# A PROPOSAL FOR ELECTING THE EUROPEAN GOVERNMENT

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# 1
# Introduction[1]

As is known, voter turnout was significantly low in the European Parliament (EP) election of June 7th 2009. The European average was 43%, while turnout in Spain reached 44.9%[2]. Even more serious is the fact that turnout has been decreasing since elections to the EP began in 1979[3]. All are agreed: European democracy cannot continue develop when more than half of voters don´t cast their vote in the ballot-box. We must react; something must be done to begin to correct this trend.

What is more, this low turnout produces a clear conservative bias in the results of European elections. In fact, according to the Pavlovic analysis (2009) on the June 7 European elections, published by the Ideas Foundation[4], the majority of European citizens position themselves politically on the left. How can it be, then, that the EPP (European People's Party) won more seats in the EP on June 7 than the PES (Party of European Socialists)? At least part of the answer lies in the fact that left wing voters have lower participation rates in European elections than the right (from 1989 to 2004, 62.65% of Europe's abstention came from the political left[5]). The conclusion is clear: a higher turnout would benefit European democracy. In addition, it is very probable that a higher turnout would better reflect how voters position themselves ideologically in the EU.

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1    My gratitude to Guillermo Moreno, María Zettel and Johannes von Stritzky for their contributions to this study. My thanks also to Carlos Mulas and an anonymous reader for their comments on previous versions of this study. The document benefited from remarks made by the participants at the workshop on European Governance held at the Ideas Foundation on July 9th 2009.

2    Final data from the European Parliament on the elections of June 7th 2009. See: http://www.europarl. europa.eu/parliament/archive/elections2009/en/turnout_en.html

3    See Table 1 and Graph 1 in the Annex to this study.

4    See Pavlovic, "How do Spaniards vote in European Elections?" *DT Fundación Ideas 1/2009.* See also Tables 2 and 3 in the Annex to this study.

5    Upon conclusion of this study (July 30th 2009) post-election surveys were unavailable and I therefore lacked more reliable data on the mobilization of the left with regards to the June elections. However, as Pavlovic (2009) points out, there are solid indications that the stated trend of a low level of mobilization of the European left in EP elections from 1989 to 2004 was again the case in the latest election.

There are undoubtedly many reasons that account for the low turnout in European elections: the European Union is remote from voters; there are no truly European political parties, at least not as we understand them at the national level; there is no sense of pan-European *demos,* etc. Then there are strictly circumstantial factors: the economic crisis has probably dissuaded voters from voting, more concerned with weathering the storm than with European niceties. Lastly, there are also reasons related to the current institutional design of the Union that could explain why ever fewer people vote in European elections.

In this discussion paper I will focus on the latter sort of reasons, those related to the institutional design of the EU, and one in particular. The low turnout in EP elections is strongly linked to the fact that voters do not elect a government, but only members to the European Parliament. In our political systems, even in strictly parliamentary ones, voters in reality elect the person or persons who will later form government, and not so much (or not only, or not fundamentally) the parliament or members of parliament. However, this changes at the European level. What people vote for in the EP is not for government, but only for members of parliament. The election of the European Commission, Europe's government, is thus unconnected to the EP elections in the sense that voters are unaware of the candidates who could become President of the Commission or even commissioners. From this perspective, it is a "blind election" and, therefore, unattractive to the majority of voters. It is as if people were asked to buy a movie ticket without knowing in advance the film to be shown: clearly a far from enticing offer.

There is broad agreement that precisely this lack of connection between the EP election and the election of the European Government is one of the reasons why people are dissuaded from voting for the EP[6]. In this study I accordingly argue that in EP elections people should be invited to vote for a European Government, and not merely for a number of members of parliament. Before embarking on my proposal, let me briefly restate the current situation of how the European Commission is elected, what changes the Treaty of Lisbon introduces in this respect, and why we find ourselves in this odd position of a "blind election".

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[6]   According to Majone: "The main reason for these disappointing results is that elections for the EP are not fought as European elections, but as "national elections of the second order"; that is to say, they are not fought about European issues, *much less about the formation of a European government*, but about national issues (…). Thus, it is not surprising that public participation in European elections is significantly lower than in national elections" (my italics). See Majone, Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth (Oxford University Press, 2005), p. 63. In our country, when discussing the turnout problems in European elections, Timothy Garton Ash indicates "there are a few simple and attractive things we could do to support democracy. One would be the direct election throughout Europe of the President of the European Commission (…)." See "Elecciones europeas y nacionales," *El País*, 3/05/2009.

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# 2
# How the Commission is Elected: the Current Situation

Article 214 of the Treaty of the European Community establishes the method by which the Commission is currently elected. The article is extremely complex and reflects the so-called principle of EC "institutional balance", the European version of the American concept of "checks and balances".

To begin with, it is the European Council which "nominates" the person who will become President of the European Commission. The candidates are known after the EP elections are over, never beforehand. Following nomination, the EP comes into play and must approve the nominated candidate. Since this article was introduced, the EP has never rejected a candidate for President of the Commission nominated by the Council. And in theory, under the current rules, the President of the Commission (as well as the commissioners) does not necessarily have to come from the majority voted for in each EP election: he needs only have the support of the majority of the EP, irrespective of his political affiliation.

In any case, the Council and the approved President then draw up a list with the Commission members, compiled from proposals made by Member States. The idea is to involve the President of the Commission in the decision-making process that elects the Commissioners. This article also aims to make the President a "*primus inter pares*", to give him greater political weight than the other members of the Commission. National factors also emerge here very strongly: it is very rare for the Council to veto a candidate proposed by a Member State. What happens in reality is that the Council simply endorses the candidates proposed by each Member State.

Once the list is ready, the President and the other members nominated by the Council have to be endorsed by the European Parliament, in block vote format. Two comments on this: first, there is a certain redundancy since the President of the Commission has already been approved by the European Parliament. Second, voting by block, and not member by member, is designed to preserve the relative independence of the Commission from the remaining institutions. However, at the same time it curbs the European Parliament's capacity of scrutiny, since it must choose between vetoing the entire *college*, if it has issues with some of its members, or accepting all the members to avoid questioning the entire block. This "take it or leave it" situation is probably one of the oddest features of

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the Commission's election system, especially given that the election is not based on political ideology, but rather on competencies, merits and abilities[7].

This is, in short, the current system by which the European Commission, Europe's government, is elected. It is clearly an extremely complex system which tries to juggle and balance the interests of Member States, the Council, the EP and the President of the Commission. It is impossible to explain the process to anyone who is not an expert in European affairs. And so it is not surprising that the question of who was to preside the European Government was not discussed at all during the campaigns for the elections of June 7th 2009, in Spain or elsewhere in the European Union.

Why is the Commission elected this way? Essentially it is a nationalistic reflex. The founding fathers of the European Union did not wish to create an institution (the European Commission) that would in any way overshadow national governments. Thus they conceived this institution, which is closer to an independent agency than a national government. In the words of Monnet, one of the EU founding fathers, the Commission was conceived not as an institution "that delivers" but rather as one that "makes others deliver"[8]. At that time, 1957, when the EP did not exist, it made sense to shape the European Commission on the model of a technical and bureaucratic agency instead of a political government. The legitimacy of the Commission was technical, not political, and therefore the institution would be assessed on the basis of its results, not on its ability to implement certain political agendas. Over time, however, the EP has been given a more relevant role, including in the election of the Commission. As a European democracy emerged through the European Parliament, then, the Commission's basis for legitimacy progressively evolved from being merely technical to one of a political nature. This change was inexorable in light of the increasing relevance of the EP within the Union.

Thus we are left with a situation in which the Commission, because of how it is elected, is not fully identified with European Government, but nor is it any longer seen as a merely technical and bureaucratic agency. In a way one could say that it hangs in a void of legitimacy, a kind of institutional limbo. It is not surprising that this institution, once the true "motor" of European integration, finds it increasingly difficult to exercise true leadership in Europe.

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7    In fact EC *praxis* allows for a certain degree of flexibility here. For example, the proposed Italian candidate for commissioner, Rocco Buriglione, was frozen out by the corresponding EP commission.

8    See Monnet, *Memoires (London, Collins, 1978).*

# 3
# Changes Introduced by the Treaty of Lisbon

Article 17.7 of the consolidated version of the Treaty of Lisbon (Treaty on European Union) establishes a new system for electing the European Commission.

In truth this article establishes few but relevant changes with regards to the current rule discussed in the previous section. The Council will continue to "propose" (and not "nominate") a candidate for President of the Commission, who the EP will have to approve if it sees fit. However, unlike the current situation, the proposal of the Council must "take into account" the results of the elections to the European Parliament. This wording is of course open to interpretation. It could be understood in the sense that the Council will take into account the EP election results but not be bound by them. It could also be understood in the sense that the Council is effectively bound by the results. We have yet to see what will happen in practice after the new article comes into force, but what already appears to be clear is that if the Council deviates in its choice from the majority voted in the EP elections, it will have to justify its reasons in full. On the other hand, logic would suggest that since the approval of the President of the Commission is subject to EP majority (qualified majority is required), the Council should not stray too far if it wants the candidate to be approved by the EP. In any case, despite this improvement in the Treaty of Lisbon, voters will still go to European polls without knowing the candidates for the position of President of the Commission.

A similar situation occurs with the election of commissioners. The system set out in the Treaty of Lisbon is practically identical to the current one (despite minor changes mainly in the wording). Essentially, each Member State will continue to propose "its" commissioner. On the basis of the proposals of Member States and in consultation with the President of the Commission, the Council will present its list of candidates to the EP. Finally, the EP will decide whether to approve the Commission, again in block vote format.

# 4
# Reform Proposal:
# Electing a European Government
# via the European Parliament

Having reviewed the current institutional situation and the changes to be introduced by Lisbon if the Treaty is finally implemented, I now present my proposal to elect a European Government via the European Parliament. The proposal has two variants, detailed as follows:

## 4. 1 First Variant: a "Single Color" Government European

The idea is simple. To begin with, each European political party, those to which the national parties belong, would present a candidate for President of the European Commission. In terms of the two major European political parties, then, the Party of European Socialists would propose one candidate for President and the European People's Party another. The candidate would head the list of one of the national parties included in the European party groups: to use the same example, the PES candidate for President of the Commission could be the head of list of the Swedish Socialist Party, and the EPP's candidate could be the head of the list of the German CDU-CSU.

This way, citizens could clearly identify the person they would be electing in the polls. If their political option won the election, they would know in advance who would chair the Commission and who would form the European Government. In other words, they would "have a face" to elect to the European Parliament. Elections to the EP would no longer be "blind" for European citizens.

The candidate of the winning party would become President of the Commission once the EP was formed. He or she would have to form government. Two options are possible: grant the President total freedom to form a government or limit the choices to members of the parties of other Member States of the winning European party. My view is that the second option would be more effective in allowing citizens to identify who they vote for the European Parliament. I will therefore describe this in more detail.

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For example, one possibility could be to make each head of the national party lists part of the Commission in case of victory. Thus, if the PES won, the head of party lists in Spain, Greece, Poland etc, up to the 26 heads of list of each national party, would become part of the Commission (number 27 would correspond to the President of the Commission).

This solution offers several advantages: citizens would not only know in advance the name of the President of the Commission if their party won, they would also know that the head of the list of the national party they voted for would be part of the government. Using the same example, if the winning party was the PES, the head of list of the PSOE (the Spanish Socialist Workers´ Party) would join the Commission, and if the winning party were the EPP, the head of list of the PP (the Spanish People's Party) would join the Commission.

In addition, the national element would still be present in the European Commission. I believe this national "correction" of a Commission arising from the EP is absolutely fundamental and it would be a serious mistake to eliminate it. Among other duties, the Commissioners perform the function of introducing the national *acquis*, the perspective of each country, when the Commission is making decisions. This input, which could be viewed on the surface as diminishing the Commission's independence, is in reality a guarantee that the best information possible will be included in each file studied by the Commission, as well as an invaluable source of national pluralism. To ensure the Commission's neutrality, block voting should be maintained in the institution, and consideration could be given to establish and develop abstention methods for commissioners directly concerned with a national issue.

In addition, the European Government emerging from elections to the EP would have a specific political coloring. As mentioned above, the reason why the Commission currently lacks political color is related to its original conception as an independent agency, rather than a real European Government. With the development of parliamentary democracy within the EU, this exception no longer makes sense, as explained above. People would know that if they voted for a left-wing party, the European Government would be left wing, and if they voted for a conservative party, the European Government would be conservative.

Lastly, if the European Government shared the political shading of the majority voted into the European Parliament, this would increase the stability and coherence of the European Commission's proposed and implemented policies. People would no longer have the feeling of a split of personality at the institutional level, with the Commission moving in one direction and the EP in another.

Clarity is thus the biggest benefit of this proposal, at the cost of reducing the President of the Commission's freedom when electing his/her team. The team of commissioners would already be decided in a way. However, I believe this would strengthen the European dimension of national political parties. Were this institutional design chosen, it would be hardly surprising if European political parties developed informal methods to consult the presidential candidate on the names of the heads of list in each national party. On the other hand, the President of the Commission would always have the power to decide which portfolio goes to each head of list.

## 4.2 Second Variant: a "Multicolored" European Government

The second variant is based to a great extent on the former, but differs in that the commissioners would not come from the political party winning the EP elections but from the heads of list of the parties winning at the national level.

Effectively, in this second variant the President of the Commission and the Vice-Presidents (among which would be the current "Mr. PESC" and future European Union High Representative for Foreign Affairs and Security Policy, equivalent to our national foreign affairs ministers) would come from the majority emerging in elections to the European Parliament. However, the remaining commissioners would be the heads of list of the parties winning the elections in each Member State. Continuing with our example, if the PES won the elections, the President and Vice-Presidents of the Commission would come from the PES. However if the PSOE won in Spain and the CDU in Germany, the "Spanish" commissioner would be the head of PSOE's list, while the "German" one would be head of the CDU list.

This would thus form a "multicolored" European Government. In such a government, individuals drawn from different political families would co-exist. From a turnout perspective, given that European election constituencies would be based on national constituencies, the main benefit of this proposal is that the citizens of each State would know that if their chosen party won nationally, then the head of list would become part of the Commission, irrespective of the overall results of the elections Europe-wide. The main cost of this option, though, is that once the Commission is formed, citizens would find it hard to identify the Commission as a truly European Government featuring a specific political agenda, left or right wing, as they do at national level. This could also have a negative effect on the turnout of the subsequent elections, though this effect would be partly compensated by the incentive of knowing the candidate of the winning national party would become a member of the Commission.

From the perspective of deepening democracy within the Union, it is clear that this variant would have some costs, since we would again see something of a gulf between the actions of the Commission, by definition a "multicolored" government, and the European Parliament's work, which could have a majority of a clearly defined ideology. At least to an extent the political agendas of the Commission and the EP would differ. However, it is also true that this variant would have the advantage of strengthening democracy in the Union, by counteracting the effect that highly ideological policies from the European Union could have on national politics.

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# 5
# Carrot and Stick

If the institutional reform advocated here were adopted, we would surely see a higher turnout in EP elections. But what turnout rate is enough to legitimize a "political" European Government? It must be remembered that the institutional changes would be significant: governments of Member States emerging from their respective parliaments would co-exist with a European Government, also legitimized through polls. Obviously, with low turnout rates (that is, higher than at present but not high enough), the political mandate of the European Government would be undermined, and so also its capacity to take decisions and impose them on national governments.

For this reason I propose a 60% turnout threshold to initiate the process of electing a European Government through the European Parliament[9]. If turnout reached this level, the European Government would be elected in the proposed manner. However, if the magic number were not achieved, the European Government would be elected in the current manner. European citizens would thus know that if they voted en masse they would get the carrot of electing a European Government. Meanwhile, if they stayed at home, they would pay the price of having a European Commission not elected directly via the European Parliament. At the same time, a 60% threshold would also mean that European citizens' ideological positions would be better reflected in the results of European elections[10].

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9       The average turnout in EP elections is 53.44% (1979-2009)
10      As Carlos Mulas-Granados remarks, social democracy is a social majority that is only represented as a minority in the European Parliament, due to the low turnout in such elections and to the fragmentation of left-wing parties in the EU. See Mulas-Granados, "Progresistas: una mayoría en minoría", *El País*, 16/06/2009.

# 6
# Conclusions

As may be seen, each of the proposed variants has its costs and benefits, from a turnout perspective but also from the point of view of democracy in the Union, an aspect we cannot overlook when discussing European Government and parliament. Regardless of which variant is chosen, it is absolutely vital that we establish a more direct link between the elections for the EP and the election of Europe's government, the European Commission. The second variant ("multicolored" government) lies halfway between the current situation and a genuine European Government; the first variant ("single color" government) covers the entire distance between the two extremes. Perhaps it would be more realistic initially to apply the second variant and then move on to the first, at a later stage and with greater democratic maturity in the EU. Or we could take the view that European citizens are mature enough to take the step needed to create a European Government, similar to those we are familiar with at the national level.

The effect of such a reform should be a reasonable increase in turnout at European parliamentary elections. However, should this not prove a sufficient incentive for voters, a minimum turnout threshold (60%) could be established in order to democratically elect a European Government. This would reinforce the Commission and would also allow the electoral results to reflect the ideological attitudes of European citizens more realistically.

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# Bibliography

Garton Ash, Timothy (2009), Elecciones europeas y nacionales. *El País*, 03/05/2009.

Majone, Giandomenico (2005), *Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth.* Oxford.

Monnet, Jean (1985), *Memorias.* Siglo XXI de España Editores.

Mulas-Granados, Carlos (2009): Progresistas: una mayoría en minoría. *El País*, 16/06/2009.

Pavlovic, Ksenija (2009), *¿Cómo votan los españoles en las elecciones europeas?* Documento de Trabajo (DT) Fundación Ideas 1/2009*.*

# Annex: Tables and Graphs

**Table 1.** Turnout in European Parliament elections (1979-2009)

| Election year | Turnout (%) |
|---|---|
| 1979 - EU9 | 61.99 |
| 1984 - EU10 | 58.98 |
| 1989 - EU12 | 58.41 |
| 1994 - EU12 | 56.67 |
| 1999 - EU15 | 49.51 |
| 2004 - EU25 | 45.47 |
| 2009 - EU27 | 43.07 |

**Source:** http://www.elections2009-results.eu/es/turnout_es.html

**Table 2.** Abstention rates by ideology in Spain

| Ideological distribution of Spanish voters and abstention rates (1989-2004) | | |
|---|---|---|
| Ideological self-positioning | Percentage | Abstention |
| Left wing | 11.23 | 10.32 |
| 2 | 7.76 | 8.88 |
| 3 | 17.56 | 18.2 |
| 4 | 13.09 | 14.1 |
| 5 | 23.52 | 26.53 |
| 6 | 7.64 | 8.21 |
| 7 | 7.06 | 4.66 |
| 8 | 5.66 | 5.11 |
| 9 | 1.61 | 0.89 |
| Right wing | 4.87 | 3.11 |

**Source:** European Election Study (EES) Trend life. Version 0.96 May 3, 2008 and Pavlovic (2009)

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**Table 3.** Abstention rates by ideology in Europe

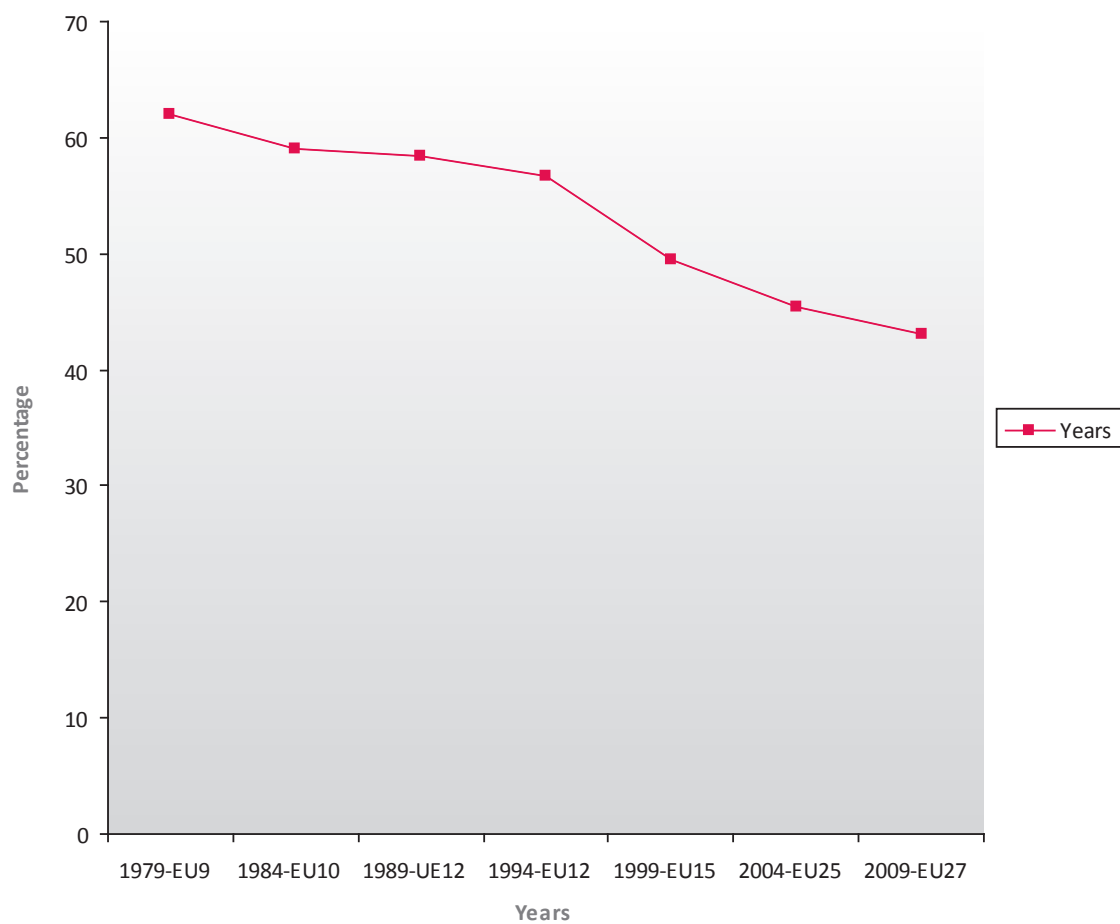| Ideological distribution of European voters and abstention rates (1989-2004) | | |
|---|---|---|
| Ideological self-positioning | Percentage | Abstention |
| Left wing | 6.33 | 5.64 |
| 2 | 4.65 | 4.12 |
| 3 | 10.27 | 9.80 |
| 4 | 10.50 | 10.39 |
| 5 | 27.11 | 32.70 |
| 6 | 11.63 | 11.84 |
| 7 | 10.54 | 9.81 |
| 8 | 9.76 | 8.42 |
| 9 | 3.33 | 2.68 |
| Right wing | 5.89 | 4.61 |

**Source:** European Election Study (EES) Trend life. Version 0.96 May 3, 2008 and Pavlovic (2009)

**Table 4.** Abstention rate in European elections in Spain, by ideology

| Left/Right | All elections | 1989 | 1994 | 1999 | 2004 |
|---|---|---|---|---|---|
| Left | 10.32 | 9.77 | 10.13 | 12.34 | 9.84 |
| 2 | 8.88 | 13.95 | 9.25 | 5.84 | 6.56 |
| 3 | 18.2 | 17.67 | 14.54 | 11.04 | 24.92 |
| 4 | 14.1 | 15.81 | 14.98 | 6.49 | 16.07 |
| 5 | 26.53 | 21.4 | 25.55 | 37.01 | 25.57 |
| 6 | 8.21 | 6.98 | 8.81 | 8.44 | 8.52 |
| 7 | 4.66 | 5.58 | 3.96 | 6.49 | 3.61 |
| 8 | 5.11 | 5.12 | 8.37 | 3.25 | 3.61 |
| 9 | 0.89 | 0.93 | 1.32 | 1.3 | 0.33 |
| Right | 3.11 | 2.79 | 3.08 | 7.79 | 0.98 |

**Source:** European Election Study (EES) Trend life. Version 0.96 May 3, 2008 and Pavlovic (2009)

**Graph 1.** Turnout European Parliament Elections 1979-2009

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