

EUDO CITIZENSHIP Policy Brief No. 2

Naturalisation

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Naturalisation is the most debated and most densely regulated form of access to citizenship. Through their naturalisation procedures the Member States of the European Union also determine who are the citizens of the European Union with free movement and residence rights in all other Member States. In spite of this shared European context, there are only few trends towards common standards.

- *Residence conditions for ordinary naturalisation in 33 European states vary between three years (Belgium) and twelve years (Switzerland). Additional conditions for permanent residence exclude many highly mobile migrants.*
- *A minority of 15 states still require renunciation of a previously held citizenship; four of these either do not enforce renunciation (Spain), or make many exceptions (Germany, the Netherlands and Poland).*
- *There is a trend towards formal tests of language skills and civic knowledge. In 1998 six states had tests of either kind, in 2010 these are 18.*
- *Only five states define ordinary naturalisation as a legal entitlement of the applicant rather than as a discretionary decision of public authorities.*
- *16 states offer facilitated naturalisation not only to close relatives of citizens, but also to persons who are perceived as ethnically or linguistically related to the majority population.*

Naturalisation is the most densely regulated and most politicised aspect of citizenship laws. We define naturalisation as any acquisition after birth of a citizenship not previously held by the person concerned that requires an application to public authorities and a decision by these. In this policy brief we discuss legal requirements and procedures for ordinary and facilitated naturalisation in 33 European states (all EU Member States, Croatia, Iceland, Moldova, Norway, Switzerland and Turkey).

We do not cover here the administrative implementation of citizenship laws and statistical developments. It is, however, important to point out that the relation between laws, their implementation and statistics is complex. Citizenship laws that specify few legal requirements for naturalisation may leave substantial discretion to public administrations and can be implemented in ways that *de facto* prevent access to citizenship for many who are legally eligible. High rates of naturalisation also do not always indicate that the law and its implementation are generous towards applicants, but may be caused instead by large immigration cohorts reaching the residence time required in the law, by discriminatory treatment of resident aliens that pushes them to apply for naturalisation, or by *ius sanguinis* legislation that creates second and third generation foreign citizens born in the territory who need to naturalise to become citizens.



Maastricht University



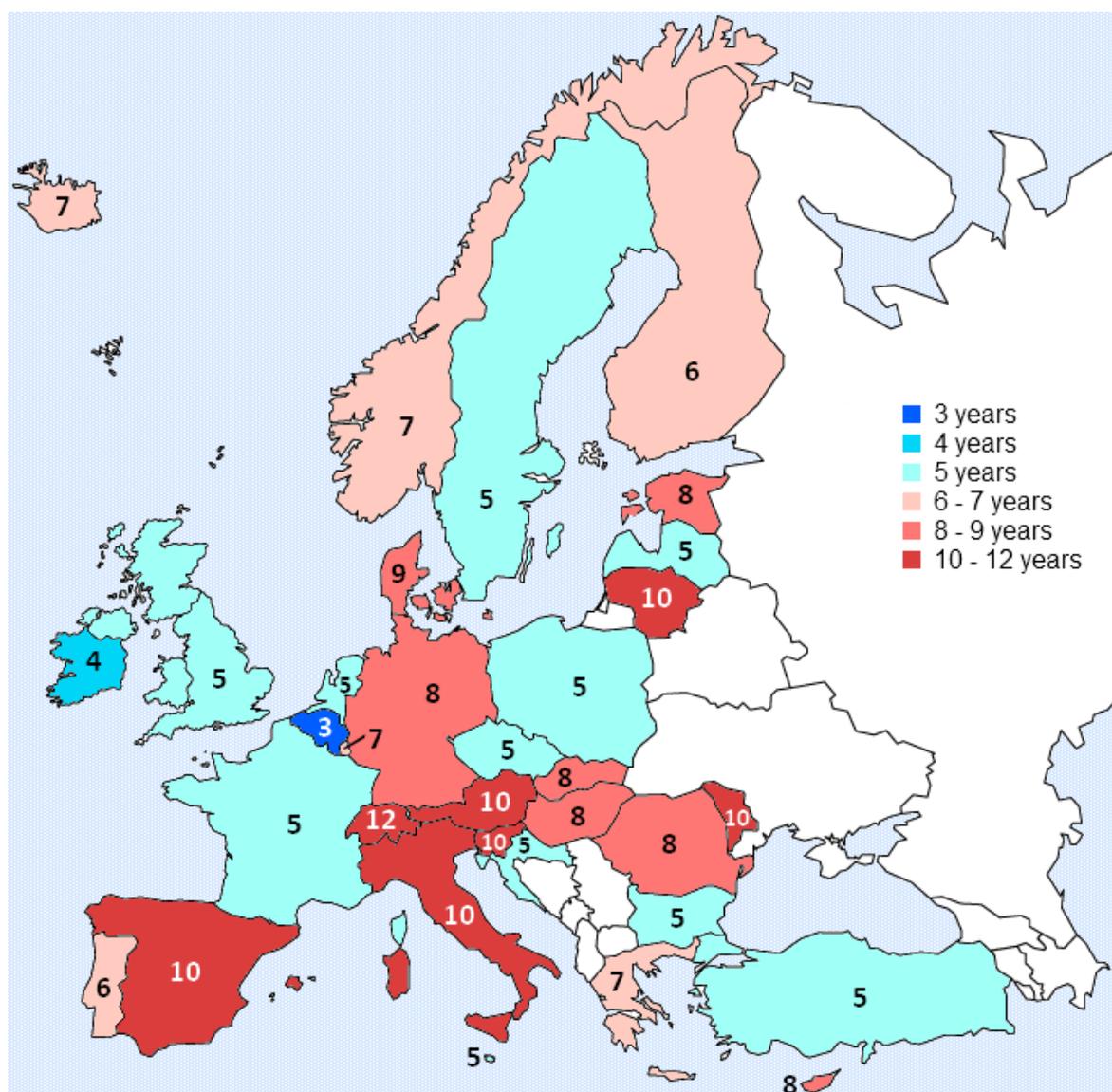
1 Ordinary naturalisation based on residence

Residence conditions

Although some laws permit the naturalisation of persons who reside permanently abroad, residence in the country granting citizenship is the most basic condition for ordinary naturalisation in all states. Art. 6 of the 1997 European Convention on Nationality (ECN), which has been signed by 23 and ratified by 15 of the 33 states covered here, stipulates that no more than ten years of residence should be required. Only Switzerland, which has not signed the ECN, requires twelve years, often combined with additional residence requirements in the canton concerned. Six states (Austria, Italy, Lithuania, Moldova, Slovenia and Spain) demand the maximum period of ten years, only Belgium and Ireland less than five. The most common condition (in eleven states) is five years.

The length of a residence condition in a citizenship law does not mean that every immigrant who has lived in the country for so many years can apply for naturalisation. Many countries create additional hurdles by requiring uninterrupted residence or by counting only years with a permanent residence permit, which may itself take up to five years to acquire.

Years of residence required for naturalisation



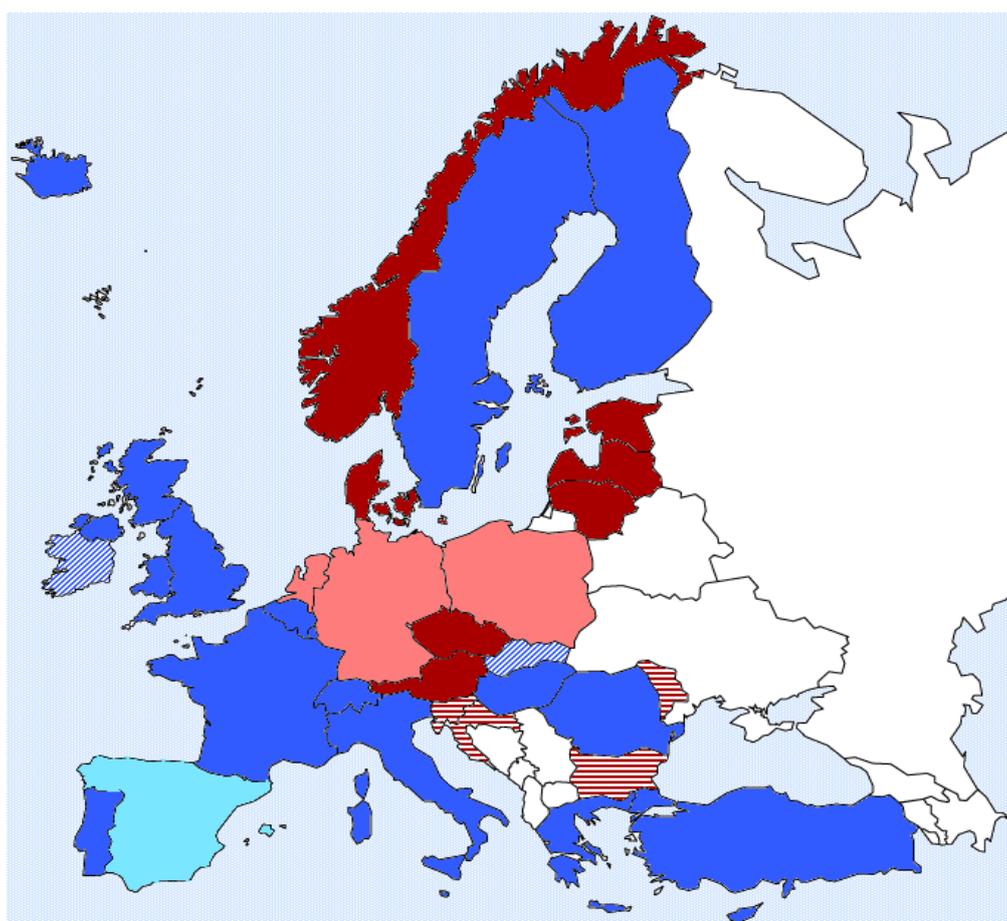
Dual citizenship or renunciation of a prior citizenship?

Dual citizenship can be the result of acquisition at birth or naturalisation. All 33 countries accept dual citizenship when a child inherits it from parents with different citizenships. Dual citizenship is generally also accepted in countries where children born in the territory acquire citizenship automatically or by declaration (see EUDO CITIZENSHIP policy brief 1 on *ius soli*). International legal norms have shifted from outright rejection of dual citizenship to a permissive stance. According to Art. 14 and 15 ECN, states have to accept dual citizenship acquired at birth, but remain free to tolerate or prohibit it in naturalisations. Art. 16 ECN also says that renouncing a previous citizenship should not be required where it is impossible (because the state of origin refuses to release its citizens) or cannot be reasonably demanded.

A minority of 15 countries still demand renunciation of a prior citizenship as a condition for naturalisation. Among these, Spain does not enforce such renunciation, Germany exempts all EU and Swiss citizens, and the Netherlands exempts persons born in the Netherlands and spouses of Dutch citizens. In Poland, too, renunciation seems to be exceptional, but authorities have wide discretion in this matter. Bulgaria, Croatia, Moldova and Slovenia insist on renunciation in naturalisations, but do not withdraw citizenship from their own nationals when these voluntarily acquire a foreign citizenship. Ireland takes the opposite stance of tolerating dual citizenship for naturalised immigrants, but not for emigrants naturalising abroad. In May 2007, Slovakia adopted a similar provision in order to deprive members of the Hungarian minority of their Slovak citizenship, if they opt for Hungarian citizenship.

The map below shows how open European states are for dual citizenship in cases of domestic naturalisation. Those countries that treat acquisition of their own citizenship and of a foreign one asymmetrically are marked with stripes.

Does naturalisation require renunciation of a previous citizenship?

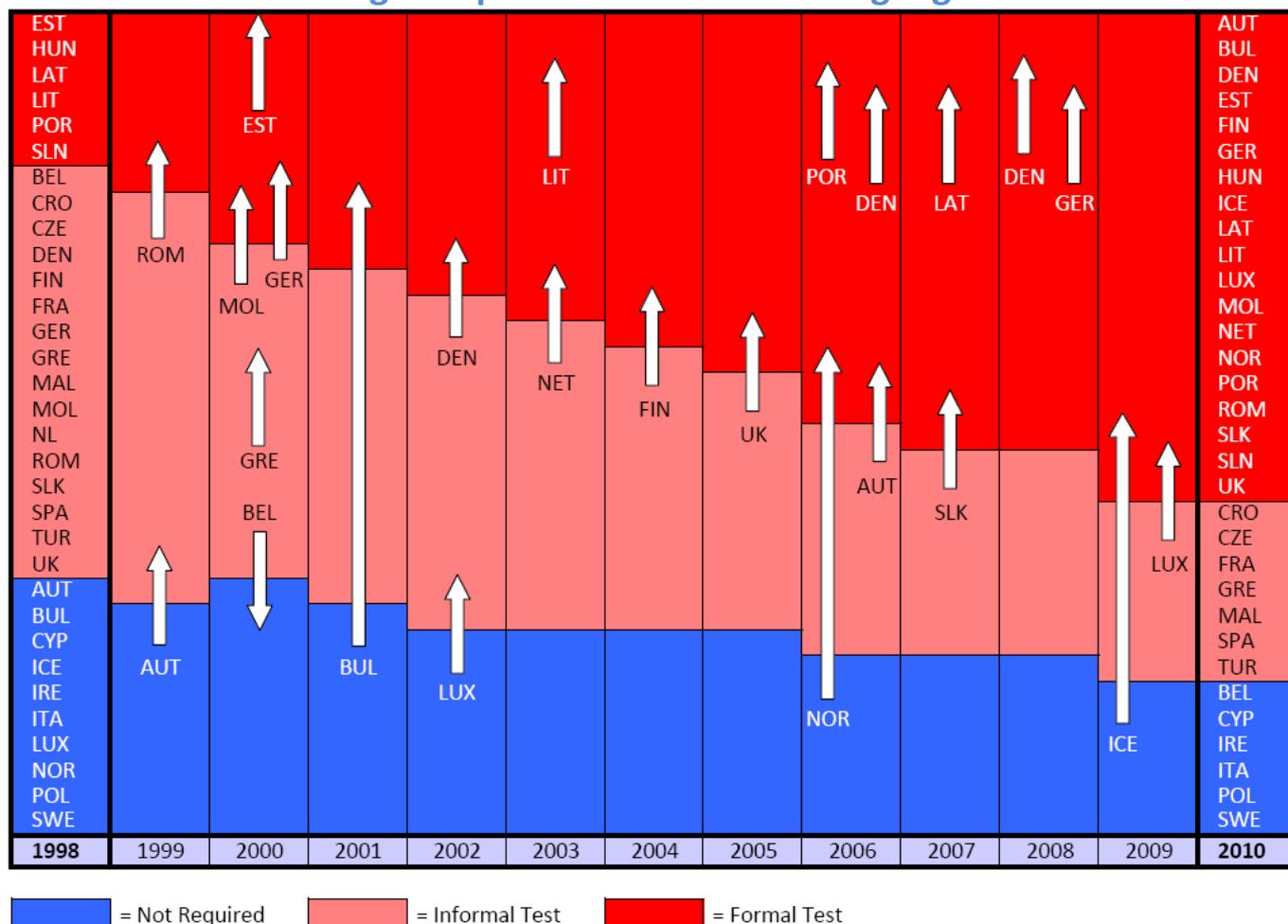


- no renunciation requirement
- no renunciation in naturalisation, but withdrawal if acquisition of foreign citizenship
- renunciation not enforced
- major exceptions from renunciation requirement
- general renunciation requirement
- renunciation in naturalisation, but no withdrawal if acquisition of foreign citizenship

Language skills and civic knowledge tests

Traditionally, naturalisation has often presupposed assimilation into a national cultural and historical community. Although such ideas were discredited in Western European immigration states during the 1990s, one of the strongest trends since 2000 is the introduction or upgrading of language and civic knowledge tests in ordinary naturalisations. At the end of 1998, six of 32 countries¹ required certificates or formal tests of language skills; in 2010 this number had increased to 18. Testing the applicants' knowledge of the country's history, constitution, public values or social customs is still a less frequent practice, but over the last decade the number of countries implementing such citizenship tests has increased from four to 12. The trend is almost linear: there is only one instance in which a language or civic knowledge requirement has been removed (Belgium abolished language tests in 2000, but is currently considering reintroducing them).

A strong European trend towards language tests

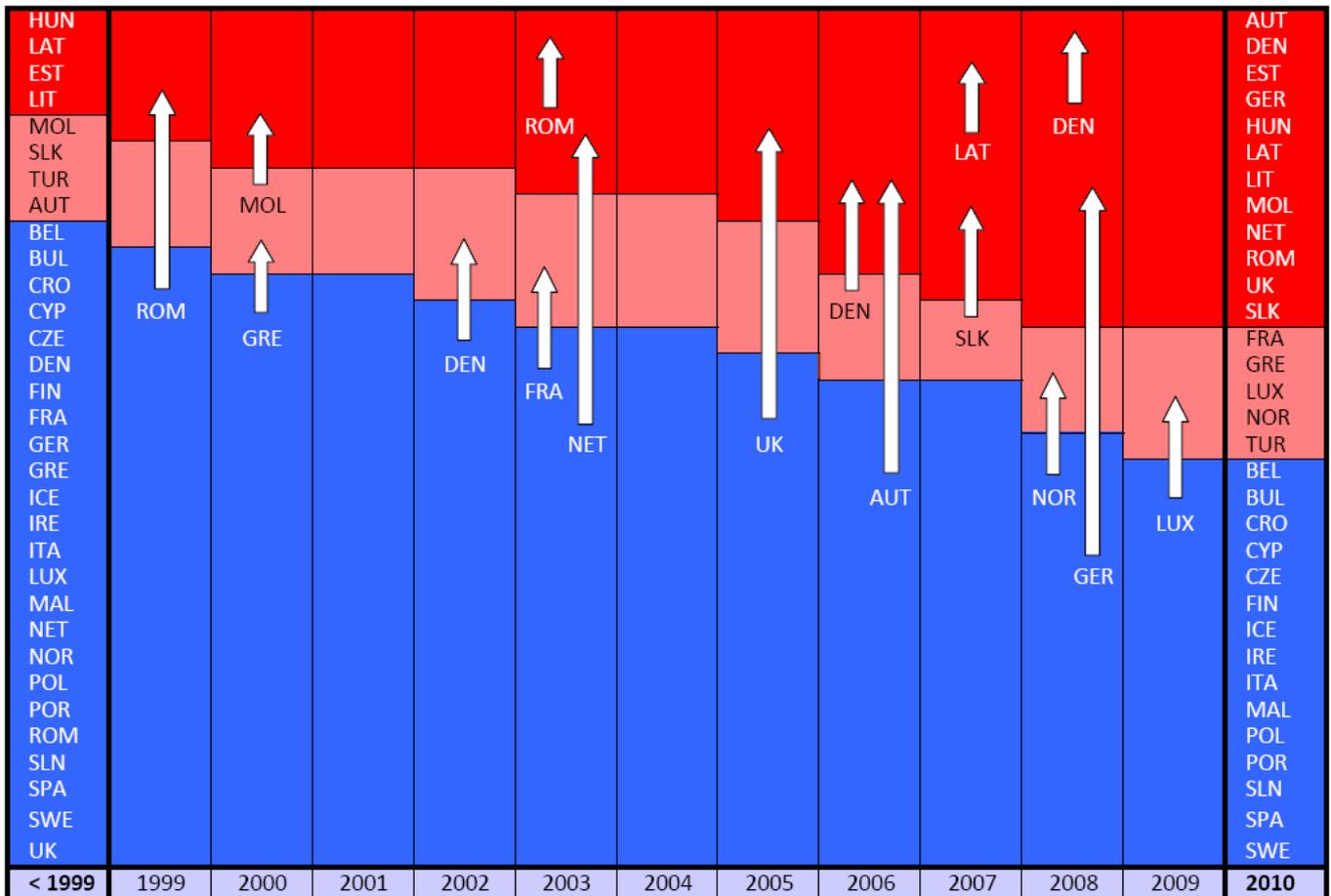


Note: Arrows indicate a reform that introduces or abolishes tests and strengthens or weakens formal test requirements. They do not indicate the level of required knowledge.

Among the 15 EU Member States prior to 2004 the argument for tests is clearly related to a perceived failure of past immigrant integration policies. Language skills are seen to be important for employment opportunities and tests in civics are meant to ensure that immigrants identify with the public values of their host society. So far there has been very little research to find out whether the tests are effective in achieving such goals. Depending on the requirements imposed, tests can act as incentives for acquiring the demanded skills, or as deterrents from applying for naturalisation. Naturalised immigrants have on average a higher income than those from the same immigration cohorts who do not naturalise, but it is often not clear whether this is an effect of citizenship status, or whether immigrants with better skills are more likely to naturalise.

¹ Switzerland is not included here because citizenship tests vary across cantons and municipalities.

A weak European trend towards civic knowledge tests



■ = Not Required
 ■ = Informal Test
 ■ = Formal Test

Note: Arrows indicate a reform that introduces or abolishes tests and strengthens or weakens formal test requirements. They do not indicate the level of required knowledge.

In some of the EU-12 new Member States since 2004, but also in West European countries like Germany, tests often target external groups who qualify for citizenship because of ancestral relations with the country. Language requirements serve then to select those who have better preserved that country's language and culture. In Estonia and Latvia, difficult language tests were designed to slow down citizenship acquisition among the large minorities of ethnic Russians who had to apply for naturalisation after the Baltic States had regained independence in 1991.

Clean criminal record and sufficient income

Most countries want to make sure that new citizens will not become a burden for the state that admits them. The applicants' physical or mental health used to be a common selection criterion in the past, but is now only used in Bulgaria, France, Turkey, and the UK. All countries in our sample check whether the applicant has a criminal record. In the law, this is often expressed through a general "good moral character" clause. There is, however, much variation with regard to what kind of record will exclude a person from citizenship and for how long. For example, in Austria, since the 2005 reform, any conviction that must be incorporated in criminal records information rules out the granting of citizenship. Iceland has a unique system that bars persons from naturalisation for a specific time depending on the severity of their crime (from one year, if the penalty for the offence was a fine of less the ISK 50,000, to fourteen years, if the penalty was a prison sentence of more than a year).

A large majority of states require that applicants for citizenship must have stable and sufficient income. Among those who do not have this as an explicit condition, most will still check the financial situation during the application procedure. The Portuguese reform of 2006 is a rare case where a sufficient income criterion was removed in order to make naturalisation socially more inclusive and to avoid a possible violation of Art. 13(2) of the Constitution, which prohibits discrimination on economic grounds.

In the EU Member States, stable and regular resources are also a condition for long-term resident status of third country nationals regulated by Council Directive 2003/109/EC, so a similar criterion for naturalisation may not create

an additional hurdle. However, several countries (Austria, Denmark, Germany, Hungary, and Ireland) require also that applicants must not have been dependent on social assistance in the past, which may exclude even persons with currently sufficient income.

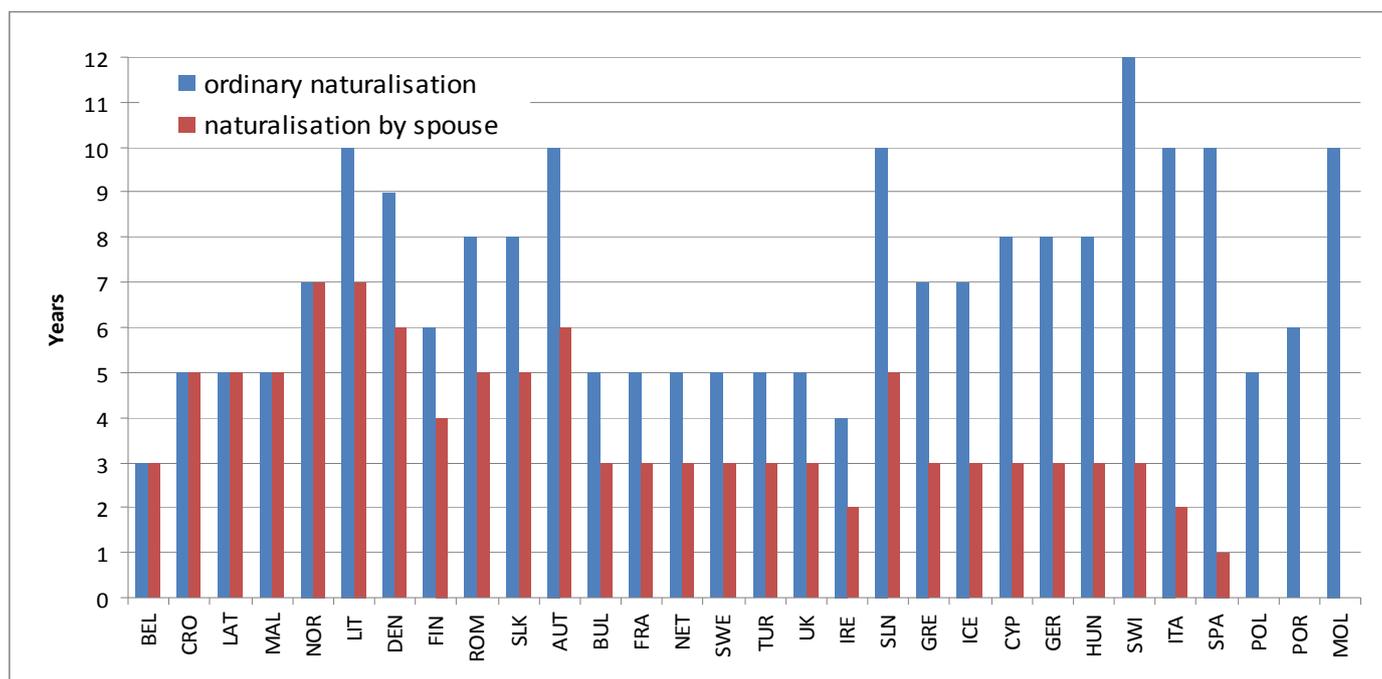
2 Facilitated naturalisation

There are many reasons for giving certain persons easier access to citizenship than others. The most common ones are close family relations with citizens, historic and cultural ties to the country whose citizenship is acquired, and a public interest in naturalising persons who have made special contribution.

Family-based acquisition

Next to birthright and naturalisation, nearly all countries have also special provisions for acquisition of citizenship through marriage. In the past, the husband’s citizenship was automatically transferred to his wife. Such gender discrimination has been largely overcome. Instead, it is now common to offer spouses of either sex, and in some countries (Austria, Belgium, Denmark, Finland, Germany, Iceland, the Netherlands, Portugal, Sweden, and the United Kingdom) also same-sex partners, facilitated naturalisation. As the diagram below shows, a few countries (Belgium, Croatia, Latvia, Malta, and Norway) require the same residence period for ordinary naturalisation and for spouses of citizens and only three (Poland, Portugal, and Moldova) do not require any residence for the latter. Several countries (Denmark, France, Greece, Italy, Lithuania, Malta, the Netherlands, Sweden, and Switzerland) have complicated rules with shorter residence requirements after a longer time of marital life in a shared household and *vice versa*. In most countries, facilitated naturalisation is only offered when an applicant is married to somebody who is already a citizen of the country. Only in Austria and Germany can ordinary naturalisation be extended simultaneously to the applicant’s spouse, for whom the general residence condition is then shortened.

Residence Requirements for Naturalisation by Spouses



Naturalisation reforms have recently been driven not only by integration concerns, but also by immigration policy goals. With the closing of most channels for regular labour immigration, family reunification has become the largest immigration stream from third countries into the EU. In some EU-15 immigration countries, conditions for the naturalisation of spouses of citizens have been restricted in order to prevent marriages of convenience for the sake of obtaining citizenship status, as well as “naturalisations of convenience” for the sake of speeding up family reunification.

A second group of persons who are generally given easier access to citizenship are minor children. In countries without, or with weak *ius soli* provisions, children born in the country to foreign citizen parents will grow up as

foreigners. Often they acquire citizenship later when their parents decide to naturalise and include their children in the application. Facilitated conditions for the extension of parental naturalisation to minor children prevents whole generations of native-born children from remaining foreigners at least until the age of majority. However, since many first generation immigrants do not want to adopt the citizenship of their host country, family-based naturalisation of children cannot fully compensate for a lack of independent entitlements derived from their birth in the country or from their growing up and being educated there (see EUDO CITIZENSHIP policy brief 1 on *ius soli*). Only 13 countries offer naturalisation specifically aimed at those who have spent some years in the country as minors or have attended school there. In seven states, citizenship can, in these cases, be acquired by declaration rather than through a naturalisation procedure.

Preferential naturalisation on grounds of ancestry, ethnicity and political union

Acquisition of citizenship based on descent is sometimes stretched far beyond the minor children of present citizens. Many countries offer special naturalisation to the descendants of former or deceased citizens. Greece, Italy, Luxembourg, and Portugal extend this option even to those with more distant ancestry, such as one citizen grandparent. A surprisingly large number of 16 European states also have special naturalisation provisions for persons who are perceived as ethnically or linguistically related to the majority population. In some cases, these are ethnic minorities whose current area of settlement had once belonged to the state offering naturalisation (e.g. Denmark for South Schleswig, or Hungary for Hungarian minorities in neighbouring states). In others, the reason for special treatment is a former colonial relation and a shared language (Spain with regard to Latin American states and France for citizens of francophone countries and persons who have received education in French). Naturalisation is often facilitated procedurally (by offering acquisition as an entitlement or by declaration). In most cases, residence requirements are shortened. A few countries offer naturalisation based on distant ancestry or shared ethnicity even to groups who reside permanently abroad. Most recently, in May 2010, Hungary has abolished its residence requirement for the naturalisation of ethnic Hungarians in neighbouring countries.

As pointed out by the 2008 Bolzano Recommendations of the OSCE High Commissioner on National Minorities, bestowing citizenship to specific groups in other countries on the mere basis of ethnic, national, linguistic, cultural or religious ties may conflict with the prohibition of discrimination on such grounds contained in Art. 5 of the 1965 UN Convention for the Elimination of All Forms of Racial Discrimination, as well as with a similar principle of non-discrimination in Art. 5 of the ECN.

A different rationale for privileged access to citizenship for certain groups of origin has to do with present membership in a political union. According to a Nordic agreement (Agreement on the Implementation of Certain Provisions Concerning Nationality) Denmark, Finland, Iceland, Norway, and Sweden offer each other's citizens easier naturalisation, mainly by shortening residence requirements. In contrast with the European Union, the Nordic states have, moreover, agreed on a general harmonisation of citizenship laws to make them compatible with an area of free movement (the Nordic Passport Union). The number of EU Member States with facilitated naturalisation for the citizens of other Member States is surprisingly small. Only Austria, Italy, and, from 2011, Greece shorten residence requirements in these cases. And only Germany has a special exemption from its general condition to renounce a prior citizenship for citizens of the EU and of Switzerland.

Special merits and achievements

Most citizenship laws have special provisions for the naturalisation of persons with extraordinary achievements in sports, arts, science and technology, or who have rendered special services to the country. Some (e.g. Austria, Bulgaria, and Turkey) make their citizenship also specifically accessible to large investors. Often residence and test conditions are waived for these applicants. Only the Czech Republic, Denmark, Finland, Iceland, and Norway have no provisions of this kind. Although numbers of naturalisations in these categories are usually very small (and even limited by law in some countries, such as Estonia where no more than ten persons can be naturalised for these reasons per year), privileged access by prominent individuals may get much public attention and often raises concerns about the fairness of conditions imposed on ordinary applicants.

Refugees

Article 34 of the 1951 Geneva Refugee Convention foresees that "Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees." Although all 33 countries have signed the GRC, only 21 have special provisions for the naturalisation of refugees. Where there is a requirement to renounce a previous citizenship it is

usually suspended for refugees either explicitly or *de facto*. In 16 countries, the required residence period is shorter than for ordinary naturalisations, or may be shortened discretionarily.

3 Naturalisation procedures

Naturalisation involves an application by the person interested in acquiring a new citizenship and a decision by administrative or political authorities. Access to citizenship through naturalisation depends not merely on the material conditions specified in the law, but also crucially on the procedures regulating these two steps.

Constraints on public authorities: entitlements, justification of decisions and the right to appeal

For applicants, naturalisation is often a costly, lengthy, and difficult process. Their decision to apply is therefore strongly influenced by their expected chances of success. Ordinary naturalisation is in most countries a discretionary decision of the administrative authorities. Such discretion can be constrained to different degrees through administrative decrees and guidelines, which are, however, often not known to the applicant. Only Croatia, Germany, the Netherlands, Portugal, and Spain define the legal claim of applicants as an entitlement if all conditions have been met. While entitlements provide much stronger security of expectations, discretion may still be exercised at different stages of the process, for example in assessing a candidate's "good moral character" or in evaluating language skills during an informal interview.

A second important way to strengthen the rule of law in naturalisation procedures is to require that authorities justify negative decisions and provide applicants with accessible and speedy avenues for appeal. Citizenship laws in Belgium, Bulgaria, Cyprus, Denmark, Iceland, Ireland, Malta, and Poland presently do not foresee written justifications – although in some cases (e.g. in Ireland) these may still be provided in practice – and deprive applicants thereby also of the possibility to appeal. Croatia, Hungary, and the UK provide justifications but no avenues for appealing against negative decisions.

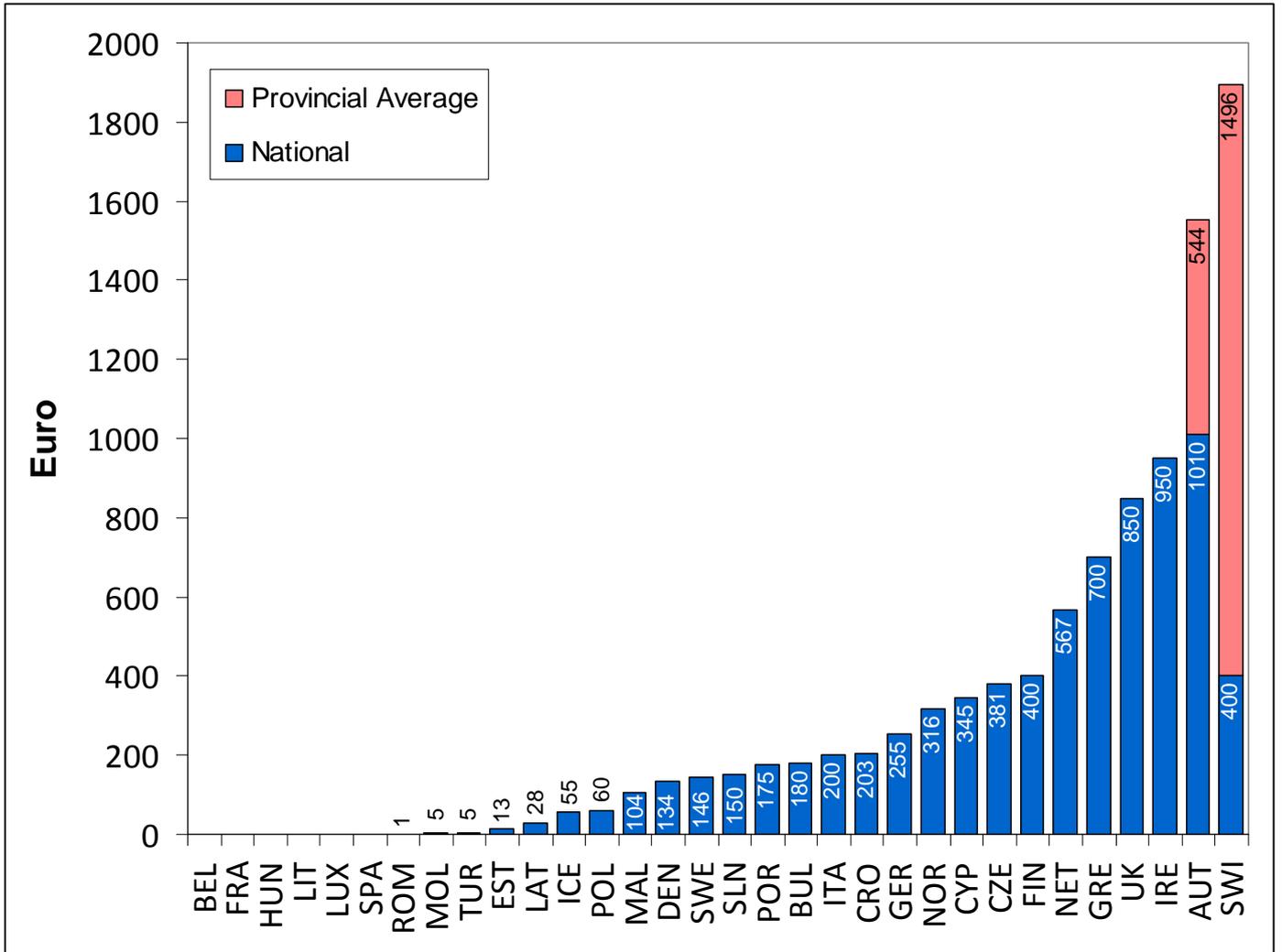
Administrative authorities, processing time, and fees

Applications for naturalizations are handled by very different types of authorities. Few states (Estonia, Finland, Ireland, Latvia, Lithuania, Norway, and Sweden) have specialised bodies for the administration of citizenship, immigration or expatriate affairs. In many cases, local or provincial administrations are in charge of checking applications and interviewing, while central state authorities take the decision. Usually, the latter are Ministries of the Interior or Justice, but in quite a few cases the government as a whole (in Estonia, Latvia, and Turkey) or the Head of State (in Bulgaria, Hungary, Italy, Lithuania, and Moldova) are involved not merely through formal approval. In Belgium and Denmark, the decision is even taken by parliament. Such high level decision-making signifies that naturalisation is not regarded as a routine administrative decision but as an exceptional privilege granted only if it is in the general interest of the state.

Processing applications for naturalisation can take a long time. 13 states (Belgium, Croatia, Cyprus, Finland, Hungary, Iceland, Ireland, Malta, Norway, Poland, Sweden, Switzerland, and the UK) do not specify a maximum time limit for deciding on applications. In France, Hungary, Italy, and Slovakia, applicants may have to wait between 18 and 24 months. Only the Czech Republic, Estonia, Germany, and Lithuania provide applicants with additional security by requiring authorities to decide within a short period of about three months.

Apart from investing time, naturalisation applicants also have to invest money. They may have to pay fees in a country of origin for being released from the previous citizenship, tuition fees for language courses, and fees for official translations of documents. In addition to these costs, some European states charge substantial administrative fees for processing applications. The diagram below shows that only Belgium, France, Hungary, Lithuania, Luxembourg, and Spain do not charge such naturalisation fees. Extremely high fees of € 1000.- or more are currently charged in Austria, Switzerland, and Greece (where fees will be lowered to 700.- in 2011). For Austria and Switzerland we have added the average of additional naturalisation fees charged by provincial authorities.

Administrative Fees for Naturalisation



Oaths and ceremonies

A majority of eleven countries require applicants to profess their commitment to their new country of citizenship through an oath or pledge of loyalty. Only the UK and the Netherlands have oaths as part of American-style naturalisation ceremonies; other oaths are written testimonies (e.g. in Belgium, Denmark, Estonia, and Germany) or sworn in front of a magistrate or judge (e.g. in Ireland and Italy).

4 Policy recommendations

1. States where a large percentage of the resident population consists of immigrants from third states or other EU Member States suffer from a deficit in democratic representation and legitimacy unless they offer these groups access to their citizenship and full voting rights. In these countries, naturalisation is not only in the interest of individual applicants who want to improve their legal status and rights, but it is also a public interest of the democratic state. Governments should therefore promote naturalisation through removing unduly harsh conditions and through campaigns signalling to immigrants that they are welcome as future citizens.

2. Some states encourage naturalisation also by turning a discretionary grant into a legal entitlement of an applicant who meets all conditions. Legal entitlements should be established for ordinary residence-based naturalisation rather than only for specially privileged groups.

3. All periods of legal residence within a reasonable time span should count towards the residence requirements for ordinary naturalisation. Interruptions of residence should be possible as long as applicants have had a continuous presence in the country. Five years of residence is the most common condition for naturalisation in the EU. States with longer residence requirements should consider lowering them. After five years of legal residence, third country nationals in the EU could be offered a choice between naturalisation and a status as EU long-term resident.

4. The number of dual citizens by birth increases dramatically through intermarriages and the combination of *ius soli* and *ius sanguinis* acquisition. A majority of European states also no longer require renunciation of a previous citizenship in naturalisation. Several states tolerate dual citizenship when their citizens naturalise abroad, but refuse to naturalise immigrants unless they give up their citizenship of origin. These states should consider tolerating dual citizenship consistently at birth and naturalisation, and for emigrants as well as for immigrants.

5. Language and civic knowledge tests should not be so demanding that they deter immigrants with less education from applying for naturalisation. Integration tests should respect privately held religious and moral convictions, test questions ought to be publicly available and free preparatory courses should be offered.

6. High income requirements, denial of naturalisation to those who have received social welfare benefits or high naturalisation fees amounts to unequal treatment of citizenship applicants on the basis of social class, which is not acceptable in liberal democracies.

7. Spouses and minor children should have facilitated access to citizenship when naturalising together with their partners/parents or when applying independently on the basis of being a close family member of a citizen. Although a principle of family unity with regard to nationality is no longer relevant, persons who have a double genuine link to a country through residence and close family relations with a citizen should enjoy easier access to citizenship. For children born or raised in the country, independent acquisition of citizenship through *ius soli* or naturalisation should be offered as an alternative to family-based naturalisation. Facilitated naturalisation in this case should be a matter of entitlement subject only to conditions derived from residence and school attendance.

8. States may have reasons to offer easier access to descendants of their former citizens or to immigrants from countries with which they share strong historical and cultural ties. Restoring citizenship through easy naturalisation can be a matter of justice towards those who had been unjustly deprived of it under a previous regime. However, apart from these cases, states should not offer naturalisation based on a more distant ancestry or shared ethnic identity without a requirement of several years of residence in the country. In the European Union, offering citizenship to co-ethnic groups residing permanently in third countries is not acceptable, since it gives these groups unconditional access to residence in all other Member States.

9. In order to encourage EU citizens residing permanently in another member state to fully integrate into the political life of their host state, states may consider offering them easier naturalisation.

10. Apart from substantive requirements, the decision to naturalise should not be blocked by long and costly procedures with uncertain outcomes. States should fix a maximum period for deciding on applications, should always justify a negative decision and allow for appeals. It is good practice to delegate the administrative handling of applications to easily accessible regional and local administrations, provided that these are always bound in their decisions by uniform national regulations. Public ceremonies with newly naturalised citizens can highlight the value of citizenship and celebrate the openness of the country towards newcomers.

For more information visit the EUDO CITIZENSHIP Observatory website at: <http://eudo-citizenship.eu>