

### 3. Compulsory Voting in Western Europe

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#### *Duty, Right or Privilege?*

*Is voting a citizen's right or a civic obligation? All democratic governments consider voting in national elections a right of citizenship. Some regard voting in elections as a citizen's civic responsibility, perhaps even a duty. In some of those countries where voting is regarded as a duty, it has been made compulsory to vote, and sanctions are imposed on non-voters in several European countries.*

European countries were among the first to grant women the right to vote, and several of them were also among the first to introduce compulsory voting. The process of extending the franchise to men had been less controversial in most countries, but in several instances the right to vote was combined with an obligation to participate and vote in elections.

Compulsory voting is not a new concept. Liechtenstein (1862), Belgium (1893), Argentina (1914), Luxembourg (1919) and Australia (1924) were among the first countries in the world to introduce compulsory voting laws. There are also examples of countries that have had compulsory voting at some time in their history but have since abolished it: for instance, Venezuela had compulsory voting until the mid-1990s and in Europe the Netherlands had compulsory voting until 1967. The first election held there without the practice of compulsory

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voting was that of 1971. Australia is usually brought up as an example of a country that practises compulsory voting. There, the existence and practice of compulsory voting are still controversial. It may come as a surprise to many that currently six countries in Western Europe retain compulsory voting laws (Belgium, Cyprus, Greece, Liechtenstein, Luxembourg and Switzerland) and three more (Austria, Italy and the Netherlands) had such laws in the past but have since abolished compulsory voting or are in the process of doing so. However, only a few of the countries in Western Europe enforce this obligation in practice.

### Impact on Voter Turnout

Approximately 30 countries in the world today have regulations that make voting compulsory in their constitutions or electoral laws. Most of them are in Latin America or Western Europe, but there are a few examples from Asia as well (e.g. Thailand and Singapore). However, any figure for the exact number of countries that practise compulsory voting would be misleading. The simple presence or absence of compulsory voting laws in itself is far too simplistic a measure. It is more constructive to analyse compulsory voting as a spectrum, ranging from the existence of a symbolic but basically impotent law to a system that systematically follows up each and every non-voting citizen and implements sanctions against them.

From the perspective of a voter, if voting is compulsory and sanctions are imposed on non-voters, the rational decision is to vote in elections in order to avoid sanctions. With this reasoning in mind, it comes as no surprise that turnout is usually higher in countries where compulsory voting is practised and enforced. Comparisons of the impact compulsory voting has on turnout show that it is approximately 10–15 per cent higher in countries that have compulsory voting and enforce it (Gratschew and López Pintor 2002: 108, 110).

This spectrum reflects the fact that some countries have compulsory voting laws but do not, and have no intention to, enforce them. There are a variety of reasons for this. Not all laws are created to be enforced. Some are passed merely to state the government's position regarding what the citizen's responsibility should be. Compulsory voting laws that do not include sanctions may fall into this category. In fact the law may have some effect on the citizens, even if a government may not enforce it or even have formal sanctions in law for failure to vote. For example, in Austria voting was compulsory in two regions until recently, and sanctions were only weakly enforced, but these regions had a higher average turnout than the national average.

Other possible reasons for not enforcing the laws could

be their complexity and the resources needed to enforce them. Countries with limited budgets may not make the enforcement of compulsory voting laws a high priority but still hope that the existence of the law will encourage citizens to participate. The cost of enforcement may lead some electoral administrations to lower their standards of enforcement.

An examination of the best ways of estimating the level of enforcement of compulsory voting laws and sanctions in a country is relevant here. What information is needed in order to measure whether enforcement is strict or relaxed? Information provided by election (or other) authorities might reflect the intentions but not necessarily the situation in practice. The number of cases of failure to vote that have been followed up after an election or the number of cases taken to court would presumably be the best measures to use. Unless all or at least nearly all cases of failure to vote are followed up after an election, the system can hardly be deemed to be one of strict enforcement.

Can a country be considered to practise compulsory voting if the compulsory voting laws are ignored and irrelevant to the voting habits of the electorate? Is a country practising compulsory voting if there are no penalties for not voting? What if there are penalties for failing to vote but they are never or hardly ever enforced? Or if the penalty is negligible? Many countries offer loopholes, intentionally and otherwise, which allow non-voters to go unpunished. For example, in some countries only registered voters are required to vote but it is not compulsory to register. People might then have incentives not to register.

The diverse forms compulsory voting has taken in different countries suggest that our perception of it should be refocused away from assessing it as a practice that is either present or absent and towards studying the degree to which and the manner in which the government forces its citizens to participate.

Figure 3.1 shows a ranking list of average voter turnout among the countries included in this report. The first four, at the top of the list, have or have had some element of compulsory voting. These are Belgium, Austria, Italy and Luxembourg. The Netherlands, which had compulsory voting until 1967, comes seventh on this ranking list. Switzerland, where only one canton out of 26 practises compulsory voting, is at the very bottom of the list. The country has attracted some attention because of its low turnout and frequent referendums; however, in the canton of Schaffhausen, where compulsory voting is practised, turnout is higher than in other cantons. The two most recent parliamentary elections in Switzerland, in 1999 and 2003, show a much higher voter turnout in Schaffhausen than in the other cantons, and average

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Figure 3.1: Voter Turnout at National Parliamentary Elections in Western Europe and the Practice of Compulsory Voting

Country (no. of elections) since 1945	Votes cast as % of no. of electors registered****	Compulsory voting practised since
Belgium (19)	92.5	1893–
Austria (18)	90.9	1949–1979*
Italy (15)	89.8	1940s**
Luxembourg (12)	89.7	1919–
Iceland (17)	89.5	–
Malta (14)	88.2	–
Netherlands (18)	86.6	1917–1967
Denmark (23)	86.0	–
Sweden (18)	85.7	–
Germany (15)	85.0	–
Western Europe (overall 297)	82.1	
Norway (15)	80.4	–
Greece (16)	79.9	1952–
Spain (8)	75.7	–
Finland (17)	75.6	–
United Kingdom (16)	75.2	–
France (16)	74.8	–
Portugal (11)	73.6	–
Ireland (16)	72.6	–
Switzerland (14)	56.6	–***

\* Compulsory voting has been practised in the regions of Vorarlberg and Tirol until 2004.

\*\* Sanctions are not enforced.

\*\*\* Practised in one canton only, Schaffhausen.

\*\*\*\* This column shows the average turnout at parliamentary elections since 1945.

On the impact of compulsory voting on turnout, see also chapter 2 and figure 2.3.

**Source:** International IDEA Voter Turnout database.

turnout there is well above the country average. The country average was 43 per cent in 1999 and 45 per cent in 2003, while turnout in Schaffhausen was 62 and 63 per cent in 1999 and 2003, respectively. In one or two other cantons turnout is up to 50–53 per cent, but this is still much lower than in Schaffhausen. A similar pattern can be seen in Austria where the two regions that practised compulsory voting until recently normally had a higher turnout at elections. Average turnout in the small country of Liechtenstein is also very high and if it were included it would join the four countries at the top of the list in figure 3.1.

### For and Against

Advocates of compulsory voting argue that decisions made by democratically elected governments are more legitimate when higher proportions of the population

participate. This argument is often adduced in societies where compulsory voting could be particularly effective in making traditionally marginalized groups participate. Advocates of compulsory voting argue further that voting, voluntarily or otherwise, has an educational effect on citizens. Political parties can save money from compulsory voting, since they do not have to spend resources convincing the electorate that it should in general turn out to vote. Finally, if democracy is government by the people—and this presumably includes all the people—then it is every citizen's responsibility to elect his or her representatives.

The leading argument against compulsory voting is that it is not consistent with the freedom associated with democracy. Voting is not an intrinsic obligation and the enforcement of such a law would be an infringement of the citizens' freedom associated with democratic elections.

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## Austria

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Compulsory voting is regulated by federal law in Austria. However, the regions of the country have been able to decide whether they would like this particular part of the law to apply to them or not since 1979. Compulsory voting was introduced with a new law in 1949, and applied to all the regions at that time, although provision for it had been made earlier in the electoral law of 1919 in the region of Vorarlberg and in an article in the electoral law of 1923. Compulsory voting applies to all elections to the regional parliament as well as local elections. After the Second World War it was compulsory to vote in presidential elections. The first election of a president by the people took place in 1951. (Previously the president had been elected by the two chambers of Parliament according to the constitution of the time.)

By the early or mid-1990s all the regions of the country except two, Vorarlberg and Tirol in the extreme west, had abolished compulsory voting. These two regions are set to do so in 2004. While compulsory voting remained, non-voters had the opportunity to explain their abstention—most often the explanation was accepted. If it was not, fines could be applied as a penalty for not voting. The fines were fairly high but in practice usually lower than what the law specifies. The law provided for fines of up to 700 EUR (c. 768 USD as of 10 September 2003) but in practice the amount imposed was usually less than 50 EUR (c. 55 USD as of 10 September 2003). The provisions for compulsory voting was made in the regional laws of Vorarlberg and Tirol.

## Belgium

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Belgium, so far as is known, was the first country in the world to introduce compulsory voting on the national level. This happened in 1893, long before universal suffrage was introduced. Compulsory voting was introduced to avoid upper-class citizens putting pressure on uneducated or poor citizens not to vote in the elections. It applies to all elections, national and municipal as well as elections for the European Parliament. A non-voter has the opportunity to explain his or her abstention and if the reason for not voting is accepted the case is not taken any further. If it is not accepted the non-voter faces a fine of 5–10 EUR for the first offence (c. 5–10 USD as of 10 September 2003). The fine for a second offence is higher, between 10 and 25 EUR, and if a voter fails to vote four or more times within a period of 15 years he or she is excluded from the electoral register and disenfranchised for ten years. If the non-voter is a civil servant, another sanction applies as well: he or she is disqualified from promotion.

## Cyprus

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Voting has been compulsory in Cyprus since 1959, according to the Electoral Law of that year. Voting is compulsory, at parliamentary and

presidential elections only, for all voters between the ages of 18 and 60. Non-voters have the opportunity to explain the reasons why they did not vote in the election before a decision on possible sanctions is taken and do not face sanctions if the reasons are judged to be valid. If they are not, the non-voter will face sanctions in the form of fines. The fine imposed by the court may not exceed 500 CYP (c. 931 USD as of 10 September 2003). The Electoral Law is under revision and the practice of compulsory voting is to be discussed.

## Greece

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Compulsory voting was introduced in the Greek Constitution for the first time in 1952, although it was not introduced by specific wording until 1975. The initiative came from the political parties of the time and was intended to prevent voters abstaining and enhance in practice the principle of universal suffrage. Compulsory voting applies to all elections in Greece, including elections to the European Parliament. Voters above the age of 70 and those who are not mobile because of infirmity are exempted, as are those who are more than 200 km from their assigned polling station on election day. A non-voter has the opportunity to explain his/her abstention, but if the reason given is not accepted by the authorities he or she can face quite severe sanctions, such as imprisonment for up to one month, under the present legislation. Under the old electoral law, which is no longer in force, one possible sanction against non-voters involved restrictions on obtaining a passport or driver's licence. In practice today, however, the compulsory voting rules are of a mainly symbolic character and sanctions are not often applied against non-voters.

## Italy

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Immediately after the Second World War a new electoral system and electoral law were introduced. Compulsory voting was introduced as part of this electoral law and remained in the electoral law for almost 50 years. Fascism had collapsed and a referendum was called to choose whether Italy should be a monarchy or republic. The monarchists had argued strongly in favour of the introduction of compulsory voting and hoped to win the referendum by ensuring broad participation. It was compulsory to vote at all elections. The sanctions that applied were similar to those applied in Belgium today, that is, a voter who had abstained for several consecutive elections would be temporarily suspended from voting. In addition, the sanctions involved a non-voter being unable to obtain employment as a civil servant or run for any public office. Voter turnout has been quite high throughout the years in Italy and sanctions have seldom been imposed on the small proportion of voters who abstained from voting, despite the provision for sanctions in the law. Compulsory voting has been a controversial issue for many years. Those who have argued against it have been mainly the liberal parties. Finally, in the early 1990s, with the country having had more than 55 governments in less than 50 years, all political forces agreed on the need for major reforms in the electoral law. A new electoral law was introduced in 1993 after being accepted by

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a national referendum. At present the law says that voting is a right and a duty, without using the word 'compulsory'.

## Liechtenstein

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Liechtenstein introduced compulsory voting early. It has been practised continuously since 1922 and is an integral part of the electoral law of the same year. According to the Government Chancellery it was practised even earlier, possibly as early as 1862, and according to popular memory it has 'always' been the tradition. During the 19th century, the law only applied to men above the age of 24. (Interestingly, as a contrast, Liechtenstein was among the last countries in the world to grant women the right to vote: this was done as late as 1984.) Those who stayed away from voting without giving an approved reason were liable to a fine of 1 Guilder, which for some might have been a large sum of money at the time. Even in the 1950s and 1960s the municipality police imposed fines on those who had failed to vote, but this old tradition slowly died out once local councils realized that the cost of enforcing this law exceeded total receipts from the fines. The present law that regulates compulsory voting is from 1973. Compulsory voting applies to all elections and referendums in Liechtenstein. Non-voters may be fined if they have not given an approved reason for not voting. The fine does not exceed CHF 20 (c. USD 14 as of 10 September 2003) and this sanction is rarely enforced in practice.

## Luxembourg

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A small country, Luxembourg introduced compulsory voting very early, in 1919, and during the same year women were granted the right to vote. Voting is compulsory for elections to the Chamber of Deputies and the European Parliament, and municipal elections. People above the age of 70 and those who are abroad on election day may be exempted from the obligation to vote if they are able to prove this. The electoral law states that a non-voter will be punished by fines on the first occasion he/she fails to vote. Following a second offence, if it is within six years of the first, a larger fine is imposed. The fines range from 99 to 991 EUR (c. 108–1087 USD as of 10 September 2003). In practice, a non-voter usually only receives a warning after the first offence, but if it is repeated the case may be taken to court for further decision.

## The Netherlands

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With the constitutional change in 1917 which also introduced universal suffrage (for men; women were granted the right to vote in 1919) and proportional representation (PR), compulsory voting was introduced. There were two main reasons for introducing it: (a) the act of voting is a task that serves the public interest and not one's personal interest, and a public right was regarded a public duty in this context; and (b) the newly introduced PR system required a 100 per cent turnout for the election results to be truly proportional. It is worth mentioning that the term 'compulsory voting' was not at first used in the Netherlands, but 'compulsory turnout' was. Compulsory voting applied to all elections. While it existed in the Netherlands, however, it was a much-debated issue and was amended many times.

In 1945 an opportunity to abolish compulsory voting occurred when there was a vote in Parliament on the practice. The groups in favour of keeping it won by one vote, and it was not abolished until 1967 after recommendations made by a committee appointed by the government. A number of theoretical as well as practical arguments were put forward by the committee: for example, the right to vote is each citizen's individual right which he or she should be free to exercise or not; it is difficult to enforce sanctions against non-voters effectively; and party politics might be livelier if the parties had to attract the voters' attention, so that voter turnout would therefore reflect actual participation and interest in politics. The parliamentary election of 1971 was the first to be held without compulsory voting since its introduction.

## Switzerland

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Compulsory voting is practised in only one out of 26 cantons—the German-speaking northern canton of Schaffhausen, which has practised it for almost 100 years, since 1904. Compulsory voting applied to all elections. The sanction for failure to vote is the same today as it was when the law on compulsory voting was introduced—a fine of 3 CHF (c. 2 USD as of 10 September 2003), which was perhaps a considerable amount 100 years ago but today represents a fairly small share of an average Swiss salary. Other cantons, such as Zürich and Aargau, have also had compulsory voting in the past. Women were granted the right to vote only in 1971, which means that when compulsory voting was introduced it only applied to male voters. By 1971 compulsory voting had been abolished in all cantons except Schaffhausen.

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**Figure 3.2: Sanctions for Failure to Vote**

Country	Type of sanction
Austria	Explanation by non-voter but thereafter fines
Belgium	Explanation by non-voter, thereafter fines or disenfranchisement
Cyprus	Explanation by the non-voter, thereafter fines
Greece	Explanation by the non-voter, thereafter imprisonment. Earlier other sanctions (see above)
Italy	Currently none
Liechtenstein	Explanation by the non-voter, thereafter fines
Luxembourg	Explanation by the non-voter, thereafter warning and/or fines
Netherlands	Currently none
Switzerland	Explanation by the non-voter, thereafter fines

It may discourage the political education of the electorate because people who are forced to participate will react against the perceived coercion. Is a government really more legitimate if the high voter turnout is achieved against the will of the voters? To achieve a high voter turnout by using compulsory voting is perhaps easier than ensuring quality in participation. Opponents of compulsory voting argue that the optimal participation is that which is based on the voters' own will to participate in choosing their representatives. Many countries with limited financial capacity may not be able to justify the cost of maintaining and enforcing compulsory voting laws. It has also been proved that forcing the population to vote results in an increased number of invalid and blank votes compared to countries that have no compulsory voting laws (Puplick and McGuinness 1998).

Another consequence of compulsory voting is the possible high number of 'random votes'. Voters who are voting against their free will may tick off a name at random, particularly the name at the top of the ballot paper. The voter does not care for whom he or she votes as long as the government is satisfied that they have fulfilled their civic duty. What effect does this unmeasurable category of random votes have on the legitimacy of the democratically elected government?

Despite the fact that six countries in Western Europe have compulsory voting today, it seems that the level of enforcement of these laws is lower than it used to be. Figure 3.2 lists all these countries and the sanctions they apply. We already know that two countries, the Netherlands and Italy, have abolished compulsory voting,

and several countries have gone from enforcing the compulsory voting laws strictly to not enforcing them very strictly, for example, Greece and Liechtenstein. Is compulsory voting a dying phenomenon in Western Europe? Perhaps in a few years it will only be kept as a 'ghost' in countries' constitutions, without any intention to enforce it. If turnout continues to decline—in Europe in general and at elections to the European Parliament in particular—and if politics alone does not succeed in making voting interesting enough, will the introduction of compulsory voting be considered? Or will more countries in the region adopt the practice on a national level if voter turnouts decline?

In most of the European countries where it is found, compulsory voting was introduced 50 years ago or even earlier, in the political systems of the time. Perhaps it is because of its long history that it is commonly accepted or tolerated in the countries that still practise it today. To introduce it in today's European democracies might be more controversial than practising it where it already exists. One example of the resistance compulsory voting could face is the reaction in Sweden in 1999 when the Minister for Democracy, on being asked a question on the subject, mentioned compulsory voting as a means of increasing turnout or keeping it high (*Svenska dagbladet* 29 July 1999, 9 August 1999; and *Borås tidning* 18 August 1999). It is important to note that, even though the minister did not suggest that compulsory voting should be introduced, but merely referred to the high turnout shown in countries that practise it, the media, political scientists and politicians rejected the idea quickly and in strong terms in a heated debate.

At the present stage it is impossible to tell which direction the phenomenon and practice of compulsory voting will take in Western Europe, since some countries aim to enforce it strictly and others do not, for different reasons of principle—political, economic, social or other.

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