

# THE ELECTIVE ABSENTION. THE LEGAL JUSTIFICATION FOR THE INTRODUCTION OF THE COMPULSORY VOTE IN THE STATES WORLD WIDE

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**Abstract:** *This work presents a quantitative analysis of a recent social phenomenon in the elections field, namely the lack of the electorate's interest in the campaigns and elective process in many of the world states. The citizens do no longer exercise their elective suffrage as they should. According to the statistical information of certain institutions, they prefer to stay out of the elective, political problems. We tried to identify the causes of the elective absenteeism, starting from the real facts in those states where the elective absenteeism rate has been increasing these years, in Romania as well. The main objective is to emphasize the value of electorate's legitimacy in the states' leading board where the universal vote is exercised by at least an important part of electors, but not all of them. The legitimacy of holding the political power in a state must be approved by the most of the people with the right of vote, yet this no longer happens.*

**Keywords:** *general absention from voting, the right of vote, universal compulsory vote/suffrage, statistics on general absention from voting*

The constitutional systems and their elective systems differ from country to country; even within European Union there are several ways of electing the leaders. The fact that the universal suffrage is a basic element of democracy is no longer argued; however, there is a dispute between those who support the compulsory vote for the citizens of a state (as a civic duty besides the other fundamental ones ) and those who consider this fundamental right as optional, depending on the civic conciousness and population's desires.

*The compulsory vote* may be defined as a legal obligation for citizens to show up at the ballot box or vote. The voters' absence must be justified in most cases, but the unjustified absence may bring penalties like fines or forfeiture of some civil rights. In 1982, this measure was first introduced in Belgium and nowadays it is applied in 19 states all over the world.

In Romania, ever since the first free elections in 1990 and 2004 it has increasingly become easier to predict the voters' absention as they are not as motivated or interested in politics as they used to be. The voting citizens no longer exercise the fundamental political right that any democracy is built on considering

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that absention is a better choice. In 1990, the recently gained freedom as well as the desire for a new start made a large number of Romanians vote and since then there have never been so many voters. On May 20<sup>th</sup> 1990, the so called “Blind’s Sunday” was the day that has beaten all the elections records in Romania: almost all the voting people went to the polls and the president was elected with an overwhelming score just in the first round. Then there voted 14.826.616 of the total of 17.200.722 in the electoral registers, representing a record percentage of 86,19%. We can as well consider a record the high percentage for Ion Iliescu when elected president, 85,07% being equivalent to 12.232.498 voters. However, the elections in 2000 registered a decrease of the attendancy at the polls. When in the final election round ther were Vadim and Iliescu only 10.184.715 went to the polls to vote (57,5%). Although Iliescu was close to win the Cotroceni leadership by 66,2 % of the total, the number of votes was once more lower than in the previous elections : 6.696.623. As for the other one, the runner-up Vadim Tudor managed to get only half of votes, 3.324.247. In 2004, the final presidential confrontation brought to Cotroceni the president with the lowest number of votes in the post-comunist history. Of more than 10 million Romanians who elected the president, only few over half of them, about 5.126.794 voted for Basescu. It was a «loss» for the presidential institution legitimacy of about 1,5 million voting people, meaning the doubled voting population of Bucharest and at the same time a decrease to less than half of the president’s votes in 1990.

### **The Causes of Absention**

According to a study by Leighley and Nagler (2000) the attendance rate is different depending on the living standard. Therefore the attendance rate of the voting people in the USA was of 25% for those below poverty limit and of that of 65% for the voters above that limit. The estimated data regarding the general elections polls in 2000 and 2004 in Romania show us that the they are considerably different for the surveyed categories of people. Thus, the attendance rate is significantly higher for male persons up to 60 years with at least intermediary education (high school). The differences between rural and urban participation are most probably the indirect result of people structure differences in both areas regarding the schooling and age. Moreover, certain differences come up simultaneously at the level of people categories regarding several variables (Comşa, 2004). In this case a lower voting attendance (according to people structure) is attributed to low-educated women (especially the elder ones), as well as the young low-educated men. A higher attendance can be systematically recorded in case of men with an upper intermediate tuition. If the participation of different catgories of voters varies, their influence upon the final results may increase or decrease depending on the participation rate. Among the states where the vote is compulsory nowadays we can mention: Argentine, Australia, Belgium, Brasil, Chile, Cyprus, Ecuador, Lebanon, Peru, Switzerland and Turkey. The main method of constraint which tries to convince people to vote is the penalty of citizens who don’t do this. Not all the states implement this kind of rules, but it has been noticed that the voters percentage is higher in a state with compulsory vote, even if the penalty is no longer demanded.

### The compulsory vote statistics

According to the statistics suggested by International Institute for Democracy and Electoral Assistance (IDEA), one of the most important specialized organization, the penalties imposed regarding the compulsory vote can be classified in 5 categories:

- The Justification for voting absence
- The Penalty
- The Possibility of Criminal Conviction
- The Restriction of some Civil Rights and Liberties. The citizen's voting non-attendance can be punished by restricting some Civil rights and liberties, both as for the voting right as well as for other things
  - Informal penalties. Besides the already mentioned types of penalties, the voting absence may be punished by a series of informal measures that may affect the incentives of voters. In Italy, while there is no formal penalty for voting absence, this led to a rise of difficult access to some social services such like kindergarten.

State/ Country	Penalties	Application	Introductory year	Stipulated in Constitution?	Comments
Argentina	1, 2, , 4	Yes	1912	(Art. 37)	-
Australia	1, 2	Yes	1924	No	-
Belgium	1, 2, 4, 5	Yes	1919(for men)	Yes (Art. 62)	Since 1949 for women
Bolivia	4	No	1952	Yes (Art. 219)	Valid for married people of 18, and for single persons of 21
Brasil	2	Yes	1932	No	Not valid for illiterates over 70. Persons enlisted for military service
Chile	1, 2, 3	Yes	1925(?)	Yes (Art. 15)	-
Cyprus	1, 2	Yes	1960	Yes	-
The Dominican Republic	It doesn't exist	No	1966	Yes (Art. 88)	Starting from 18, regardless the age For married people The military and members of National Police Department can't vote
Ecuador	2	Yes	1936	Yes (Art. 88)	Obligatory only for literate people between 18-65

Egypt	1, 2, 3	No	1956	No	-
Fiji	1, 2, 3	Yes	1990	Yes (Art. 56)	-
Greece	1, 5	Yes	1929	Yes (Art. 51)	-
Guatemala	It doesn't exist	No	1965	Yes(Art. 136)	The soldiers are not allowed to vote
Luxemburg	1, 2	Yes	1919	No	There is optional for those over 70
Mexico	It doesn't exist	No	1917	Yes (Art.36)	-
Nauru	1, 2	Yes	1965	No	-
Paraguay	2	No	1967	Yes (Art. 118)	Optional for those over 75
Peru	2, 4	Yes	1933	Yes (Art. 31)	Optional for those over 75
Filipines	It doesn't exist	No	Enacted between 1972-1686 by Martial Law		
Spain	N/A	No	Enacted between 1907-1923		
Singapore	4	Yes	1958	No	Removal from the voter rolls with the possibility of reinstatement with a justified demand
Switzerland (Schaffhausen)	2	Yes	1904	Yes (Art. 23 (2))	Valid only in Schaffhausen canton. In the other cantons the law was repealed in 1974
Turkey	1, 2	Yes	N/A	Yes (Art. 175)	-
Uruguay	2, 4	Yes	1934	Yes (Art.77)	The law was repealed in 1970
USA(Georgia)	N/A	No			Mentioned in the Constitution of the State of Georgia 1777
Venezuela	N/A	N/A	1958		The law was repealed in 1993

- **Voting statistics in Romania**

We consider it proper to approach the introduction of compulsory vote in Romania as well, especially noticing that voting people are fewer and fewer in the political events of the state.

**The Evolution of the votes in the Romanian parliamentary elections**

The elections year	Voting records	The differences from the first elections
1990	86,18	
1992	76,29	-9,89
1996	76,01	-10,17
2000	65,31	-20,87
2004	58,50	-27,68
2008	39,20	-46,98

**The Evolution of the votes for Romania’s referendums**

The elections year	Voting records	The differences from the first elections
1992	67	
2003	57,70	-2,30
2007	44,45	-22,55
2009	27, 51	-39,49

**Arguments for the introduction of the compulsory vote:** The increasing number of voters represents a predictable effect of the citizens’ right to vote, with the following results: a higher legitimacy of the political leadership, the development of the civil awareness (as the vote is considered a civic duty like the tax payment), people’s motivation to be more concerned with the social issues and then to reflect upon them, therefore to get rid of isolation and indifference. The vote may be instructive and assignable.

**Arguments against the introduction of the compulsory vote:** The right to vote represents one of the fundamental political rights for everybody and people are free to exert it or not as in the case of all the rights and liberties in a state. The citizen’s vote is constitutionally considered a “right” not an “obligation” and therefore it should not be imposed by force; as a side effect of the compulsory vote there might be violated other rights (for the members of some religious communities whose beliefs ban them to be politically involved); the increasing number of cancelled or aleatory votes; the citizen, even if constraint by the coercitive power of the state, may disapprove with the compulsory vote cheating the ballot that hence contains void voting papers; the exclusion of the non-attendance in the poll (accepted as the citizen’s elective decision)