

Access to citizenship in Europe: birthright and naturalisation

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The EUDO CITIZENSHIP Observatory

- General goal
 - comprehensive and systematic comparison of acquisition and loss of citizenship status in EU Member States and neighbouring countries
- Main features
 - country profiles + reports: currently 40
 - national and international legal databases
 - typology of modes of acquisition and loss
 - naturalisation statistics
 - comparative analyses
 - debating forum, news section, working papers, bibliography, etc.
- Future plan: comparing access to citizenship status and voting rights
 - for TCN in EU Member States and for EU citizens in other Member States
 - in local, regional, national, EU elections
 - for domestic vote and vote from abroad



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The EU citizenship dilemma



- Imagine an EU Expo park with 27 national pavilions
- Each pavilion sells tickets
 - giving access to all pavilions in the park
 - including membership in the association managing the pavilion
- Each pavilion association determines itself the rules
 - free admission vs. hefty ticket price
 - short queues vs. drawing numbers for admission next month
 - preferential admission of relatives
 - testing visitors what they know about the exhibits
- A collective action dilemma
 - self-determination is self-subverting if most visitors want to see the pavilions rather than join a particular national association

Birthright and Naturalisation



- Two main modes of citizenship acquisition
 - birthright
 - ius sanguinis (at birth or after birth)
 - ius soli (at birth or after birth)
 - naturalisation: acquisition after birth that requires application and decision by authorities
 - discretionary decision or entitlement of the applicant
 - ordinary vs. facilitated naturalisation
 - material conditions and procedures
- Is there convergence in the European Union?

Birthright citizenship



- The principal way in which most people acquire their citizenship
- An unfair lottery giving massive advantage to those born in favoured countries?
- or
- A mechanism to ensure:
 - that every person gets citizenship of at least one state
 - intergenerational continuity of political communities?
- Birthright citizenship is less politically controversial than naturalisation
- Yet a great variety of provisions for birthright citizenship exists among European states
- Considerable change since 1980s - displaying limited convergence between states

Two main bases of birthright citizenship



- ius sanguinis – present in all 33 states
- ius soli – present in 19 states
- misconceived contrast:
ius sanguinis is “ethnic”, ius soli is “civic”

Ius sanguinis: based on descent from a citizen



- Provides the possibility for parents to pass citizenship to their children
- Recent trends towards
 - gender equality in transmission of citizenship by both mothers and fathers to children, including e.g. those born out of wedlock, adopted, or born abroad
 - one major cause of the increase in dual citizenship
 - some facilitation of citizenship acquisition by offspring of emigrants

Ius soli: based on birth in the territory



- Present as a general principle in 19 states (more widely for stateless persons and foundlings – but not universally)
- Reflects the probability that those born in the state will be subject to the state's authority – a way of integrating immigrants
- No more pure ius soli in Europe since this was abolished in Ireland in 2004
- 10 states award citizenship by ius soli at birth, 16 after birth
- both now in more or less conditional forms (e.g conditions of parental residence, parental birth in the state (double ius soli), child's residence/education in the state)

Ius soli

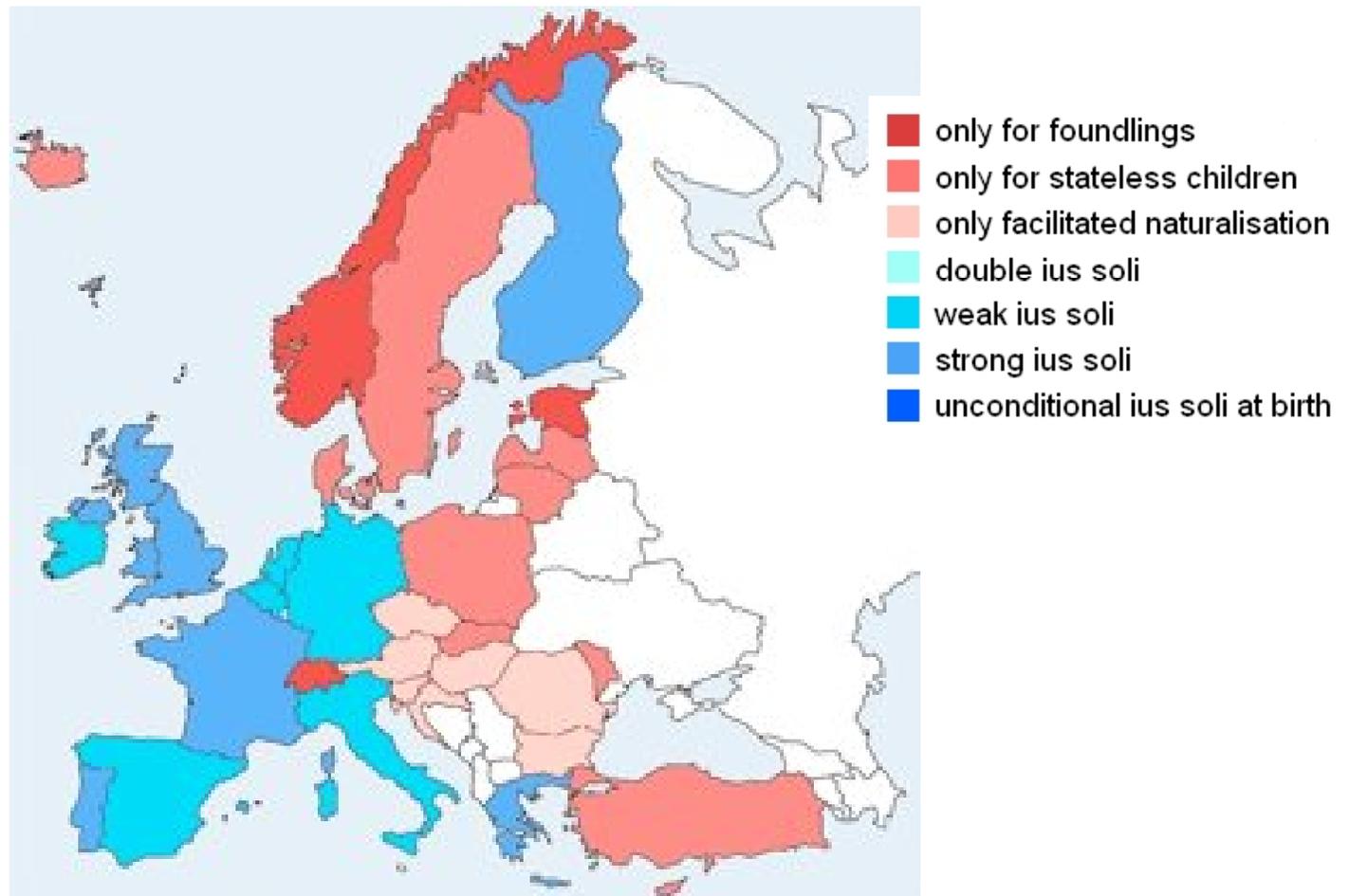


Four main forms of general ius soli in Europe, ranked from strongest to weakest:

- By declaration or automatically at or before majority - in Belgium, Finland, France, Greece, Italy, Netherlands, Spain and United Kingdom
- On the basis of a period of prior parental residence - in Belgium, Germany, Greece, Ireland, Portugal, and the United Kingdom
- On the basis of parental birth in the country (double ius soli) - in Belgium, France, Greece, Luxembourg, Netherlands, Portugal and Spain
- Facilitated naturalisation for persons born in the country - in Austria, Bulgaria, Croatia, Czech Republic, Hungary, Italy, Portugal, Romania, Slovenia and Spain.

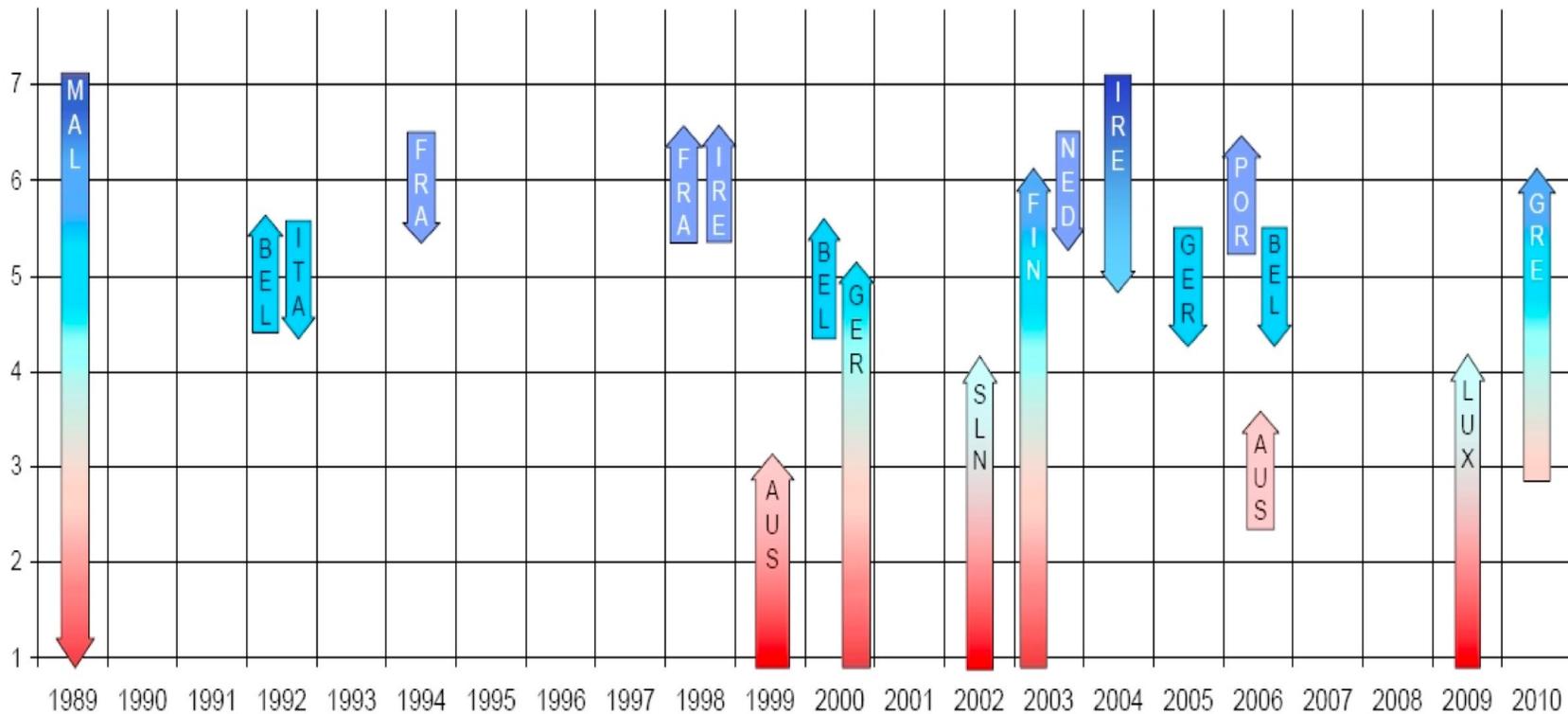
No general provision for ius soli citizenship exists in Cyprus, Denmark, Estonia, Iceland, Latvia, Lithuania, Moldova, Malta, Norway, Poland, Slovakia, Sweden, Switzerland and Turkey.

Ius soli in Europe states ranked by their most inclusive provision



Recent changes in ius soli provisions

Some form of ius soli adopted in states where previously only ius sanguinis
(Germany 2000, Portugal 2006, Luxembourg 2009, Greece 2010)
Increasing conditions with respect to parents or children

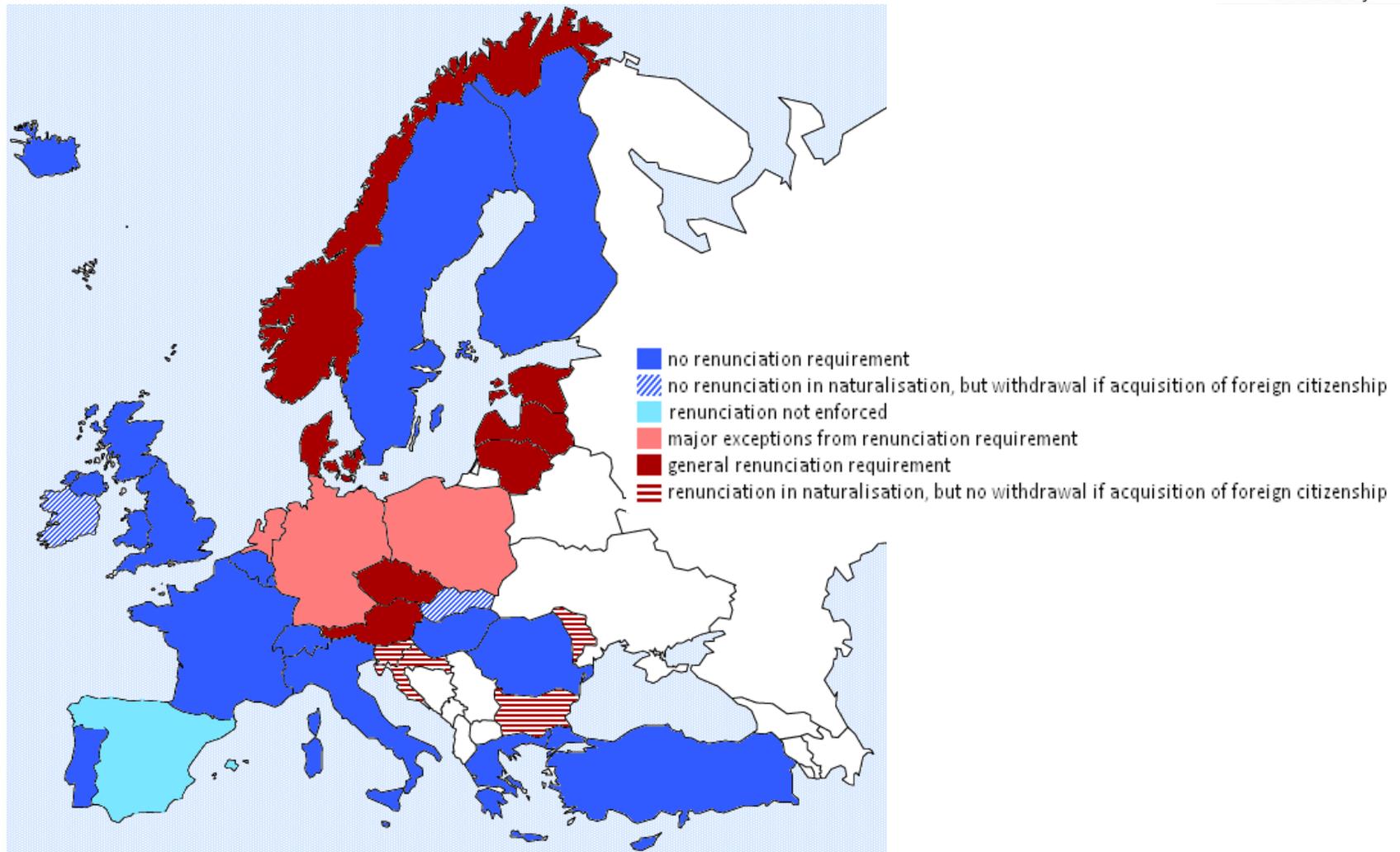


Policy Recommendations

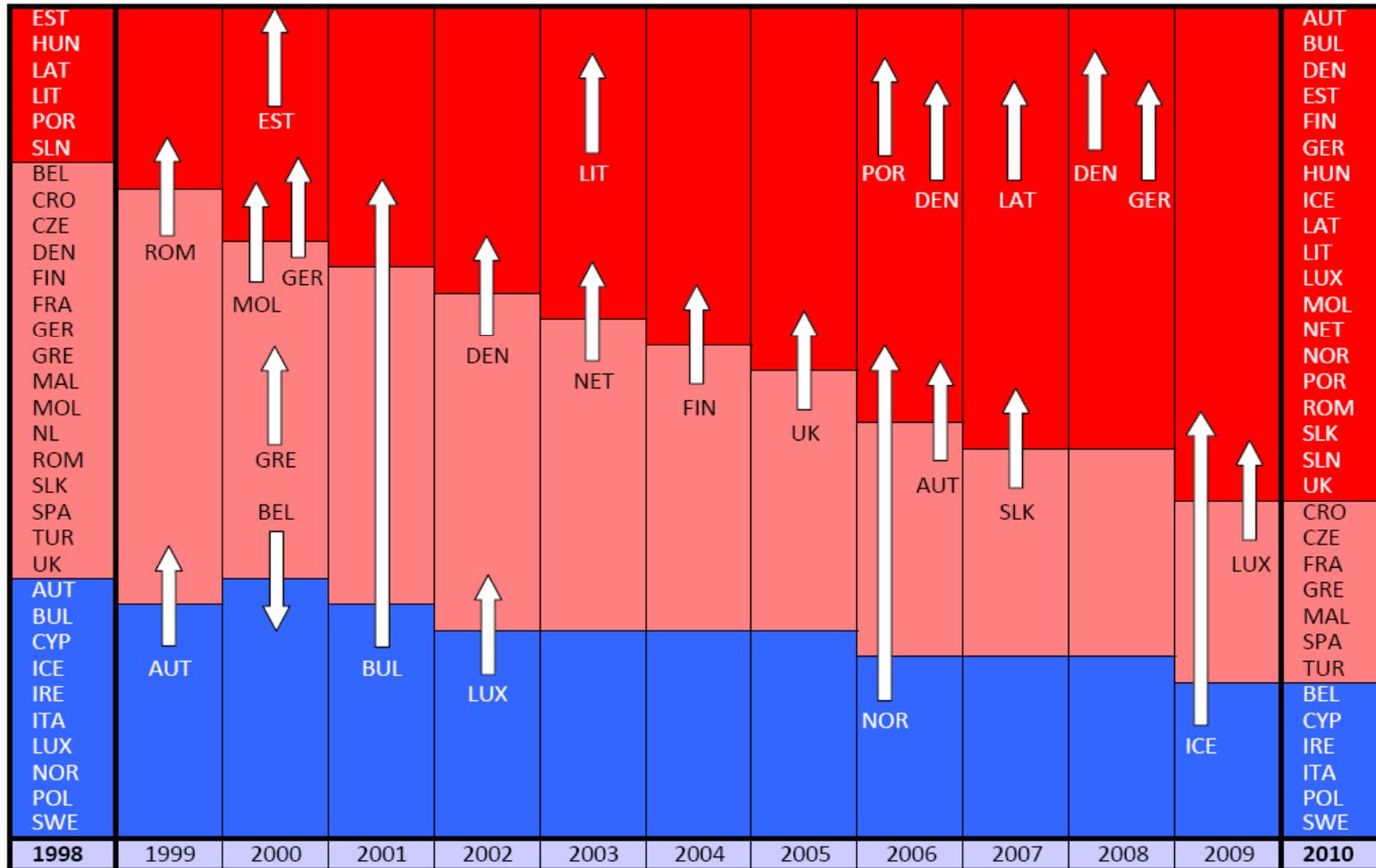


- Ius sanguinis – should be applied on gender equal basis
Extension abroad can be limited if it this does not lead to statelessness
- Ius soli – promotes the integration of immigrants permanently living on a state’s territory - if not feasible, an alternative is entitlement for a child resident for some years before the age of majority
- There needs to be systematic acceptance of multiple citizenship not only for ius sanguinis (accepted by all) but also for ius soli (accepted only in 14 states)
- Conditions should not be too onerous or subject to extensive administrative discretion
 - facilitated naturalisation is the weakest form of ius soli
- EU citizenship: wider adoption of ius soli provisions would strengthen the shared space of free movement on the basis of birth in the territory of the European Union

Diversity of approaches to dual citizenship

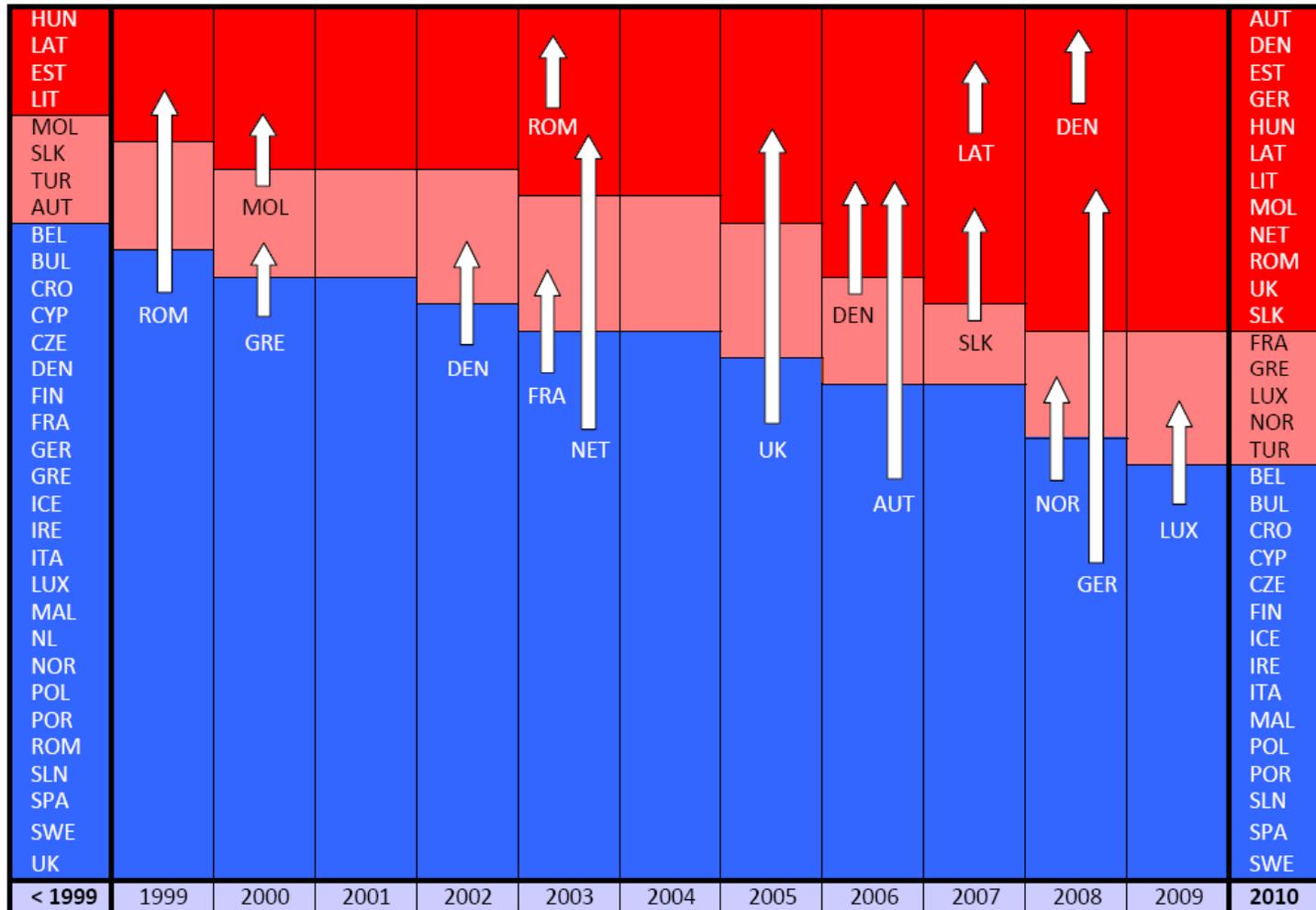


A strong trend towards formal language tests



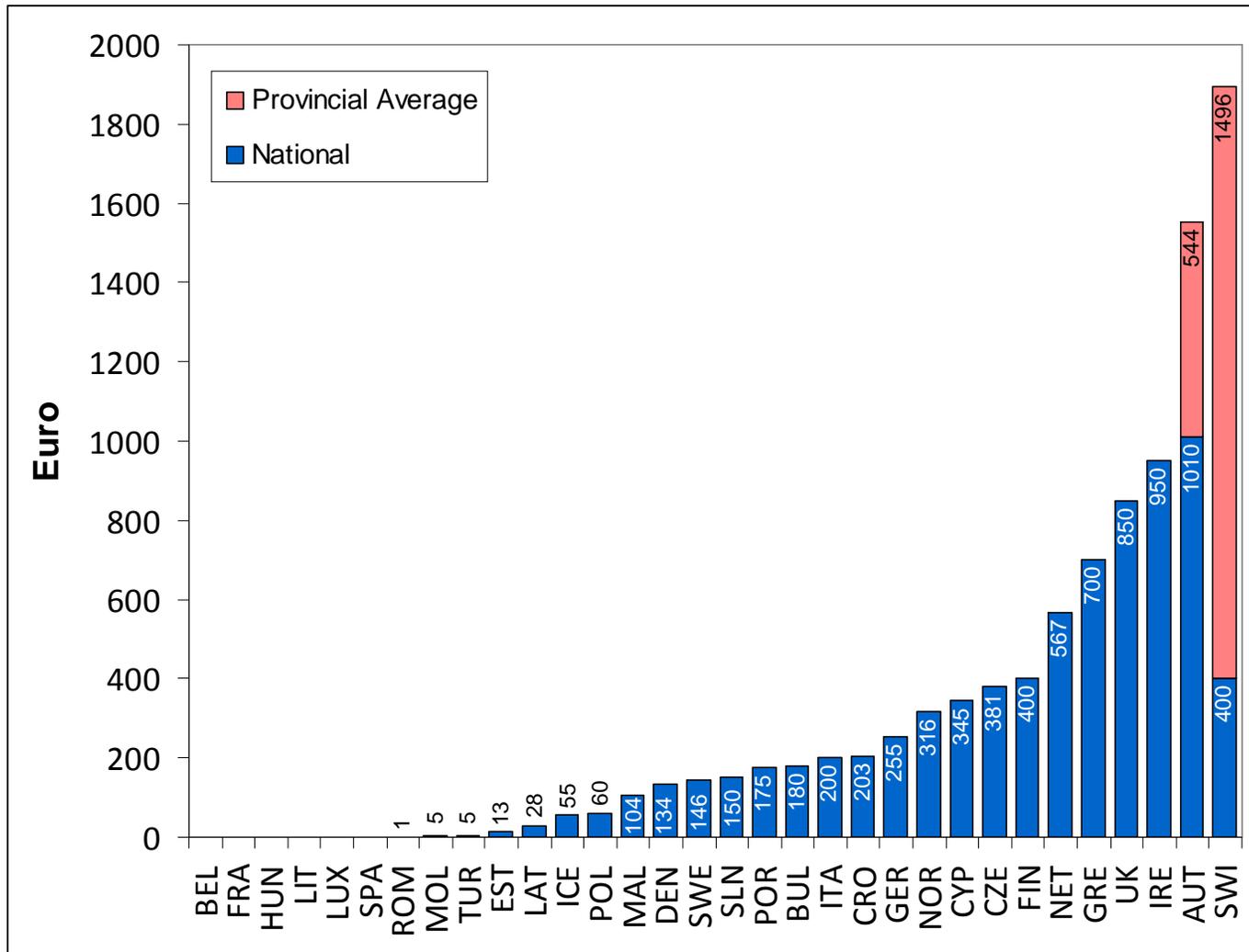
= Not Required
 = Informal Test
 = Formal Test

A weaker trend towards civic knowledge tests

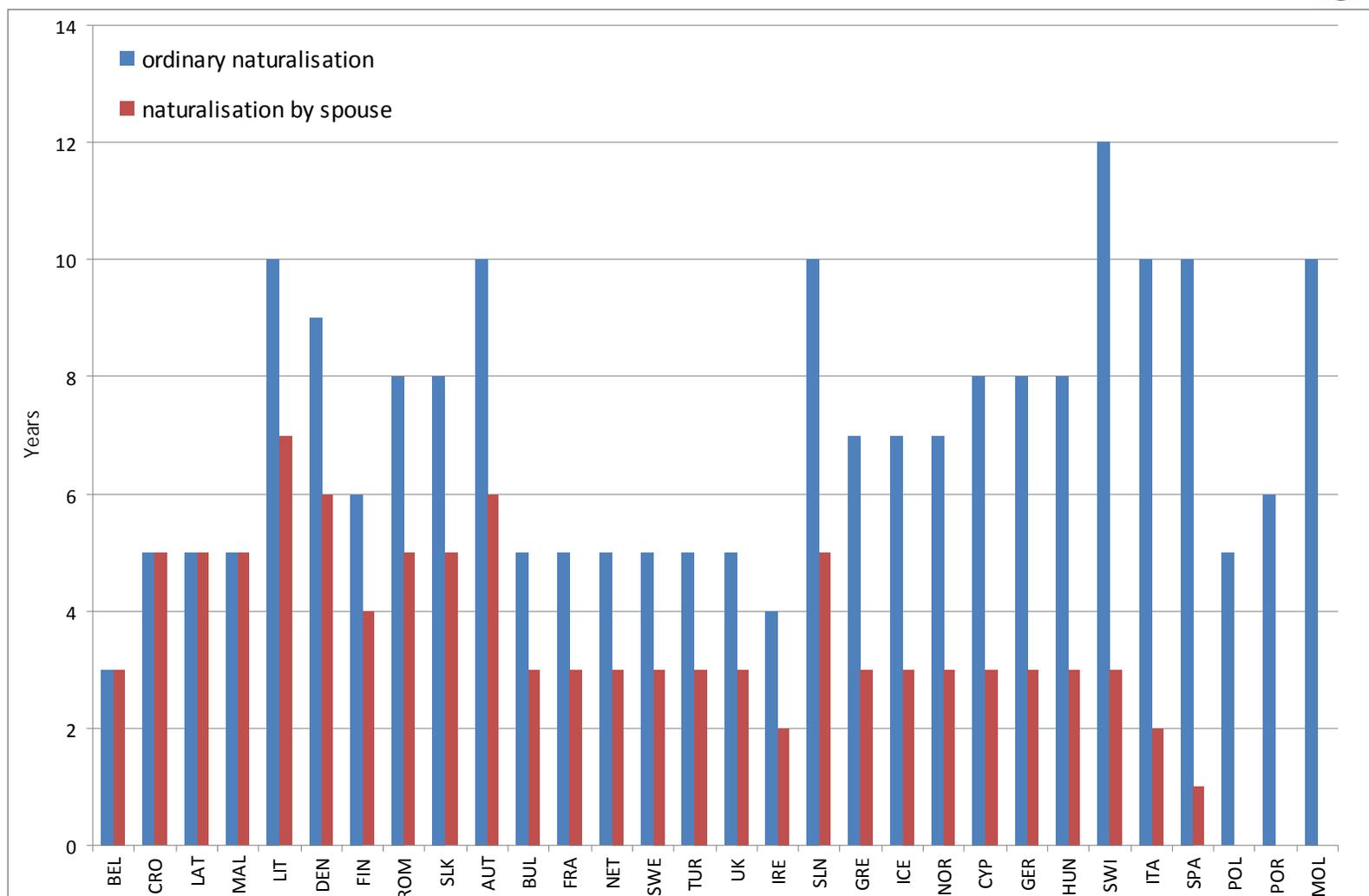


= Not Required
 = Informal Test
 = Formal Test

Strong variation in naturalisation fees



Facilitated naturalisation for spouses (residence requirements)



Conclusions

- Conditions and procedures vary strongly across MS
- Two main problems
 - over-inclusion: easy access to EU citizenship for external populations with free movement rights but without genuine links
 - exclusion: blocked political integration of long-term resident third country nationals
- Three theoretical solutions
 - deriving MS nationality from EU citizenship:
EU citizenship acquired through birth or naturalisation,
MS nationality changes automatically with residence
 - separating EU citizenship from MS nationality:
EU citizenship acquired automatically through residence,
MS nationality through birth or naturalisation
 - harmonizing conditions for citizenship acquisition in MS
either through EU competence for regulating nationality laws
or through promoting horizontal coordination
appealing to MS interests and democratic norms