Second-order Electoral Systems in the European Union

Régis Dandoy

The elections of May 2014 were the occasion of renewing all seats in the European Parliament. Voters from 28 European countries elected their 751 representatives. Yet, these representatives have not been elected the same way, mainly depending on the member state where they were presented as candidates. Based on their analysis of the first European elections in 1979, Reif and Schmitt concluded that "European Parliament direct elections should be treated as nine simultaneous national second-order elections" (1980). The second-order election model is very often used by scholars analysing European elections and broadly relies on the idea that national considerations, actors and issues have a direct impact on the European election results.

This article is based on the second-order election argument. Following Reif and Schmitt (1980), the subsequent studies mostly focused on the analysis of voting behaviour (turnout, vote shares for governing or opposition parties, etc.), vote determinants and electoral campaigns. With the exception of studies focusing on the position of European elections in the national cycle (i.e. election calendar), scholars have rarely included elements related to the electoral system into their analyses.

However, the electoral system is crucial if one wants to fully understand an electoral process. It regulates for example who has the right to elect, who has the right to be elected, how the elections are organised, or how the election results can be correctly established and interpreted the day after the elections. The electoral system does not only affect the election results, but also the overall support and trust that citizens, candidates and decision-makers have regarding the electoral process. In addition, the choice of an electoral system is regarded as one of the foundations of democracy because of its important political effects. There is no perfect electoral system, but every society needs to find the most appropriate electoral system that best suits it, mainly depending on its national tradition, its political cleavages and the current political forces.

Similarly to the basic idea of the second-order model according to which voting behaviour for the European elections is determined by national considerations, the electoral system used for the European elections is also dominated by national considerations. Even if there are some common rules for the organisation of the elections occurring every five years in the 28 member states of the European Union, these European elections are still largely governed by national legislation. There is a large heterogeneity

of electoral systems involved in the election of the members of the European Parliament (MEPs) and each of them relies on national specificities. This article intends to demonstrate that – from the point of view of the electoral system - European elections are not European but that they mostly rely on national (and in some cases sub-national) electoral systems.

1. Common European-wide rules

Originally, the European Parliamentary Assembly was proportionally composed of members appointed by the national parliaments of Member States. After the Treaty of Rome of 1957, the Parliamentary Assembly was composed of 142 members representing the six founding Member States. In 1962, the European Parliamentary Assembly became the European Parliament but remained indirectly elected.[1]

In 1976, the Council of the EU agreed on an "Act concerning the election of the representatives of the European Parliament by direct universal suffrage".[2] The adopted principles are the following: members of the European Parliament are directly elected by universal suffrage and for a term of five years; elections are held in the same week, starting on a Thursday morning and ending on Sunday evening[3] ; and, more importantly, is composed of a limited number of seats per member state (this number of seats is broadly proportional to the country's population, even if there was an equal number of seats for the four largest countries at that time). Rather than being composed of European representatives, the European Parliament is composed of directly elected national delegations. Broadly speaking, an Italian voter cannot vote for a German party for the European parliament. Voters and candidates are clustered by nations and the electoral process follows national sets of rules and considerations. Even if there have been some recent harmonization of the rules regarding the elections of the members of the European Parliament, European elections are still - to a large extent - governed by national legislation.[4]

The most important common rules for the European elections in the 28 countries concern the three main principles decided in 1976 and presented above. In 1992, the Treaty of Maastricht introduced the right for every citizen of the Union residing in a member state of which he is not a national to vote and to stand as a candidate in elections to the European parliament in the member state in which he resides (Article 8b). In 2002, the Council amended the original 1976 Act and introduced the rule that the members of the European parliament are to be elected on the basis of proportional representation, using either a list system or single transferable vote.

This decision of the Council also confirmed the importance of national electoral rules. Member states are free to establish constituencies or subdivide their electoral areas as they wished, provided this did not affect the proportional nature of the voting system. In addition, member states are also free to establish a minimum threshold for the allocation of seats, provided this did not exceed five per cent of the votes.

As mentioned above, an electoral system needs to adapt to the structure of the society, the existing power relations between political forces, as well as to

1 Even if the rule was applied in the national legislation of several member states, the incompatibility of the European parliamentary mandate with a national parliamentary mandate was confirmed by a resolution of the parliament in 1988 and a decision of the Council in 2002.

2 OJ L 278 of 8 October 1976.

3 The counting of votes may not begin until after the close of polling in all Member States, i.e. on Sunday evening.

4 At several occasions, the European parliament tried to strengthen theses common set of rules (such as the proposal made in 1993 to a uniform electoral procedure based on proportional representation with a 5% minimum threshold) but these ideas were rejected by the Council.

the overall objectives for its future development. The European Union is not a uniform society, but rather consists in a sum of 28 national traditions. Apart from a few common electoral rules, all other elements of the electoral system vary across countries. In the following sections, we will analyse the most important national rules concerning five main elements of the electoral system for the European elections: voters; electoral calendar; seat distribution; electoral districts.

2. Voters and candidates

The direct election of the members of the European Parliament by universal suffrage broadly means that (almost) all citizens are entitled to be a voter for these elections. The same logic applies to the citizens that are entitled to be a candidate. This is one of the keys of the representative democracy: the larger the amount of the voters and the lower the participation threshold, the better the electoral process. Based on this logic, the Treaty of Maastricht introduced in 1992 the right for every citizen of the Union residing in a Member State of which he is not a national to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides.

Yet, this is the only rule at the EU level that regulates who can be considered as a voter and who can be considered as a candidate for the European elections. Each national legislation determines who belongs to these two sets of citizens, and these rules are often similar to the ones used for national elections. There are indeed numerous limitations to the list of possible candidates in an election. Without going into further details, some countries for example forbid the holders of certain mandates (ex. national parliamentarians or local mayors) of being candidates, while others prevent the members of armed forces or prisoners, as well as relatives to other candidates to stand in the elections as candidates. Yet, the most important variable to take into account in determining who is authorized to be candidate remains age. The minimum age for candidacy in the European elections is 18 years in 15 European countries, followed by 21 years in 10 countries, 23 years in Romania and finally 25 years in Greece and Italy.

Gender has often been regulated by the member states for their elections, including for the European Parliament. The most common rules concern the representation of candidates from both gender on the electoral lists. For example, this proportion of candidates from both gender amounts to at least one third in Italy and Portugal, 40% in Slovenia and in Spain, or a gender parity (i.e. the same number of men and women on candidates' lists) in Belgium and in France.

Compared to candidacies, age is less important for determining who has the right to vote in the European elections. In all countries, voting age is 18 years, with the exception of Austria where it has been lowered to 16 years. Vote from abroad (i.e. whether nationals from a certain country living outside the territory of the EU have the right to participate in the European elections) is possible in 24 countries out of the 28, but its modalities greatly vary across countries. In some countries, vote from abroad is only possible at the embassy while it is possible by mail or e-voting in others, etc.

But the most important aspects concerns compulsory voting and automatic registration of voters. Voting is compulsory in four countries of the EU (Belgium, Greece, Luxemburg, Malta) while it is facultative in all other countries. In those four countries, sanctions for non-voters vary greatly, from a quasi-absence of sanctions in Greece to potentially large fines in Luxemburg. Similarly, voters are automatically registered in some countries while they have to register (sometimes months) in advance in some others. Obviously, these specificities have an important impact on turnout in the European

elections as countries with compulsory voting have proved to have a higher turnout than other countries (See Figure 1).

3. The electoral calendar

In 1976, the Council of the EU decided that European elections are to be held every five years but in the same week across the 28 European countries. Within these four days (from Thursday morning to Sunday evening), member states are free to decide on the exact dates and hours for the voting process on their territory. In 2014, the majority of the member states (21 countries) decided to hold elections on Sunday 25 May. Netherlands and UK organised their European elections on the 22 May, Ireland on the 23 May, Latvia, Malta and the Slovak Republic on the 24 May,[5] while the Czech Republic organized it over two days, on the 23 and 24 May. These variations may for example explain differences in turnout rates as many studies indicate that Sunday voting leads to an increase of turnout.

The period of time polling stations are open also varies across countries. For example in Ireland, polling stations were open from 7.00 to 22.00 on Sunday 25 May, i.e. over a period of no less than 15 hours. In some other countries, polling stations were open only during four or five hours. Keeping in mind that the counting of votes may not begin until after the close of polling in all member states, it means that Dutch and British voters had to wait for about four days before getting the first results.

But the democratic regimes of European member states are based on a multiplicity of elections, at different policy levels (from the local to the national), for different institutions (mainly legislative and executive positions) and including processes of direct democracy. Indeed, European elections are not the only electoral process that may occur on the same day. For obvious reasons of scale economy and in order to reduce voter fatigue, many countries decide to organise different elections simultaneously.

This was the case of the 2014 European elections, which were organised on the same day as other types of elections. It coincided with regional, community and national elections in Belgium, with the second round of the presidential elections in Lithuania and with a national referendum in Denmark. European elections were also organised simultaneously with local elections in Ireland (as well as two national by-elections), in the UK and in Greece (second round). Finally, it also coincided with regional elections in two Italian regions, 11 German Lander, as well as referendums in two Lander in this latter country.

In most of these countries, the direct consequence of this simultaneity of European elections with another election(s) is that the European campaign is shadowed by policy issues belonging to another policy levels. Voters, parties, candidates and the media pay comparatively less attention to the European issues and more attention to the campaign issues at stake in the other election(s). This is not without consequence for turnout in European elections and may trigger peculiar forms of split-ticket voting, leading to more vote shares for protest and radical parties.

The last important element concerning the electoral calendar is related to the position of European elections in the national electoral cycle. European elections occur at different stages of the national political systems' respective electoral cycle and this has a differentiated impact on their results (Reif and Schmitt, 1980). One of the main elements of the second-order model is indeed that the pattern at stake is a cyclical one, meaning that - at mid-term period - governing parties lose more support, than just before

5 As well as in the French Overseas Territories.

or after national elections. The same cyclical logic applies to the turnout rates (Schakel and Dandoy, 2014).

Consequently, the time that has passed since the last national parliamentary elections is crucial for the understanding of election results. In 2014, European elections occurred on average 726 days after the last national elections, which is almost exactly two years and at mid-term of most European countries. Yet, this figure varies greatly across countries, from 1480 and 1344 days after the last national elections respectively in the UK and in Sweden, to 49 days in Hungary. In Belgium, the European elections occurred on the same day as the national elections and four years after the previous ones.

4. Seat distribution

The system that transforms votes into seats is one of the cornerstones of an electoral system. The full understanding of these rules is crucial for parties that want to maximise the amount of votes they receive and for voters that want to maximise the utility of their vote. Broadly, electoral systems can be broadly broken down into three main types: majoritarian, proportional representation and mixed. But in 2002, the Council ruled that the members of the European Parliament are to be elected on the basis of proportional representation, using either a list system or single transferable vote.[6]

Within these margins, the systems that transform votes into seats for the 2014 elections can be clustered into four groups. A group of 18 countries used the preferential voting list system; France, Germany, Hungary, Portugal, Romania and Spain used a closed lists system; Ireland and Malta used the single transferable vote system; while Luxembourg used the system of *panachage*. The UK is a peculiar country as it uses two different systems: a closed list system in England, Wales and Scotland and the single transferable vote system in Northern Ireland.

There are further differences in terms of the formula used to transform votes into seats for closed lists, preferential voting and *panachage* systems (the single transferable vote system obviously does not require such formula). The d'Hondt formula is the most frequent (it is used in 13 European countries), but there are exceptions, such as the Hagenbach-Bischoff formula (in Lithuania, Slovakia and Luxemburg), the Sainte-Laguë formula (in Germany, Latvia and Sweden), the Hare-Niemeyer (in Bulgaria and Cyprus) and the Droop formula (in Greece).

The last element concerns the possibility of implementing an electoral threshold. According to the European common rules, member states are also free to establish a minimum threshold for the allocation of seats, provided this does not exceed five per cent of the votes. Yet, half of the EU countries decided not to implement an electoral threshold. Electoral thresholds are to be found in Cyprus (1,8%), in Germany and Greece (3%), Croatia, Italy and Sweden (4%) and in Austria, Belgium, France, Hungary, Latvia, Lithuania, Poland and Slovakia (5%). In Belgium and France, the electoral threshold is located at the district level while it remains at the national level in Poland.

5. Electoral districts

The last main aspect of the electoral system for the European elections concerns the electoral districts. Given the seat distribution in the assembly – each member state has a limited number of seats, which

6 Even if the system of proportional representation was already used by a large majority of member states before this Council decision at the occasion of previous elections.

is broadly based on its population size – one could believe that there are 28 electoral districts in the European elections, i.e. one district for each member state. Yet since 2002, member states are free to establish constituencies or subdivide their electoral areas as they wished.[7] The national districts can therefore be divided and adapted to the political and demographic situation in each country.

Unsurprisingly, a large majority of countries in the European Union decided to adopt one single constituency for these elections. But it is not the case for some others. There are three constituencies in Ireland, five constituencies in Italy, eight constituencies in France and 13 constituencies in Poland. In the UK, the system is even more complex as there are 12 electoral districts, among which one uses the single transferable vote system (Northern Ireland) while the 11 others use the closed list system. All these constituencies are based on territorial definition. In comparison, the three constituencies used in Belgium are completely unique as they are based on language rather than on territory or geography: there is a Dutch-speaking constituency, a French-speaking constituency and a German-speaking constituency.

The consequence of this subdivision of electoral districts is that MEPs from these countries are no longer national representatives in the European Parliament, but rather become regional MEPs (language-based MEPs in the Belgian case), that may want to defend the interests of their regional voters rather than their national interests. If one adds to this consideration the fact that many regional, regionalist or ethnic parties have managed to obtain a seat in the European Parliament,[8] it makes this assembly even more sub-national. Rather than being an assembly that has to deal with relations between European and national political forces, the European Parliament resembles more a real multi-level arena where European, national and regional interests are represented.

Another consequence concerns the number of seats per electoral district. A small number of seats is often associated to a larger disproportionality of the electoral system. Following Gallagher (1991), Emanuele classified countries according to their degree of disproportionality of the electoral system they used for the European elections (2014). The idea is that disproportional system favours large parties, especially if there is a large number of seats to be attributed in an electoral district. In May 2014, the largest electoral district is to be found in Germany with 96 seats and the smallest in the German-speaking constituency in Belgium (one seat). Yet, the division of a country into sub-national constituencies prevent parties from presenting candidates all over the country in order to obtain a seat. In large electoral districts, parties need a large number of votes to get one single seat while in smaller districts, parties only need to rely on a regional (or linguistic) basis to get elected.

Conclusion

Scholars that want to understand European elections face a complex challenge. Taking its unique electoral system into consideration, one may conclude that European elections are not European. Indeed, and even if there are some European-wide rules, each member-state kept a large autonomy in the determination of its own electoral system. Each country decided which rules to follow for these elections, based on its political tradition and history, its specific party system or even its electoral system at other levels of government. Consequently, there is a large variation of electoral

7 Provided this did not affect the proportional nature of the voting system.

8 See for example the DPS in Bulgaria, the LN in Italy, the LKS in Latvia, the UDMR in Romania, or even all Belgian political parties.

rules across European countries for the same election. The way a member of the European Parliament is elected in France is (completely) different from the way another MEP is elected in the UK or in Germany. Some countries implemented an electoral threshold, some gave voting rights to nationals living outside the EU, some sub-divided the constituency into smaller units, some regulated the representation of gender while some other countries organised other (more important) elections on the same day as the European elections.

These 28 national-based electoral systems can be broadly classified on three different continua. The first one ranges electoral systems according to their degree of disproportionality (for another example, see Emanuele, 2014). On one side of the continuum, proportional systems are to be found in countries with a single national electoral district, without election threshold, and using the Hare-Niemeyer or the Hagenbach-Bischoff formula method. On the other side, disproportional systems are characterized by small electoral districts (in small countries or based on a sub-division of the national district), a high election threshold, and using the D'Hondt formula.

Second, electoral systems can also be located on a candidate vs. list continuum. Depending on the chosen voting system, voters can express their preferences directly for individual candidates in the case of an open list system (and even for candidates on different lists in the *panachage* system) or only for the entire in the case of a closed list system.

Third, electoral systems can be classified based on their position on the inclusive – exclusive continuum. Inclusive electoral systems are to be found in countries with a low voting age, that allow citizens living outside the Union to vote, and with few barriers for candidacy. Exclusive electoral systems present the opposite characteristics. In this regard, countries with compulsory voting present a particular case as this specific rule increases turnout but at the same time creates a new obligation for voters. The same applies for countries using electronic voting that tend to increase participation and interest in the elections but at the same time creating larger inequalities among voters.

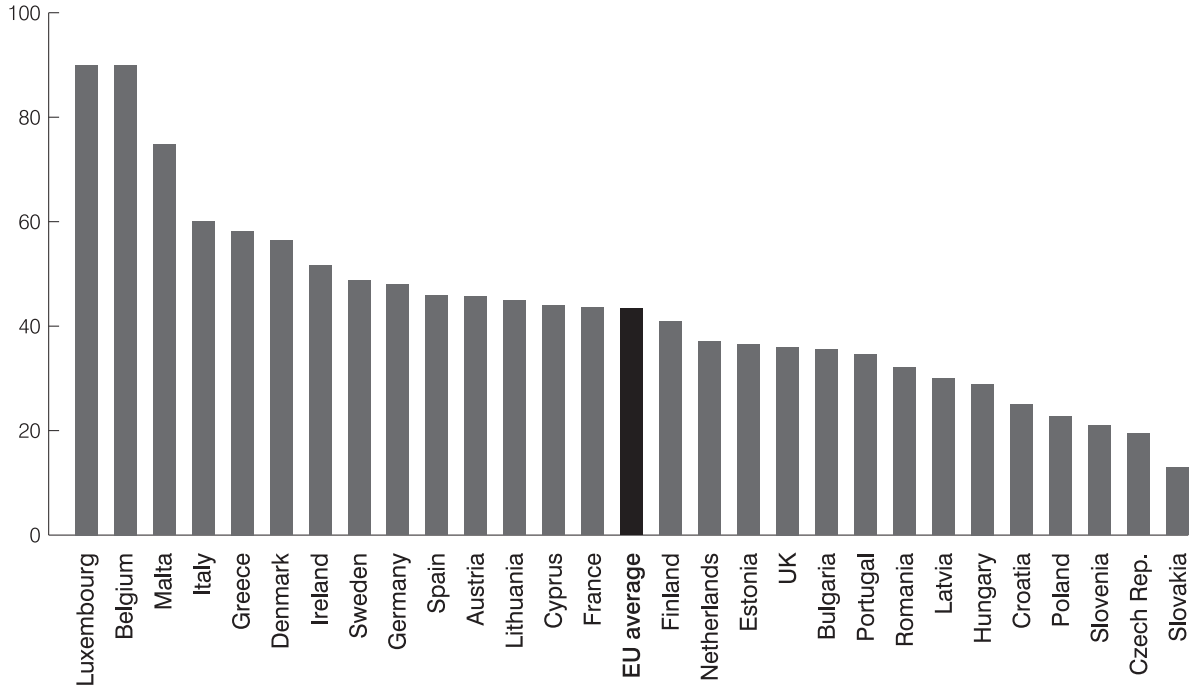
There are some exceptions to these 28 different electoral rules in the 28 member states. Over time, the European institutions tried to harmonize the rules that regulate the election of the European parliament across the continent. There are nowadays a few common electoral rules for all European member states for the elections of their representatives. The most important rules concern the vote of the European citizens in a member state of which he is not a national, the proportionality of the seat distribution based on the votes and the fact that all elections take place within the same week.

Based on the focus of this article on electoral systems, it is possible to calculate on how many elections took place in May 2014 for designating the 751 members of the European parliament. Even if they occurred in the same week in 28 countries, they concerned in no less than 66 different electoral districts. Other studies, focusing for example on party systems, would argue that these elections involved parties belonging to 29 different party systems as the Belgian party systems is completely split according to a linguistic divide between Dutch- and French-speaking parties, while others would emphasize the other types of contests that took place in parallel as, for example, concerning the European party that would claim the leadership of the European Commission. Obviously, different electoral systems have a direct impact on the way political parties adapt to the rules and how they respond to election results (Somer-Topcu and Zar, 2014).

Finally, based on the varying number of electoral districts per country and on the possibility for member-state to decentralise its electoral system, European elections of May 2014 combined supra-

national elements (common electoral rules as well as considerations concerning the *Spitzenkandidaten* (top candidates) for the presidency of the Commission), national elements (most of the electoral rules are to be found at the national level) as well as sub-national elements. In other words, the European elections are the perfect example of a multi-level electoral process that does not only opposes European and national elements but also takes into account the multi-level dimensions of the contemporary European democracies.[9]

Figure 1: Turnout for EU elections (in %)



9 Going one step further, one could argue that European elections are not second-order but third order (Reif, 1997). Indeed, second-order are conceptualized as less important than the national elections but they still directly produce a government. This is the case of most sub-national and local elections in European countries. On the contrary, European elections remain third-order elections as they produce an assembly, but do not directly lead to the production of a European government. This articulation of first-, second- and third-order elections leads to the understanding of a European arena that requires a multi-level approach rather than a bi-level analysis (European and national).

Figure 2: Difference in turnout between EU and national elections (in %)

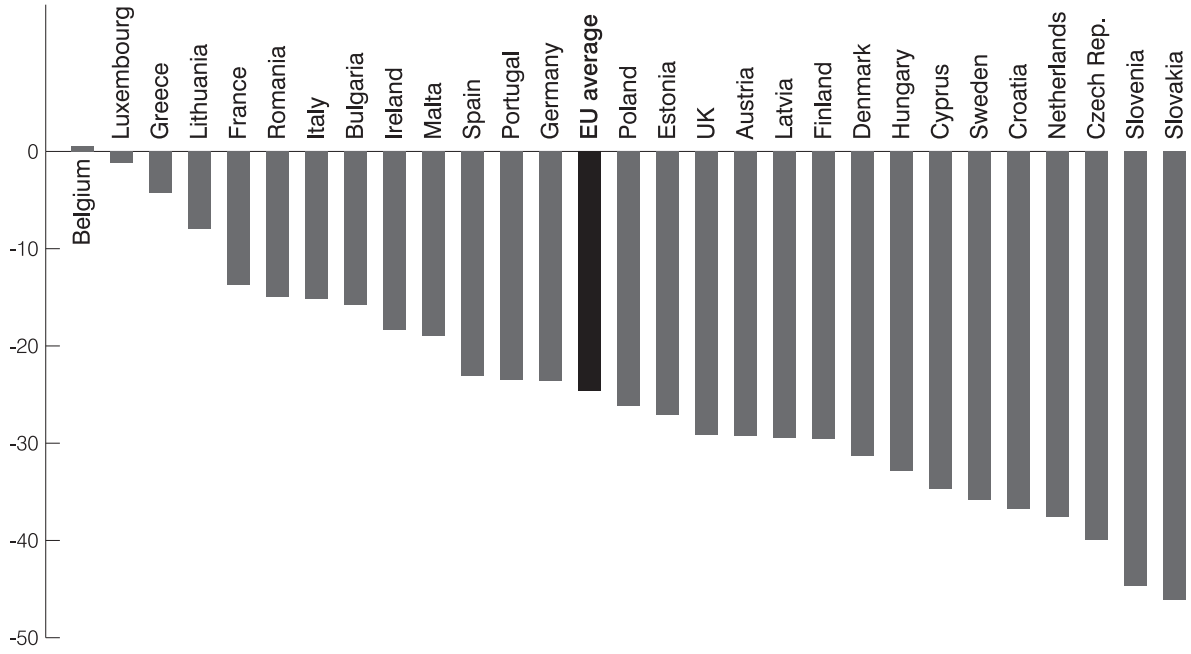


Figure 3: Difference in turnout between EU and national elections (in %) – with electoral cycle

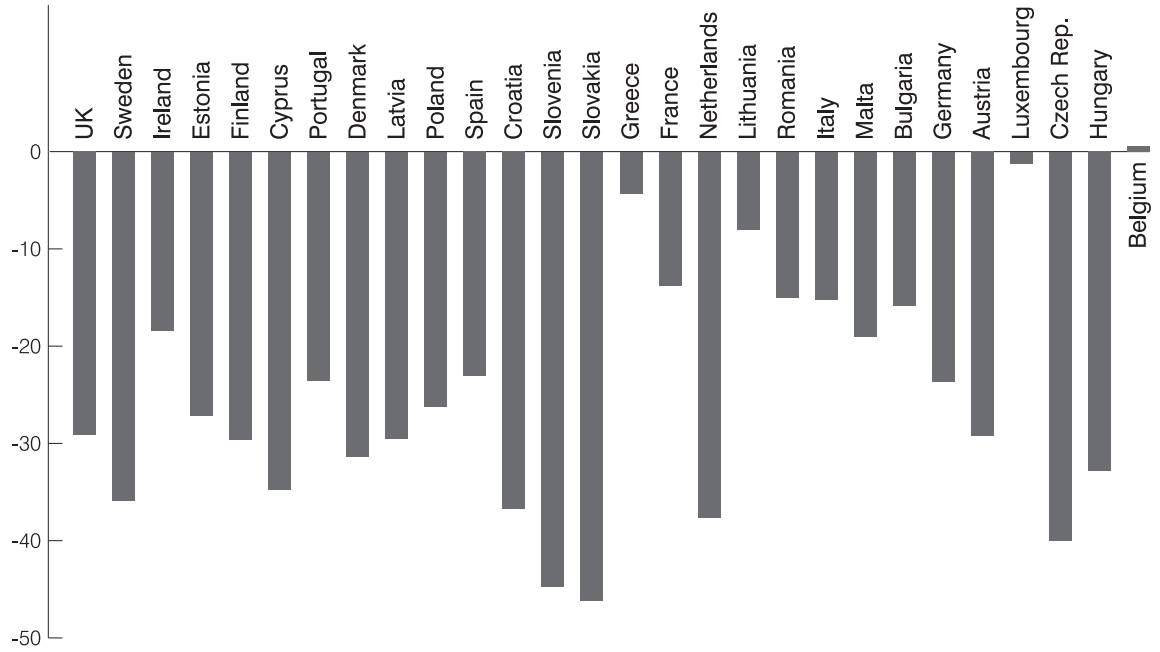


Figure 4: Difference in electoral results of governing parties between EU and national elections (in %)

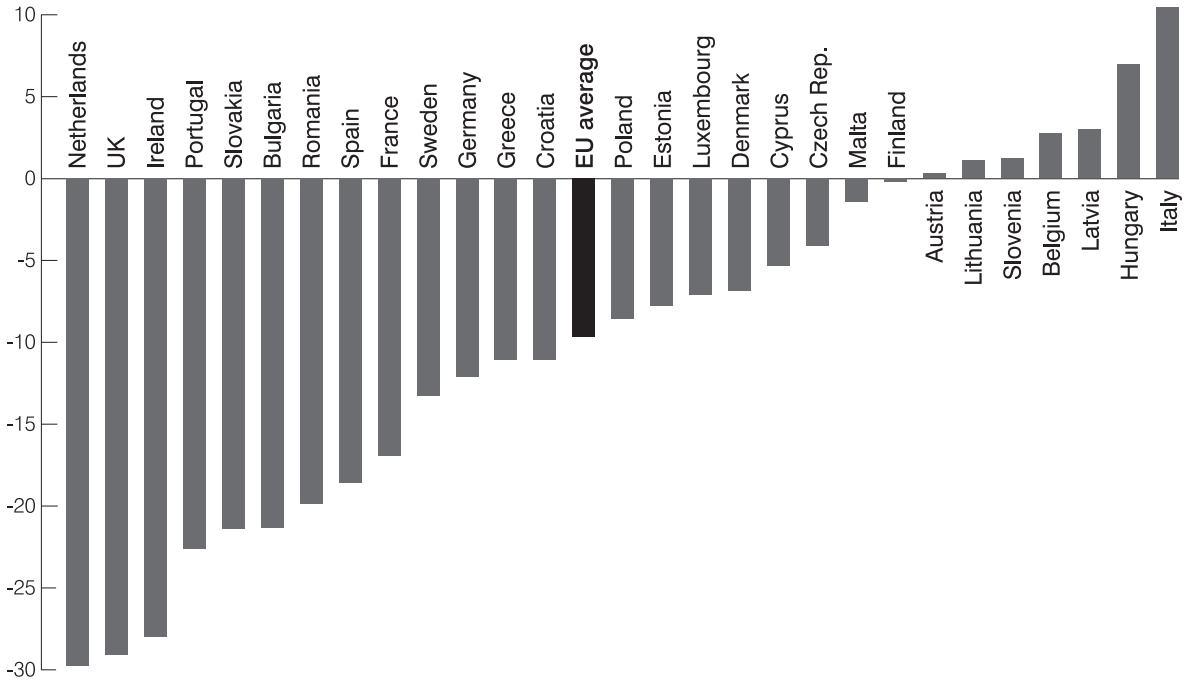


Figure 5: Difference in electoral results of governing parties between EU and national elections (in %) – with electoral cycle

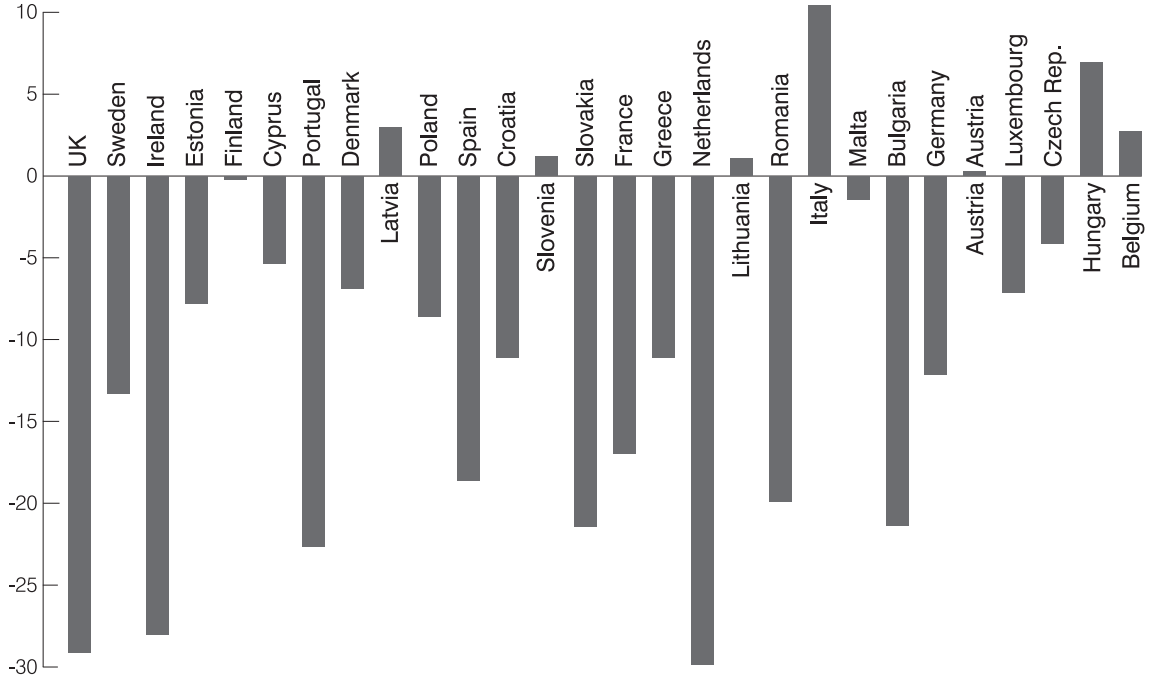


Figure 1-5
Source: the official European elections results
http://www.europarl.europa.eu/elections2014-results/en/country-introduction-2014.html

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Short biography

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