose of the FSF Europe can only be decided with unanimous agreement of all members. The written agreement of the members not present in the general assembly can be explained only within one month vis-a-vis the executive committee.

(6) In the case of elections it is selected who received more than half of the delivered valid voices. If nobody received more than half of the delivered valid voices, a ballot takes place between the two candidates, who received most of the voices. Is selected then who received most of the voices. In the case of equal number of votes once a new choice is necessary; if the mood equality continues to exist, the lot decides.

(7) Over decisions of the general assembly, a protocol is to be led, that is to be signed by the recording clerk and the assembly director. It is to contain the following ascertainments: Place and time of the assembly, the person of the assembly director and the recording clerk, the number of members present, the agenda, the individual election results and the type of the election. For amendments of the statute the exact wording is to be given.

§ 19 Dissolution of the association

(1) The dissolution of the FSF Europe can only be decided in a general assembly by the majority in accordance to § 18.

(2) If the general assembly decides nothing else, the executive committee is the liquidator entitled to act as substitute.

(3) After liquidation or loss of the tax-privileged purposes, available funds go to a legal entity of the public right or another tax-privileged association, which has to use it directly and exclusively in the sense of this constitution. Resolutions over the future use of the funds may be executed only after consent of the responsible tax office.

(4) The preceding regulations apply accordingly, if the FSF Europe is dissolved for another reason or loses its legal capacity.

§ 20 Written form

Writing form is fulfilled if one of the following conditions is met:

- a) handwritten signed paper document;
- b) E-mail signed with a key that is sufficiently state of the art. The association decides what is to be regarded as state of the art and the key must be certified by the association.

§ 21 Place of jurisdiction

Place of jurisdiction for all rights and duties resulting from this statute is Hamburg, Germany.