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The increase in cohabitation and the role of marital status in family policies

A comparison of 12 European countries

Workshop: 'Cohabitation trends, policies and practices'
06. February 2015

Aim of this study

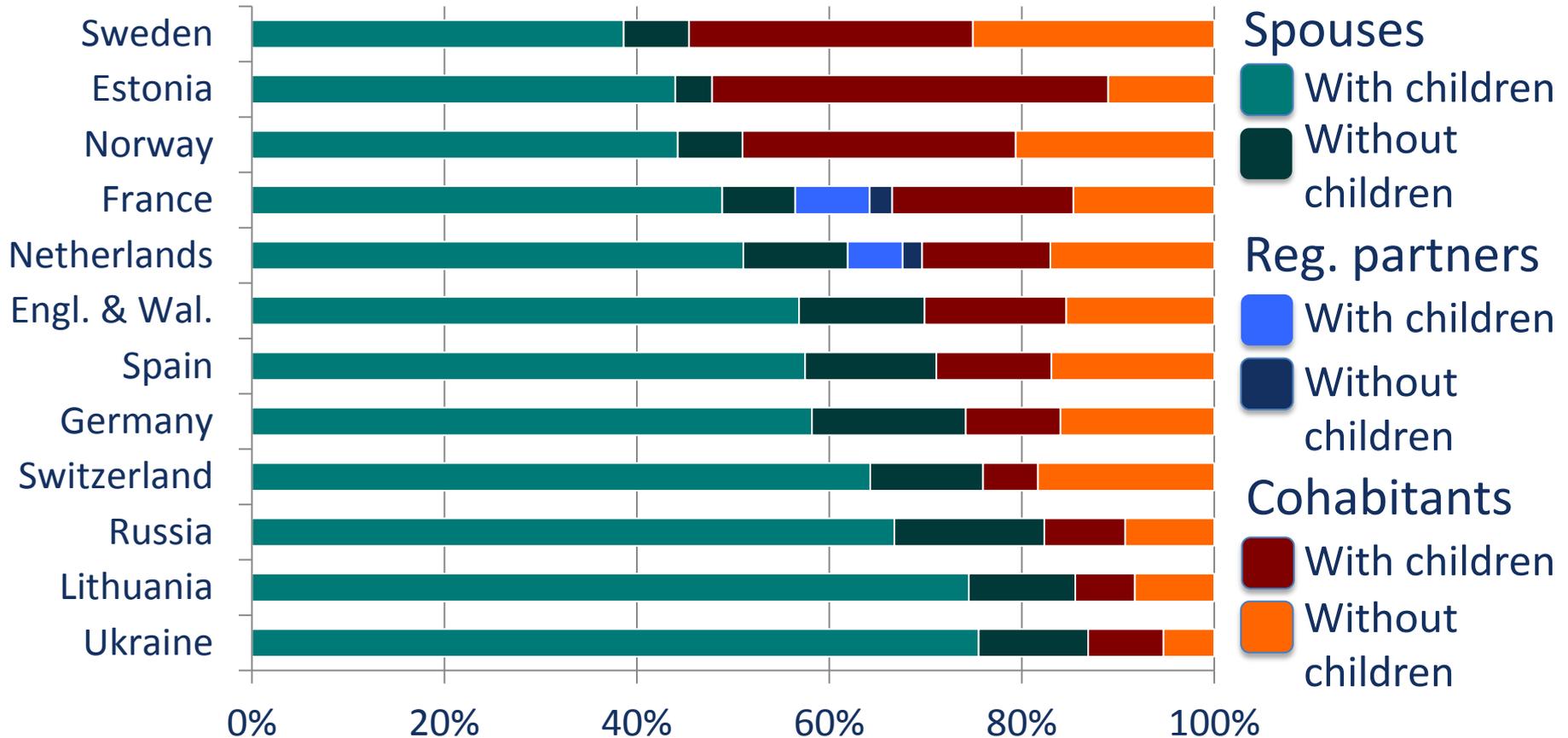
- How many couples live in heterosexual cohabitation in Europe today?
 - Survey data: European Social Survey (2010)
- Which rights and obligations do they have in different policy areas?
 - Policy database: 19 policy areas (laws in 2010)
 - Policies that matter in case of unemployment, separation, death: tax laws, inheritance laws, ...
- How many couples fall outside the scope of policies in their country?
 - Comparison of survey data and policy information

Countries in our study

- Different welfare traditions
- Different family traditions
- Different cohabitation levels



The incidence of cohabitation (2010)



Respondents by union type and presence of children in household (age 15 to 44)

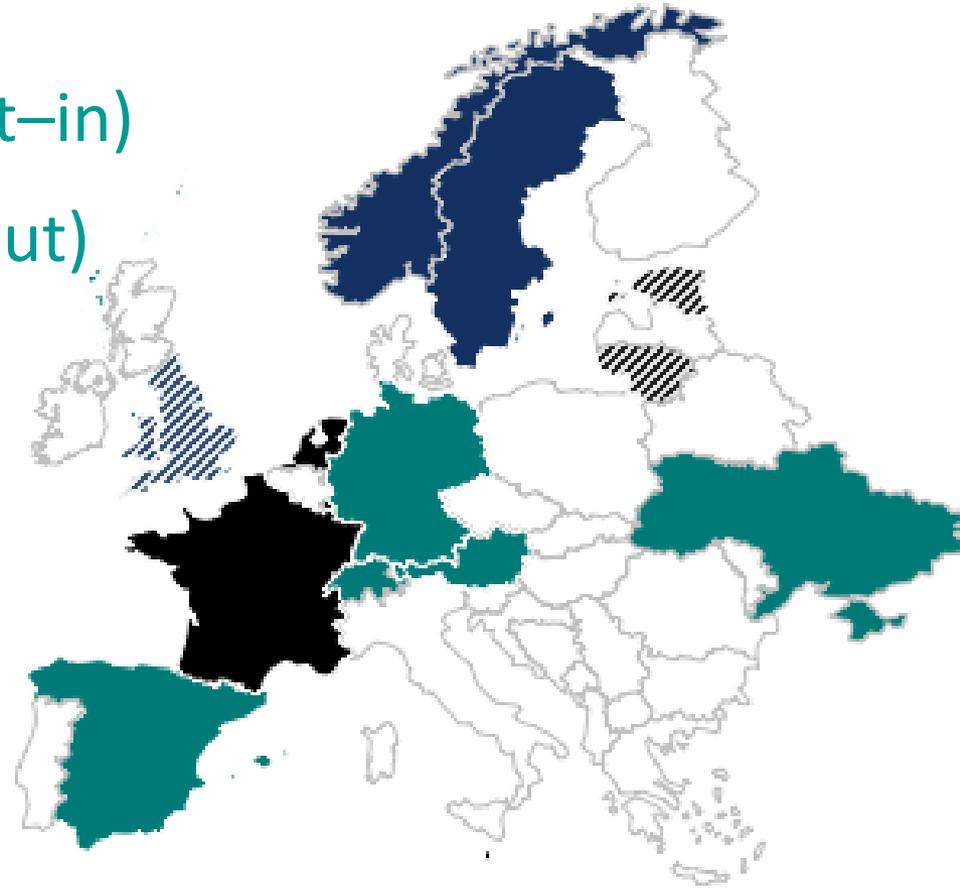
Source: European Social Survey (2010)

Cohabitation and the law – central questions

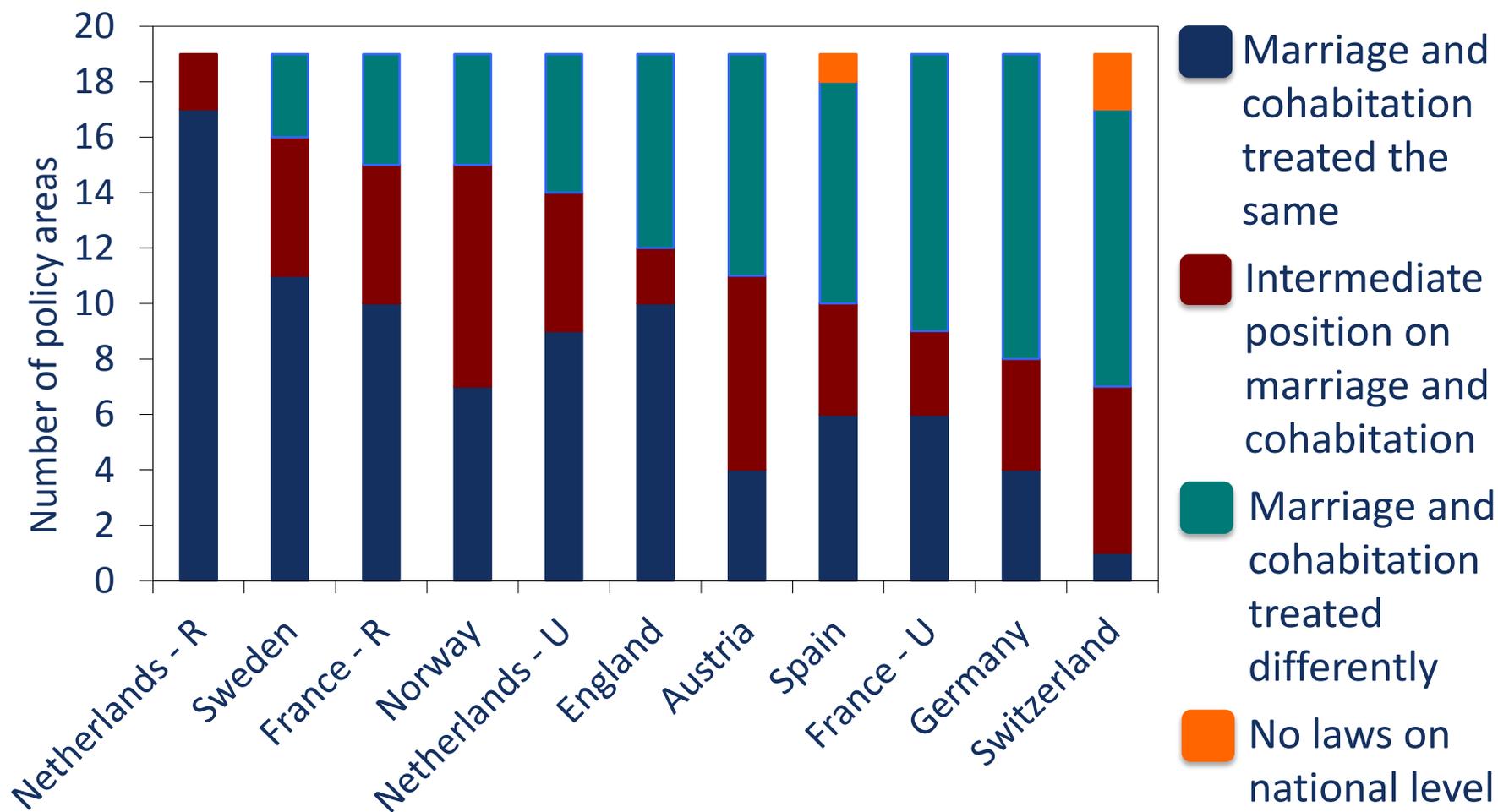
- Status of cohabitation:
Should cohabitation be more strongly regulated?
 - Trend in Europe: Towards stronger regulation
- Form of legal regulation:
Opt-in or opt-out systems?
 - Both forms, and: incremental extension of rights
- Content of legal regulation:
How extensively should cohabitation be regulated?
 - Strong variation across countries

Legal approaches across Europe

- Registration systems (opt-in)
- Cohabitation laws (opt-out)
- Individual laws apply to cohabitation
- ▨ Bills currently discussed or adopted but not fully implemented



Legal regulation of cohabitation (2010)

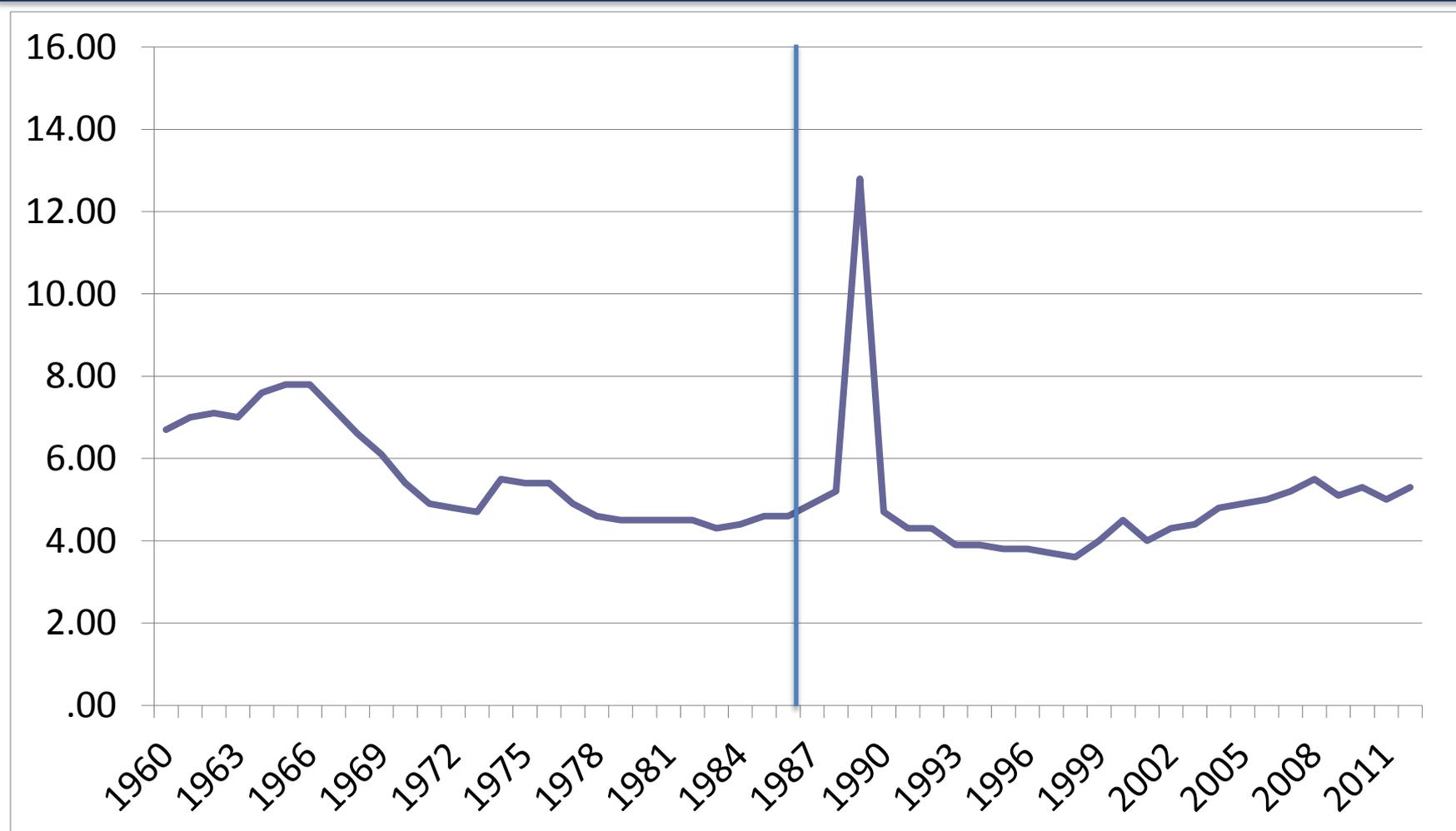


Source: B. Perelli-Harris & N. Sánchez Gassen (2010): How similar are cohabitation and marriage? Legal approaches to cohabitation across Europe, in: Population and Development Review, vol. 38, no. 3

Example 1: Sweden

- 55% of partnered individuals (aged 15-44) cohabiting
- Cohabitation Act (2003): “opt-out” system
 - Regulates division of joint home and furniture
 - Property is divided upon request of either partner, or surviving partner in case of death
 - Couples can opt out
 - Applies to all single cohabitants who permanently live together and who share a joint household
- Goal: provide minimum protection to weaker partner when cohabitation ends.
- In addition: limited inheritance rights, survivor’s pension

Sweden: Crude Marriage Rate

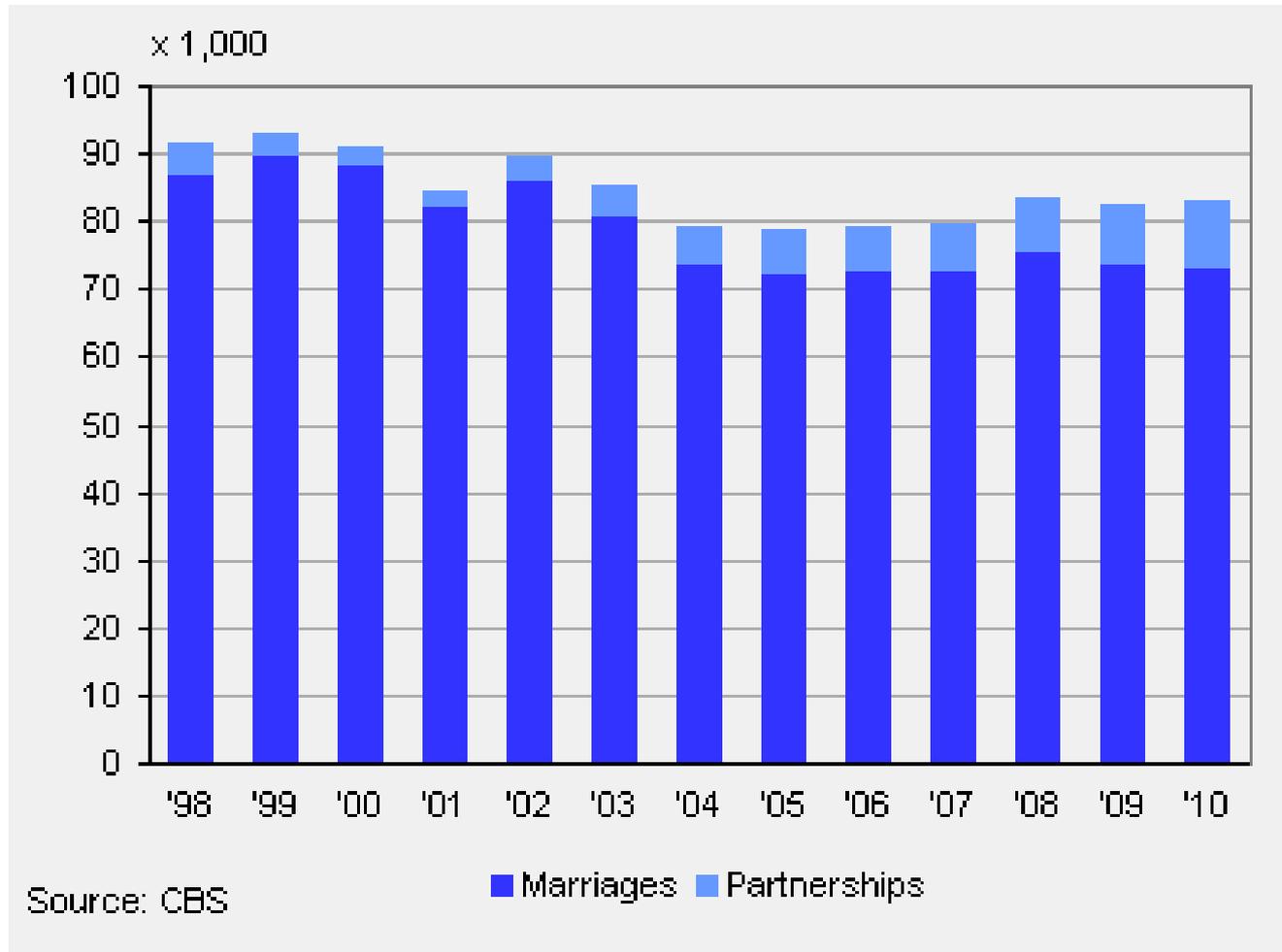


Data: Eurostat, online database

Example 2: Netherlands

- 30% of partnered individuals (aged 15-44) cohabiting, 8% in registered partnership
- Registered partnerships (since 1998): “opt-in” system
 - Essentially the same legal consequences as marriage
 - Difference: Childbearing and –rearing
- Unregistered cohabitants:
 - Possibility to sign a cohabitation agreement
 - Even in absence of agreement, some legal consequences apply:
income tax, inheritance, social security
 - But: no specific rights/obligations upon separation

Netherlands: Number of marriages and entries into registered partnerships



Data: CBS, Netherlands

Example 3: Germany

- 26% of partnered individuals (aged 15-44) cohabiting
- Cohabitation almost as common as in England/Wales, but almost no laws apply to cohabitants:
 - Separation: few rights only for young mothers
 - Death: right to remain in partner's rented apartment
 - Relationship taken into account in applications for social assistance
- Currently no discussion of new laws
- Basic Law requires state protection of marriage

Conclusion:

- **Cohabitation levels:** Substantial variation in Europe.

- **Legal approach:**

We find opt-in and opt-out approaches in Europe, some countries incrementally change laws

Registration systems: Only a minority of couples choose this option.

- **Content of laws:**

The extent of rights and responsibilities for cohabitants differs across countries.

Countries with high cohabitation levels do not necessarily have more extensive cohabitation laws.



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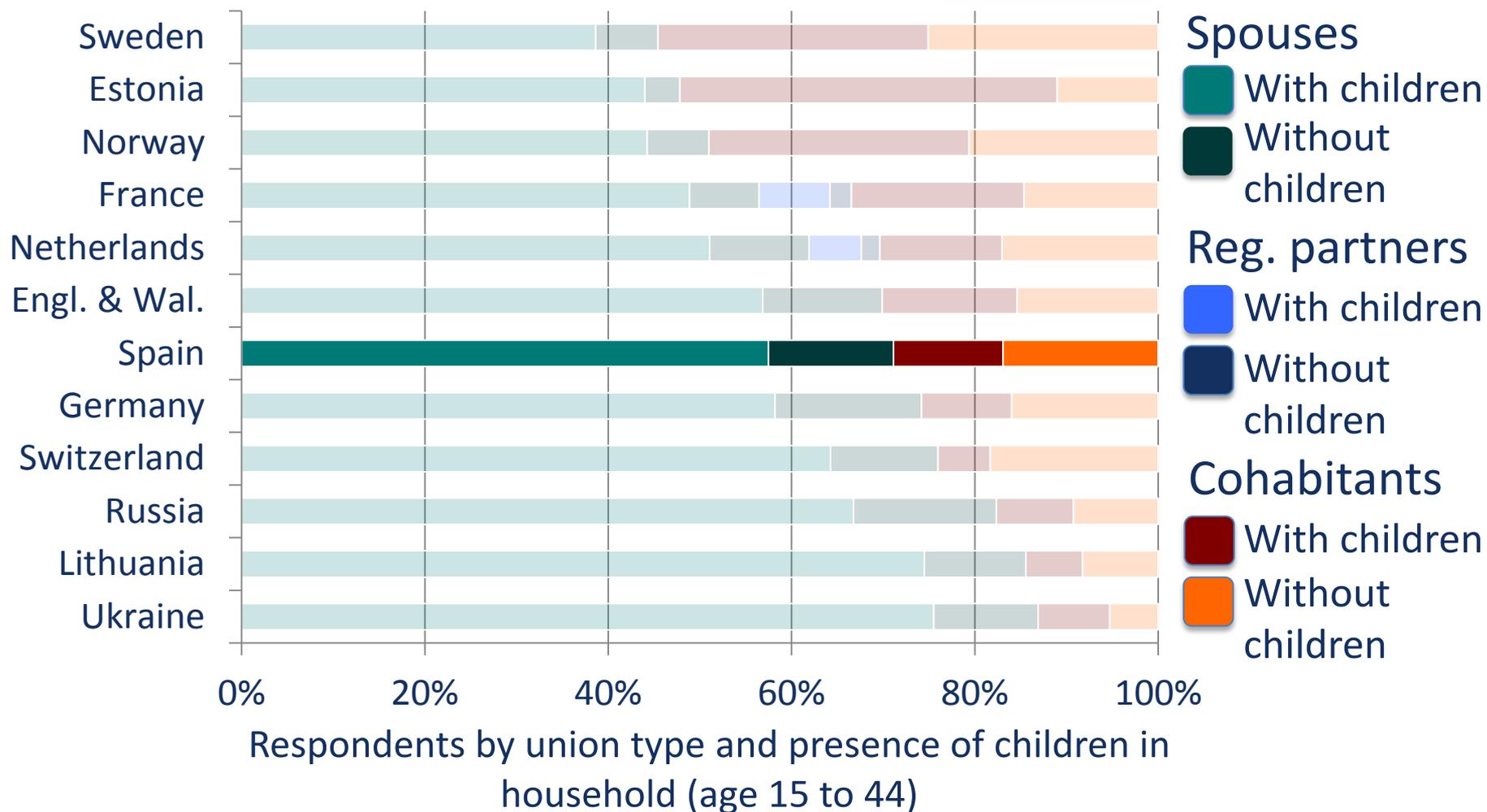
Questions:

- Should there be more extensive cohabitation laws?
Opt-in or opt out systems?
- Do registration systems work, given the low proportion of cohabitants who use them?
- Given the higher participation of women in employment, is the image of the vulnerable cohabitant who needs legal protection still appropriate?

Example 3: Estonia

- 52% of partnered individuals (aged 15-44) cohabiting
- Until 2014:
Almost no legal regulation of cohabitation at all
- September 2014: Parliament adopts Cohabitation Act
 - Registration system for different-sex and same-sex couples
 - Cohabitants can regulate their rights and obligations
 - But: to enter into force, implementing laws have to be passed until 2016 (regulating e.g. inheritance)
 - “There are too few of us to discriminate against anyone” (President Ilves)

Example 5: Spain



Source: European Social Survey (2010)

Example 5: Spain

- National level:
Cohabitation entails few legal consequences:
Health insurance, survivor's pension, ...
- Regional level:
 - 13 of 17 regions have registered partnership laws
 - Registration procedures and legal consequences differ
 - Rights and obligations often symbolic
- Legal status of cohabiting couple depends on place of residence and registration