

# Lost Voters: Participation in EU elections and the case for compulsory voting

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## Abstract

The malaise among Europe's voting citizens with regard to the European Parliament elections casts a shadow over the EU's commitment to political participation and democratic values. Not only do EU elections hold little political relevance next to national electoral cycles, but voters are also lost in the EU's labyrinth of accountability. Yet, what appears as an insurmountable obstacle to the legitimacy of Europe's decision-making mechanisms can be translated into an opportunity for voting system reforms. One way to address the problem of widespread abstention might be to legislate on the obligation to vote. This paper explores compulsory voting systems in a number of developed democracies worldwide and discusses the advantages and disadvantages of introducing such a measure in the EU.

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# LOST VOTERS: PARTICIPATION IN EU ELECTIONS

## AND THE CASE FOR COMPULSORY VOTING

### CEPS WORKING DOCUMENT NO. 317/JULY 2009

ANTHOULA MALKOPOULOU\*

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#### Introduction

The most recent elections to the European Parliament were conducted on 4 to 7 June 2009. As with most of the previous elections, it seems that attention was directed more to the problem of low voter turnout than to the political outcome. All media sources reported on the turnout, some (Michaels, 2009) calling it a 'failure for Brussels'. Undoubtedly, the decrease in electoral participation is a disturbing trend, affecting the EU's internal and external image. Among possible remedies for apathy, the most immediate would be to penalise abstention. Such a course of action is naturally controversial, on moral, political and technical grounds. This paper discusses these issues by drawing on existing practices and discourses in various countries. As well as illustrating the positive and negative aspects of compulsory voting, the main aim is to explore the real possibility of such a reform in the EU.

#### Why does turnout matter?

Participation in the EU elections has been constantly decreasing from 62% in 1979 to 43% in 2009. In the seven direct elections to the European Parliament so far, the turnout has fallen by an average of 3% each time, the largest drop occurring in the 1999 elections (7%). Of course, voter abstention is a common phenomenon in many countries around the world, more so in Western Europe, the USA, Canada and Japan. In the past, some electoral scholars (Morris-Jones, 1954) have argued that a low turnout is not necessarily a bad thing. It might even be considered as an indication of voter satisfaction and trust in the established system. This view, however, is rather out of step with the growing demand for participatory democracy in today's world.

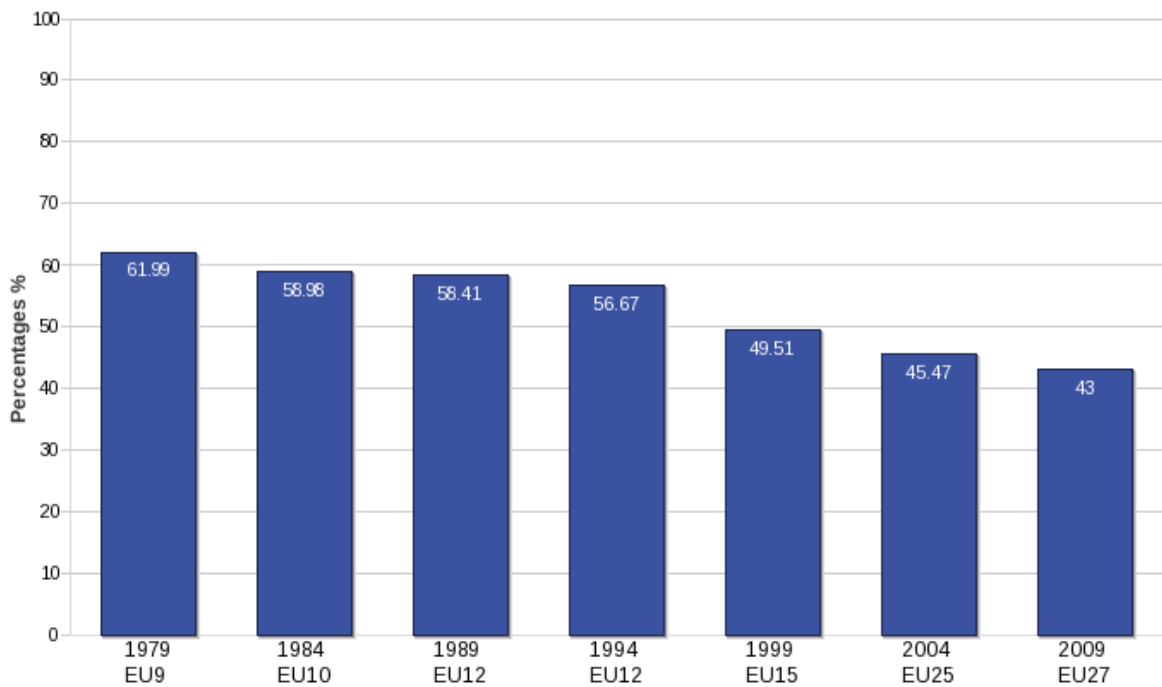
As far as the EU elections are concerned, there are two basic reasons why turnout matters. First, abstention from the polls notably diminishes the legitimacy of the electoral process, of the European Parliament itself and of the European Union as a whole. In this way, the vision of consolidating the Union as a democratic project that culminated in direct suffrage to the Parliament in 1979 is undermined. Especially so since the EU's internal application of democratic standards is being challenged on another front these days, namely the questionable procedures of adopting the EU Treaty of Lisbon, with referenda being repeated until the results are satisfactory. Even though Europe does not share a common culture of direct democracy and there are different views on the levels of EU representation, this disharmony has affected the sense of political equality in the EU. As a result, an increasing divide opens up between Europe's democratic ideals and its less democratic reality, in which the concepts of representation, majority and equal empowerment are distorted. These ideas lie at the heart of European history and political culture, and have generated stability, trust and social peace.

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Secondly, the EU needs credibility for its democracy promotion projects. In the eyes of the world, the EU is indeed the largest humanitarian aid provider. With respect to other donors, it adopts a distinct aid strategy that strictly applies the principles of democracy and human rights. These principles, having their origin in the historical experience of war and military regimes in Europe during the last century, provide an uncontested common ground of conceptual understanding between Europeans. They produce a convergence of political attitudes that unites all member states and crafts a supra-national identity, an image that is projected to the rest of the world. Human rights and democracy appear not only as general thematic priorities that mainstream development projects, but also as specific legal clauses that determine the conclusion of aid contracts. Therefore, the EU simply cannot afford to be criticised for the quality of its own democratic record. Participation and political inclusion are part and parcel of the democratic package and if the EU wants to support that package worldwide, it must adhere to these values itself.

*Figure 1. Average turnout at European elections*

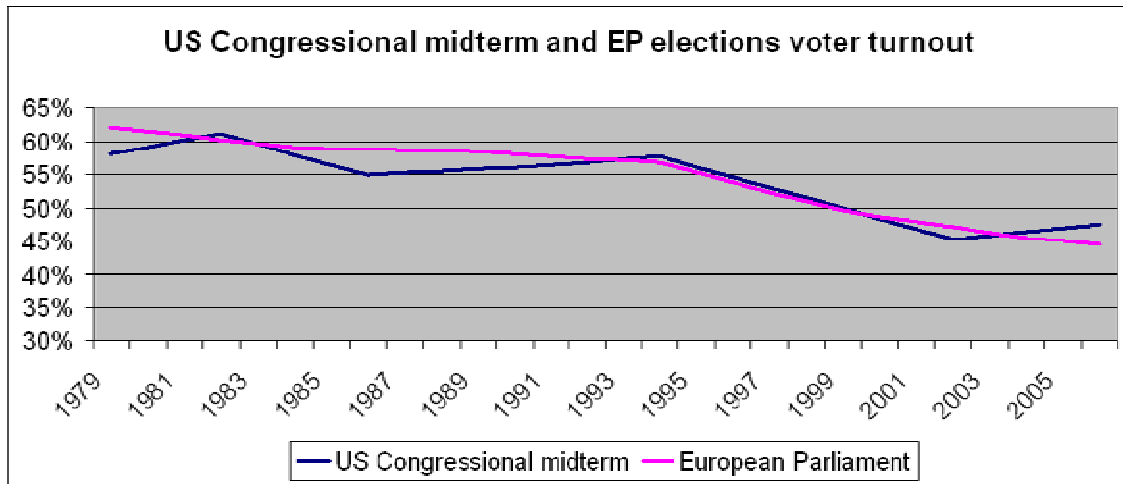


*Source:* TNS opinion, in collaboration with the EP.

### **Voter turnout in EU elections**

The declining levels of participation in the elections to the US Congress present a parallel to the EP elections. Since 1979, the turnout percentage for both has been gradually falling, with the biggest slump seen in the 1990s. Such evidence suggests that among other things, voters are less willing to extend their support for second-order elections, i.e. elections that seem less important than EU member-state national elections or US presidential elections. From this point of view the experience of the EP seems similar to that of the US Congress.

Figure 2. Voter turnout in US Congressional and European Parliament elections



Data Source: International Institute for Democracy and Electoral Assistance (IDEA).

In most EU states, including all new members (except Malta, Cyprus and Lithuania) and most of the old ones (except Belgium, Luxembourg, Greece, Italy and Ireland), turnout in the 2004 EU elections was half of that registered in their respective national elections (IDEA). Indeed, a comparison with ‘first-order’ elections indicates that, when it comes to EU elections, the ceiling for campaign expenses is often lower, while the campaign periods are shorter, less lively and focused mainly on domestic issues, often outside the real competences of the future MEPs. In many cases, campaigns are not run by the MEP candidates themselves, but by party leaders – as in Greece – or other frontbenchers of parliamentary groups, who might not be competent enough to communicate EU issues.

If the nature of campaigning is one reason for abstention, another is the timing of the elections. As a matter of fact, the tendency to go to the polls decreases when the frequency of election contests increases. Hence, a low turnout in Slovenia was not very surprising, since the EU poll took place only nine months after the general elections (September 2008) and one year before the upcoming municipal elections (scheduled in 2010).

The polling date also plays a role, given the supra-national scale of EU elections. A rather discouraging factor has been the preference for the month of June, when school and university holidays begin in northern states. A European Parliament proposal pending since 1998 (Anastassopoulos Report, repeated in the 2006 Duff Report), to bring forward the elections from June to May has never been followed-up.

In any case, the prime deterrent to EU voters is not so much linked to the electoral procedure itself, but more to their lack of conviction that their vote can affect the course of public policy. Disengagement from the elections comes from the realisation that the European Parliament plays a secondary and rather complicated role in EU decision-making. More often than not, voters feel ‘lost’ in the EU institutional labyrinth, which fragments political power and blurs government accountability. In other words, voters abstain from electing EU representatives because the EU institutions were never adequately explained to them. This will only change through systematic educational efforts that go beyond the election period. If not, even after the expected empowerment of the European Parliament with the Lisbon Treaty when the result of

















the vote will hold more sway over political decisions, national elections will probably still retain their primacy over European elections.













The common perception that ‘Brussels is far away’ further illustrates a general lack of knowledge about the EU’s institutional structure, which appears too complicated and inaccessible. This is evident in the European Parliament’s agenda, which features very technical issues (most often referred to as the ‘size of strawberries’) that seem to have little connection with the daily life of EU citizens. The second is of course only an illusion, since more than half of the member states’ legislation is decided at EU level. But that does not dispel the voters’ sense of detachment from what they understand to be an alien super-state.

This disillusionment is often sustained by a sense that the EU institutions are stealing power from the national representative bodies. In some cases, the small national delegations of MEPs result in a feeling of under-representation for the electors from small countries, due to the large size of the Union’s electorate. The politics of euro-scepticism, which questions the importance of EU integration against the primacy of national interests, further fuels these abstention-friendly attitudes, especially in the northern states, Scandinavia, the United Kingdom and Ireland.

Finally, participation in elections is undermined by the increase of alternative types of politicisation. These can take the form of lobbying activities and civil society activism, especially in the case of the EU. Non-governmental organisations often compete with political parties for public attention and membership, and systematically portray elections as too passive a form of political participation. This only adds to the perception that EU parties are rigid structures with an old-fashioned working style, which prevents them from moving flexibly across national borders and reaching out to a European audience. Interest groups are growing in influence compared to political parties, turning the EU’s participation and deliberation initiatives into a channel for corporations to capture decision-making. Consequently, European democracy remains in limbo, as electoral legitimacy seems to lose ground to the increasing impact of lobbying activities.

*Table 1. Turnout at the EU Elections in the 27 member states*

		1979	1981	1984	1987	1989	1994	1995	1996	1999	2004	2007	2009
	BE	91.36		92.09		90.73	90.66			91.05	90.81		90.39
	DK	47.82		52.38		46.17	52.92			50.46	47.89		59.54
	DE	65.73		56.76		62.28	60.02			45.19	43		43.3
	IE	63.61		47.56		68.28	43.98			50.21	58.58		58.64
	FR	60.71		56.72		48.8	52.71			46.76	42.76		40.63
	IT	85.65		82.47		81.07	73.6			69.76	71.72		65.05
	LU	88.91		88.79		87.39	88.55			87.27	91.35		90.75
	NL	58.12		50.88		47.48	35.69			30.02	39.26		36.75
	UK	32.35		32.57		36.37	36.43			24	38.52		34.7
	EL		81.48	80.59		80.03	73.18			70.25	63.22		52.61
	ES				68.52	54.71	59.14			63.05	45.14		44.9
	PT				72.42	51.1	35.54			39.93	38.6		36.78
	SE							41.63		38.84	37.85		45.53
	AT								67.73	49.4	42.43		45.97
	FI								57.6	30.14	39.43		40.3
	CZ										28.3		28.2

	EE										26.83		43.9
	CY										72.5		59.4
	LT										48.38		20.98
	LV										41.34		53.7
	HU										38.5		36.31
	MT										82.39		78.79
	PL										20.87		24.53
	SI										28.35		28.33
	SK										16.97		19.64
	BG											29.22	38.99
	RO											29.47	27.67
	EU total	<b>61.99</b>		<b>58.98</b>		<b>58.41</b>	<b>56.67</b>				<b>49.51</b>	<b>45.47</b>	<b>43</b>

Source: TNS opinion, in collaboration with the EP.

Nevertheless, even if the average voter turnout in these and previous EU elections has been declining, the picture varies among member states. In 2009, participation rates were lower in the twelve new EU members (38%), compared to the 15 old member states (52%). Results in 2004 provided a similar picture. Back then it was argued that participation was low because the EU elections were held only one month after accession, when citizens of the new member states had not yet been informed about the role of the EU elections. However, the trend did not change in 2009, and Slovakia and Lithuania showed the lowest turnout with 20 and 21% respectively.

Moreover, when we take out the two non-Eastern new member states, the average percentage in the ten new Eastern Europe member states drops immediately to 32%.<sup>1</sup> In fact, the relatively high participation in Malta and Cyprus,<sup>2</sup> suggests that the differences in turnout are not between the old and new EU member states, but rather between West and East European electoral traditions. This observation is further sustained by the fact that in East European member-states, voter turnout in national elections too is on average lower than in Western Europe.

### Efforts to increase electoral participation

As long as the administration of the EU elections is run by each member state according to national rules, there is little room for manoeuvre left to the European Parliament, at least in terms of reforming the rules for voting. As a result, when the EP's Constitutional Affairs Committee put forward some proposals to boost participation in the 2009 elections, their impact was minimal. Aiming to address the fact that many EU citizens are disenfranchised because they have moved within the EU, the Committee confined itself to revising Directive 93/109, which lays down the conditions to vote and stand as a candidate in EU elections in any EU country (European Parliament, 2007). In other words, it simplified the bureaucratic procedures for registering voters and candidates in EU states of residence regardless of EU country of origin. It also underlined the possibility to stand as a candidate in more than one member state

<sup>1</sup> The ten countries are the Czech Republic, Bulgaria, Hungary, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia.

<sup>2</sup> Of course, in Malta and Cyprus voter turnout is traditionally high, both in national and EU elections, because of their distinct electoral institutions: a highly proportional electoral system in Malta (Single Transferable Vote) and a compulsory voting law in Cyprus.

for the same election, as long as the member states had no objection under their national laws to multiple candidatures. Although these are both very legitimate concerns, they have a marginal impact on absolute numbers, since, according to the subsequent report (European Parliament, 2008), the number of mobile EU citizens eligible to vote in the state of residence is very low compared to those who reside and vote in the same state (2% of the EU's total population).

Being restricted with regard to institutional changes, in order to increase turnout in the 2009 elections the European Parliament resorted to an elaborate communication strategy. With the aim of creating a unified public space, €18 million – which corresponds to 5 cents per eligible voter – were spent in an EU-wide promotional campaign to spread information on the elections (European Parliament, 2009a). The campaign included TV and radio spots, 15,000 billboards displayed in major European cities, posters and other material (European Parliament, 2009b), street installations, choice boxes, seminars, outdoor campaigning, websites, social networking and so on. Additional election communication funds were allocated by the European Commission, in what was seen as the most expensive voter-awareness campaign ever launched by Brussels.

Spending tax-payers' money to boost turnout is generally a new phenomenon for continental democracies. Sweden is an exception, as it allocates special funding for information purposes to domestic political parties (Government Communication, 2003). Otherwise, the EU public is more used to standard campaign spending from political parties and, therefore, parties are considered to be the main agents responsible for getting out the vote. Indeed, many political parties addressed the problem of abstention and made extra efforts to raise voter awareness in the 2009 campaign. But, given the time and expense constraints, many focused on mobilising only their safe electorates. At least in one case, a serious effort was made to attract young and disengaged voters, with the Pirate Party in Sweden making a breakthrough and raising the 2004 turnout by a considerable 8%.

For all the efforts to increase turnout, the only 'positive' evaluation is nevertheless a negative one: compared to the turnout of 2004, the decrease in 2009 was not too great. If in 2004 the turnout had fallen by 4% and in 1999 by 7% compared to their respective previous elections, the latest 2% decrease offers some slight consolation. However, it remains a fact that less than one in two EU voters bothered to elect representatives to the European Parliament in early June. The figures point to how ineffective the Parliament's communication strategy was. To improve it would cost more money and many citizens are simply unwilling to pay. Hence, attention is turning to institutional remedies, which, for the moment, largely fall within the jurisdiction of each member state.

A practice that is common in many states, especially for referenda, is the turnout requirement. It originated in the USSR, where an election was considered invalid and held anew if it failed to meet a certain turnout threshold. Similar rules still exist today in several ex-Soviet states, like Moldova and Hungary, where at least 50% of electors have to participate to make elections valid (Birch, 2009). They also apply for referendums in Lithuania, Slovenia, Croatia and Bosnia, sometimes sponsored from abroad, like the EU request for a minimum 50% turnout on Montenegrin independence. In some cases, the turnout requirement has been lowered or removed. For example, it was cancelled in Serbia after three failed attempts to elect a new President in the years 2002-2004. In order to avoid a Serbian style institutional deadlock, in 2006 the Russian Duma decided to lift these requirements and only keep a 20% minimum for referenda, while the Former Yugoslav Republic of Macedonia lowered the threshold from 50% to 40% some months ago (January 2009). Albeit drastic and very effective, this practice is less known in Western Europe and, therefore, not very likely to succeed.

A common tactic to increase turnout is hold other elections on the same day as EU elections. This in part explains the relatively high turnout in Lithuania in 2004, when EU elections



coincided with presidential elections and the dramatic drop in this country's turnout in 2009 when no other elections were held concurrently. This year, simultaneous national elections were held only in Luxembourg, while seven other states held a simultaneous election to the local administration. The impact on turnout was particularly noticeable in Latvia (53,7%) and Denmark (59,54%), where the referendum on the very popular Danish Act of Succession had an impressive impact on EU voter turnout. As a result, a synchronisation of the EU election day with other important national polls is a first positive step towards increasing turnout.

Other examples with remarkable participation rates include Malta (78,79%) and Ireland (58,64%). Both countries use a special electoral system, the Single Transferable Vote, which is highly proportional and therefore attracts more voters to the polls. However, counting is notoriously long and complicated, with election officers recruiting mathematically adept citizens from chess clubs to help them determine the results!<sup>3</sup>

Two other solutions could include civic education and lower voting ages. The case of Sweden shows that trust in the system and good civic education projects can ultimately bring about high turnouts, at least with regard to national elections. This however, is not automatically extended to EU elections, unless there is specific and targeted training over a longer period of time. Extending voting rights to 16 year-olds would also have doubtful results on participation rates, since younger age groups are generally less prone to turn out at the polls.

Furthermore, Estonia experimented with e-voting, increasing participation by an impressive 17%, from 26,83% to 43,9%. Other countries are reluctant to follow their example, however for three main reasons. The first is that an electronic upgrade of electoral administration would require considerable financial resources and a dependence on service (hardware/software) providers. Secondly, concerns about technology security are still widespread in many EU countries and have indefinitely halted the use of electronic voting devices. Thirdly, the levels of internet penetration in households and digital literacy are likely to produce unequal access to e-voting and thus to increase inequality in political representation.

EU states employ a number of other technical and policy means to facilitate public participation in elections. They include voting by mail (Germany), by proxy (the Netherlands), by messenger (Sweden) or in advance (Sweden, Finland, Lithuania). Other experimental means of encouraging the act of voting are to provide a wide choice of polling stations or to offer financial or other incentives to voters. However, the effectiveness of these techniques has been very limited and their impact on voter turnout leaves much to be desired.

The most efficient and cost-effective mechanism to improve turnout is compulsory voting, as shown by the countries with the highest turnout scores in the EU, Four EU countries are, in one way or another, applying such laws: Belgium, Luxembourg, Greece and Cyprus, all have turnout rates that range from 53% to 91%. The Netherlands, Austria and Italy also used to have the same system in the past; indeed, Italy's high voter participation (65% in EU2009) shows that the country still reaps the fruits of its long-standing participatory tradition.

Although the recent removal or mitigation of severe sanctions for abstainers makes for a decreasing trend in the enforcement of compulsory voting, a few other countries have taken the opposite direction of late and expressed an interest in introducing it. In 2001 in the United Kingdom, a Compulsory Voting Bill was sponsored by the Labour Party. Public support has supposedly remained rather high since, at between 36% and 49% (Electoral Commission, 2006). Much more recently, in spring 2008, the topic was raised again in the French Assembly (Sénat,

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<sup>3</sup> I am thankful to my colleague, Paul De Gregorio, for this remark.

2003; Assemblée, 2008). The law proposal, submitted by a group of 25 deputies from the ruling centre-right party, came as a reaction to the decreasing participation in local elections.

In the aftermath of the 2009 EU elections, the idea of raising participation by punishing abstainers seems to be more and more appealing. German MP Jörn Thießen (SDP) suggested a fine of €50 for non-voters, arguing that “democracy does not work without democrats” (Der Spiegel, 2009). He adds that politicians too are sometimes obliged to vote in the Parliament; thus, the same obligation should be extended to citizens. Earlier, elected French MEP Pervenche Beres (PS) made a similar appeal. She claimed that obligatory taxation provided a model for obligatory voting (Euronews, 2009). In light of these and other arguments for and against compulsory voting, the details of such a system are certainly worth consideration, especially since it is imperative to search for new tools to counter voter abstention.

### **Compulsory voting: How does it work?**

Voting is by law mandatory in no less than 27 countries. This pool consists of 7 European countries,<sup>4</sup> 6 countries in South-East Asia and 14 in Central and Latin America. Some of them mention the rule in their constitutions, most of them in their electoral laws, and half of them also provide for a system of implementation.

The most notable example of a country that effectively enforces compulsory voting today is Australia. The enforcement is rather lenient, as non-voters are first invited to provide a “valid and sufficient” explanation for their absence. This may be “physical obstruction, whether of sickness or outside prevention, or of natural events, or accident of any kind” (Election Commission, 2007). Only when this request is not satisfied are non-voters fined. The price to pay is AUD20 (approx. €10) and, in case of non-compliance, it rises to AUD50 (approx. €25). This can either be replaced by court attendance or further transformed into criminal sanctions (Commonwealth Electoral Act, 1918). Only those who are abroad on election-day are exempted. Even with such small fines, the Australian turnout from 1946 until 2007 has been mostly around 95% (IDEA). The main objections raised against the system are that the implementation entails high costs and too many administrative resources.

The system seems to work better in the Swiss canton of Schaffhausen, which combines very low fines with an extensive list of acceptable reasons for no-show at the polls (Electoral Law, 1904). These include seniority (over 65 years) and absence due to a) military or civil service b) professional or family grounds c) illness d) serious illness of a close relative e) an eight-day period of mourning and f) holidays. In addition, the small German-speaking region of 74,000 inhabitants uses an almost automatic system to follow-up non-voters. It applies minimum fines of CHF3 (approx. €2) with a system of distribution that does not involve too many staff resources: after elections, police officers visit residences and re-collect each citizen’s voter card, on which is marked who has voted and who has not.

Within the EU, the most pronounced example of compulsory poll attendance is Belgium. According to election law, abstaining voters are subject to progressive fines, which become higher with the number of elections missed. They start from €25-50 for the first time and can rise to €50-125 for the second abstention. Those who abstain for a fourth time are also subject to temporary disenfranchisement and ineligibility for public office (Constitution, 1893; Electoral Law, 1894). Exempted are Belgian citizens abroad and EU and third-country nationals in local elections. The Belgian system seems to be taking an increasingly flexible line with non-voters and has made additions to the list of acceptable reasons for non-voting. Consequently, the

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<sup>4</sup> Belgium, Luxembourg, Greece, Cyprus, Turkey, Switzerland and Liechtenstein.

increase of infrastructural facilitations for casting ballots and the lack of sufficient judicial staff resources to handle abstention cases has made prosecution less likely in effect.

In Cyprus and Luxembourg, the fines are higher, but there is little evidence of enforcement, with no single prosecution ever being reported in Luxembourg. Abstainers are asked to pay a maximum of CYP200 (approx. €342) (Election Law, 1979) and €1,000 respectively (Election Law, 2003). Among other reasons, non-punishment results from the unpopular and disproportionately high fines and the cumbersome administration of their collection. In the latest discussion over the issue in 2008, the Cypriot Parliament decided to replace the judicial route of punishment with a direct and simple fine, in order to make prosecution more realisable (Politis, 2008). Despite this lax application, participation levels are extremely high in both countries; around 80 and 90% or higher.

In Greece too, no enforcement system is in place. Yet the election law clearly stipulates sanctions for non-voting that entail imprisonment or deprivation of public office (Constitution, 2001; Election Law, 2007).<sup>5</sup> Although no implementation mechanisms are in place and compulsory voting exists only *in abstracto*, participation rates (around 80%) are still higher there than in the rest of the EU, the recent 53% being the lowest ever recorded. The same is true for Italy, which abolished the law in 1993. Hence, in most cases, even when enforcement is very lax or absent, the system seems to work. Surprisingly, voters still tend to adhere to the rule, not really for fear of punishment, but rather driven by popular belief or political custom.

*Table 2. West European countries with compulsory voting in the past or at present (level of enforcement as of May 2009; fines have been converted into euro)*

COUNTRY	PUNISHMENT	ENFORCEMENT	LEGISLATION	DATE
Switzerland (Schaffhausen)	Fine 2 EUR	Strict	Elect. Law, Art. 9-10	1852-
Australia	Fine 10-25 EUR + criminal sanctions	Strict	Commonwealth Electoral Act 1918	1924-
Belgium	Fine 25-125 EUR	Intermediate	Constitution, Art.62 / Elect.Law Art.207-210	1893-
Cyprus	Fine 342 EUR (maximum)	Weak	Elect.Law Art.7(2), Art.37	1960
Luxembourg	Fine 100-1000 EUR	None	Elect. Law Art.90	1918-
Greece	Imprisonment 1-12 months + deprivation of public offices and municipal positions	None	Constitution Art.51 (5) / Elect.Law Art.6 (2), 117 (1,2)	1926-
Austria (presidential) - Styria - Carinthia - Tyrol - Voralberg	-	Abolished in 1982  Abolished in 1992 Abolished in 1992 Abolished in 2004 Abolished in 2004	-	1929-2004

<sup>5</sup> Earlier administrative sanctions, including prohibition on passport, driving or occupational licence, were lifted in 2000. Since 2001, the Constitution no longer has a provision for sanctions.

Netherlands	-	Abolished in 1967	-	1917-1967
Italy	-	Abolished in 1993	-	1946-1993

## Arguments in favour

Despite the many problems of enforcement, a number of scholars, policy-makers and voters worldwide continue to believe that compulsory voting is a good thing. Besides the obvious reason of increasing participation in elections, they defend it on many more grounds, theoretical and technical. In short, full participation prevents electoral corruption and promotes political integration and equal influence on the electoral outcome. In comparison to other means of boosting voter turnout, compulsory voting is the most effective measure; it decreases campaign spending, increases the income of the electoral administration and functions as an indirect tool for civic education.

Compulsory voting was introduced for the first time on a national scale in Belgium in 1893. A rather technical reason at that time was to *protect poor voters from forced abstention*, i.e. negative vote-buying, by their employers. Although this is not an issue in most European countries today, it may still be a useful mechanism to prevent electoral corruption and abstention-buying in countries that feature large economic divides and labour dependence.

The main rationale behind the system in Belgium was to complement and enforce universal suffrage, which was introduced in the same constitutional reform of 1893. Compulsory voting was a way to fulfil the principle of political integration, in other words it was a method to politically unite a socially disparate people. In this sense, if the principle of universality is a central aspect of voting rights, its progressive realisation requires respect from the state and protection from third-party interference. As with all human rights, the third and most advanced step is fulfilling such rights, in other words providing guarantees that they will be exercised.

So, full political integration is perhaps the strongest argument for compulsory voting. Indeed, the most important implication of universal participation is political equality. In his milestone article in 1997, Arend Lijphart argued that *low turnout is biased against citizens with a lower education, income and social class*. According to him, citizens with lower education or modest social status, as well as those belonging to ethnic, linguistic or religious minorities, are more prone to abstention than others. Conversely, voluntary voting perpetuates political inequalities and misrepresentation. Paradoxically, the claim of abstainers that the European Parliament is an elitist establishment is reinforced by abstention itself.

Turnout inequalities are reflected in the outcome of the election and in public policies; thus who votes and who doesn't has important consequences for who gets elected to shape public policies. Consequently, mandatory voting creates equal influence on the policy output and encourages actions that collectively address the total electorate. In this context, it has been suggested by political economists that it may even contribute to a more equal income distribution (Chong and Olivera, 2008).

In a democratic state, the input from citizens is a fundamental factor of its *legitimacy*. According to the French bill of 2008, mandatory voting ensures "a clear expression of the collective will, the legitimacy of the elected and the representativity of the institutions". Under normal conditions, electoral participation empowers the citizens and democratises the representative institutions. On the contrary, abstention distorts the principle of majority

representation, because the concept of majority does not correspond to real figures unless it is calculated on the basis of the full electorate.

Therefore, voting has been considered a moral imperative for centuries, in other words a *civic duty*. As such, mandatory voting is morally justified, alongside existing civic obligations like jury service, tax payment, military conscription, compulsory school attendance and general obedience to the law. It applies Article 29 of the Universal Declaration of Human Rights, which states that “rights and freedoms” are subject to “duties to the community”, including the “just requirements of morality, public order and the general welfare in a democratic society” (cited in Evans, 2006). Conversely, Lijphart calls those who abstain from elections selfish and immoral free riders (p.11).

In addition, according to the Australian Election Commission, mandatory voting “teaches the benefits of political participation” (Evans, 2006). It furthers *civic education* through actual practice and therefore creates immediate political awareness and civic engagement. It also presumably increases the frequency of political discussion and citizens’ knowledge of politics (Milazzo, 2008). In other words, urging citizens to vote serves as an excellent tool for deliberation and politicisation.

Mandatory voting also offers some advantages for election finances. It is said to *improve the quality of campaigning*, as candidates can concentrate on issues rather than on encouraging voters to attend the polls. In this sense, it also decreases campaign spending and completely eliminates the need to invest in voter awareness. What is more, as the Swiss case demonstrates, mandatory voting can create significant income for the state administration (Gratschew, 2008). For example, even if the fines are low in Schaffhausen, the frequency of elections and referenda per year and the high number of citizens who do not show up without providing justification raises considerable sums that give a small injection to the public budget. Such revenues could be recycled as state subsidies for political parties.

## Arguments against

No system is perfect of course, especially when it comes to electoral administration. Opponents of compulsory voting have identified several disadvantages of both a moral and technical nature. Starting with the political bias of such a reform and its anti-liberal nature, they continue with criticism of the technicalities of enforcement and its impact on the quality of the vote.

It is true that, like most electoral reforms, the new system creates political advantages for certain political groups. When it was introduced in Belgium, the Catholic Party saw it as a tool to secure votes from its conservative grass roots, in order to defeat the more polarised socialists. Today, in the United Kingdom, as well as in Australia, the system is considered to be largely beneficial for the Labour parties (Mackerras and McAllister, 1999).

Other opponents claim that compulsory voting is difficult and expensive to enforce. They draw on the existing state of the art, where half of the states with compulsory voting laws today do not have serious enforcement mechanisms. This happens because the judicial resources are not sufficient to deal with the thousands of cases (e.g. Argentina and elsewhere), or because the costs incurred by the administration for sanctioning non-voters is too high. A law that exists only in name but not in reality discredits the legal system.

A third objection to compulsory voting, and perhaps the most serious one, is that it violates the principle of liberty, which is one of the core elements of democracy. For this reason, more often than not, the measure is attacked as being undemocratic and coercive. Libertarians claim that they have the right to disagree on the value of political participation as such. They furthermore argue that one should be able to choose among other competitive kinds of participation (Lever,

2008). On these grounds, compulsory voting is charged with violating basic human rights, namely the “freedom of thought, conscience and religion” (Art. 9 of the European Convention on Human Rights). However, in the case of *X v Austria* (Application No. 4982/71) in 1971, the European Court of Human Rights ruled that mandatory voting does not violate fundamental freedoms, because only attendance at a polling station – and not voting itself – is compulsory, while the voters also have the option of casting a blank or spoiled ballot paper (cited in Baston and Ritchie, 2004).

The opt-out of the blank ballot was especially emphasised in the 2008 French bill as a form of legitimate conscientious objection. But for the opponents it raised yet another negative issue. It has been observed that in systems of compulsory voting there is a surplus of spoiled or blank ballots, as well as a high probability of casting ill-considered votes. This has consequences not only for the quality of the vote, but sometimes also for the electoral outcome.

Another problem is that, despite technical guarantees like the possibility of casting a blank ballot, without due care, the system is subject to abuse. For example, in Greece during the Cold War, the Communist Party was outlawed by the government, and compulsory voting – as enforced through the control of stamped voting cards – specifically targeted the ‘enemies of the regime’. In some Latin American countries, illiterate voters are exempted from the obligation to vote. In Singapore the system is not useful, since voting is only mandatory for a few contested seats, while the rest are controlled by the governing party (Hill, 2002).

In undemocratic regimes it is often the case that political and social pressure, intimidation or other means drive people to the polls. This was the case in the Soviet Union and Eastern Europe and still occurs in Central Asia and North Korea. Because the obligation to vote is synonymous with negative experiences in these countries, support for compulsory voting reform is naturally very low. In general, as liberal principles and individualism gain ground, it is more difficult to make voting obligatory now than it was in the past (Gratschew, 2004).

## **Compulsory voting in the EU**

Nevertheless, there are three main reasons why mandatory voting is a particularly appropriate solution for the European Parliament elections. First, as the Parliament struggles to acquire a stronger role vis-à-vis the Commission and the Council, it should protect its *raison d’être* as an institution that represents the EU citizens. Making voting compulsory would boost the turnout and allow the Parliament to lay claim to an ‘input legitimacy’ that is missing from the two other EU institutions. In response to the increase of its powers through the Lisbon Treaty, it must become very clear that the Parliament is the most representative of the three EU governing institutions. It must therefore adopt a more inclusive character and reflect a fair share of the EU population.

Second, this solution would recreate the EU electorate as a unified political body and add new dimensions to EU citizenship. Full participation in the EU elections would raise political debates from a national to a European level. In this way, it would distract voters from the narrow national context and elevate them into a European public sphere. Electoral obligation could lead to an increased awareness and interest in European issues and, as a result, create a distinct EU-mindedness. In other words, compelling citizens to vote could work as a costless civic education measure. And, as a side-effect, it would eliminate the expense of election promotion and raise voter awareness.

A third positive effect would be a harmonisation of the political landscape. First of all, with the present system of voluntary voting, political parties that maintain electoral clienteles, through family or community ties, have a competitive advantage in the electoral contest. In this way the existing situation rewards clientelism and supports the ‘old parties’. Secondly, since the

electoral outcome currently depends on the eagerness to vote, which is usually higher in the extreme wings of the political spectrum, technically it is no surprise that far-right euro-sceptic parties are on the rise in the European Parliament. As stated above, low turnouts distort the concept of majority and offer an advantage to parties that would otherwise constitute an insignificant minority. The new system would eventually minimise the influence of extreme right parties and legitimate the shares between the different political groups. In fact, the European Parliament deserves a higher degree of procedural representation in order to avoid becoming hostage to eccentric political views.

The prevailing political culture to some extent explains why the European Parliament has so far never discussed the option of mandatory voting, neither in a plenary session nor in the Constitutional Affairs Committee. Normally, amending electoral rights would require an inter-governmental conference, like the one preceding the Maastricht Treaty, which made it possible for EU citizens to vote in all member states of the EU. Under the Treaty of Lisbon, the Council can decide on a new treaty without having to resort to a formal IGC (TEC, Art.25). What is more, if at least nine states agree, the procedure for enhanced cooperation could be used to amend political rights. Thirdly, under another new provision of the Lisbon Treaty, changes to the political rights of EU citizens – albeit non-binding – can be also initiated by a citizens’ proposal to the Commission (TEU, Art.11). Finally, states can always make a bilateral reciprocal adaptation of electoral rights, such as those that already exist between the UK, Ireland, Malta and Cyprus, and which does not interfere with the official scope of European Union citizenship.

## Conclusions

Since the mid-1990s, a declining trend of electoral participation in Western countries has triggered a wave of discussions about civic education, awareness-raising and new voting techniques. Some have argued that turnout fluctuations are valuable per se, as they indicate the changing degrees of voter satisfaction or criticism against the government. However, in the case of the EU, low voter turnout undermines the representativity of the European Parliament and its symbolic importance vis-à-vis the EU citizens and the two other major EU institutions. What is more, it damages the image of the Union abroad, especially since democracy and political rights are the cornerstone of its foreign policy and development aid.

One of the main reasons why EU voters abstain is that they don’t understand the role, the working procedures and the decisions of the European Parliament. Simplifying the complex EU system of accountability is of course one way to settle the problem. Yet, it is hardly plausible that this would automatically unleash a substantial rise in electoral participation. On the other hand, civic education projects would require large investments over longer periods of time and with uncertain results.

A much simpler solution would be to introduce mandatory EU voting rights and punish abstainers with small fines, which would go directly into the EU budget. In countries that practise such a system at present, citizens have a higher interest in politics and discuss political matters more frequently. As a result politicians address the needs of the entire electorate; they campaign on issues rather than on the importance of elections and, in general, spend less money on campaigning. From a moral point of view, a legal requirement to vote rehabilitates the notion of civic duty, fulfils the principle of universal political rights and realises the democratic ideals of participation and equality. If the EU wishes to uphold these principles domestically and promote them worldwide, it should indeed take active steps to fulfil them and provide an example of democratic ideology and good practice to the world.





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