Selling the Family's Jewels? The Euro Crisis and Investment Migration Programmes in the European Union

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Introduction

European Union (EU) Member States have long competed to attract Foreign Direct Investment (FDI) through a panoply of incentives targeted at companies, ranging from tax breaks to new infrastructure and worker training. This competition, both against third countries and against other EU Member States, became fiercer in the wake of the global financial crisis and the subsequent euro crisis, which have prompted a sharp drop of inward foreign investment in Europe. In addition to incentives offered to companies, some Member States started devising investment incentives targeted at individuals, providing residency or citizenship in exchange for investment. From almost non-existent a decade ago, these investment immigration schemes, called Investor Immigrant Programmes (IIPs), are now offered by twenty Member States: Bulgaria, Croatia, Cyprus, Czechia, Estonia, France, Greece, Ireland, Italy, Latvia, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain and the United Kingdom.

IIPs can defined as structured programmes which grant individuals and, in some cases, their families, a status which allows them to stay in the territory of a particular country in exchange for a certain investment in the country or a monetary transfer into the state treasury. As Džankić observes, the central feature of investor immigrant programmes is that they link an investment obligation on the part of the investor to a status obligation on behalf of the state, or in other words the 'status advantage' for the respective investor.[3] IIPs should be distinguished from long-existing policies of discretionary naturalization on public interest grounds.[4] Many states indeed allow for individual naturalization on the discretion of the government on grounds of national interest. By contrast, recently flourishing investor immigrant programmes are characterized by their transparent, ex ante defined rules and criteria for acquiring citizenship or residence rights.

IIPs can be further subdivided based on the level of investment obligation on the part of the investor and the subsequent status advantage gained. Starting with the latter, the primary distinction is that between citizenship-by-investment (CBI) programmes, which grant immediate or virtually immediate citizenship in exchange for the required investment, and residency-by-investment (RBI) programmes, which merely allow the investor to reside in the respective country for a certain longer-term. While RBI programmes often indirectly allow

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[3] J. Džankić, 'Immigrant Investor Programmes in the EU' (2018) 26 *Journal of Contemporary European Studies* 64.
[4] J. Džankić, 'The Pros and Cons of *Ius Pecuniae*: Investor Citizenship in Comparative Perspective' (2012) *EUI Working Papers* RSCAS 2012/14.

for the possibility to acquire citizenship at a later stage, subject to a minimum residency period for instance, citizenship rights are not principally attached to the status obligation of RBI programmes. Focusing on individual IIPs, specific advantages linked to the investment scheme may be related to tax-related incentives and access to extraterritorial mobility that is associated with the status concerned. The latter is particularly relevant for IIPs of EU Member States that come with long-term settlement rights in other EU countries.

Secondly, by focusing on the (investment) obligations associated with IIPs, one may primarily distinguish between 'active' and 'passive' programmes. Active programmes require more obligations on part of the investor, for example continuous residency or residency for a minimum number of days per year, or any other obligation that purposively attempts to create a substantive connection between the investor and the country. Passive programmes require only minimal obligations outside the investment itself and potentially a minimal length of stay on part of the investor. Since passive programmes allow for acquiring residency or citizenship rights with very few to no additional obligations, they also known as 'long-distance' investment schemes.[5]

The proliferation of IIPs in EU Member States over the past decade, colloquially referred to as 'golden visas' and 'golden passports', has been well documented.[6] Most research into IIPs, almost exclusively coming out of the citizenship literature, has taken an evaluative approach by assessing the legitimacy of such programmes either against some legal[7] or ethical benchmark.[8] Less research, however, has focused on the investment side of the story.[9] This chapter explores how and why these investment migration programs quickly proliferated throughout the European Union in the aftermath of the euro crisis. We argue that this proliferation has resulted from a match between supply and demand: while ultra-wealthy or upper-middle class individuals from countries with limited political freedoms have increasingly been interested in acquiring an additional residency or passport, European Member States have engaged in a race-to-the-bottom, both in terms of price and

[5] Džankić.

[6] See e.g. S. Carrera, 'How Much Does EU Citizenship Cost? The Maltese Citizenship-For-Sale Affair: A Breakthrough for Sincere Cooperation in Citizenship of the Union?' (2014) *CEPS Paper in Liberty and Security in Europe* No. 64; K. Surak, 'Global Citizenship 2.0 – The Growth of Citizenship by Investment Programs' (2016) *IMC Investment Migration Working Papers* 2016/3; M. van den Brink, 'Investment Residence and the Concept of Residence in EU Law: Interactions, Tensions, and Opportunities' (2017) *IMC Investment Migration Working Papers* 2017/1. See also D. Kochenov, 'Theoretical Aspects of Citizenship and Residence Sales'; and K. Surak, 'Empirical Developments: Trends in Investment Migration', in this volume.

[7] D Sarmiento, 'EU Competence and the Attribution of Nationality in Member States', *IMC Research Paper* 2019/2; PJ Spiro, *Nottebohm* and "Genuine Link": Anatomy of a Jurisprudential Illusion, *IMC Research Paper* 2019/1; S Kudryashova, The Sale of Conditional EU Citizenship: the Cyprus Investment Programme under the Lens of EU Law, *IMC Research Paper* 2019/3.

[8] A Shachar, 'Dangerous Liaisons: Money and Citizenship'; R Barbulescu, 'Global Mobility Corridors for the Ultra-rich: the Neoliberal Transformation of Citizenship'; R Bauböck, 'What Is Wrong with Selling Citizenship? It Corrupts Democracy!'; D Kochenov, 'Citizenship for Real: its Hypocrisy, its Randomness, its Price', all in R Bauböck (ed), *Debating Transformations of National Citizenship* (Springer 2018); O Parker, 'Commercializing Citizenship in Crisis EU: The Case of Immigrant Investor Programmes' (2017) 55 JCMS 332.

[9] See however K. Surak, 'Global Citizenship 2.0 – The Growth of Citizenship by Investment Programs', *IMC Research Paper* 2016/3, offering a sociological analysis of various interlinked factors explaining IIPs both from the perspective of the state and that of the individual; and PJ Spiro, 'Cash-for-Passports and the End of Citizenship' in Bauböck (ed), *Debating Transformations* (n xx), describing IIPs as a symptom, not a cause, of citizenship being hollowed out.

obligations, in order to sell these individuals something that belongs to the EU as a whole – the right to reside and travel in the entire union. This will undoubtedly lead to a political conflict over competences in the years to come.

The remainder of this chapter is structured as follows. Section I will provide a brief overview of the proliferation of IIPs in the EU. In Section II, we explore the rise of IIPs in Europe from the "supply side", analysing them as a response to the global economic crisis and subsequent euro crisis, which led to dwindling FDI, and as a differentiation strategy used by countries that do not have many assets usually coveted by traditional foreign investors. Section III analyses the creation of these investment migration schemes from the "demand side", focusing on the contemporaneous rise of new investors from emerging countries, especially China. The conclusion briefly discusses some policy implications of IIPs, especially the looming competence conflict.

I. The proliferation of investment migration programmes in Europe

Once an obscure niche reserved for the ultra-wealthy in just a few countries, national programmes linking foreign investment to residency or citizenship have proliferated outside and inside Europe over the past decade. This section offers a concise overview of the chronology of this proliferation and the main differences between the various national programmes in EU member states.

In the 1980s and 1990s, modern IIP programmes were mainly associated with former colonies, mostly microstates. Well-known as pioneering countries in the contemporary sale of passports are the Caribbean microstates of St. Kitts and Nevis (1984) and the Commonwealth of Dominica (1993). In Europe, several countries have had RBI programmes for decades, including Ireland,[10] the United Kingdom,[11] and Austria.[12] These, however, were typically very expensive and geared only towards the extremely wealthy[13] or the highly skilled and talented.[14] Outside Europe, similar programmes are also well-known, among others offered by the United States,[15] Singapore,[16] and Australia.[17]

Since the late 2000s, a new wave of investment migration programmes has flourished in the EU. Their characteristics are different from those of earlier European programmes in at least three ways: first, many require only passive investment; second, the monetary amounts of required investment are much lower; and third, in addition to residency by investment, several European countries now also offer citizenship by investment.

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[13] Examples of investment requirements

[14] See generally A. Ong, '(Re)Articulations of Citizenship' (2005) 38 *Political Science and Politics* 697; A. Shachar, 'The Race for Talent: Highly Skilled Migrants and Competitive Immigration Regimes' (2006) 81 *New York University Law Review* 148; G. Menz, *The Political Economy of Managed Migration: Nonstate Actors, Europeanization, and the Politics of Designing Migration Policies* (Oxford University Press 2008).

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As of now, 20 Member States are offering RBI and/or CBI programmes with varying degrees of investment and status obligations, as shown on Table 1.[18] With the early exceptions of Romania, Lithuania and Bulgaria, these current RBI and CBI programmes have been introduced from 2008 onwards:[19]

Table 1: Introduction of CBI/RBI Programmes in the EU

2003	Romania	RBI
2004	Lithuania	RBI
2005	Bulgaria	CBI
2007	Cyprus (changed in 2013)	CBI
2008	United Kingdom	RBI
2009	Estonia	RBI
2010	Latvia	RBI
2011	Croatia	RBI
2012	Ireland	RBI
	Slovakia	RBI
	Portugal	RBI
2013	Hungary (abolished in 2017)	RBI
	Malta	CBI
	Poland	RBI
	Netherlands	RBI
2014	Greece	RBI
	Spain	RBI
2015	Malta	RBI
2016	Cyprus	RBI
	France	RBI
2017	Czechia	RBI
	Italy	RBI
	Luxembourg	RBI

The characteristics of these programmes vary, both in terms of the specific investment obligations required (such as minimum residency requirements) and the statuses attached to these investments (such as duration of residency rights). Some programmes combine passive and active schemes, as in Ireland and Portugal, while others are fully passive in the investment and other requirements, as in Cyprus, Italy and Latvia.[20]

The European Commission has recently drafted a typology of current RBI programmes, distinguishing between five types of investment: capital investments, investment in

[18] Commission report, p. 7: Bulgaria, Croatia, Cyprus, Czechia, Estonia, Greece, Ireland, France, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain, and the United Kingdom.
[19] Commission staff working document, p. 14.
[20] Amandine Scherrer and Elodie Thirion, "Citizenship by Investment (CBI) and Residency by Investment (RBI) Schemes in the EU" (EPRS-European Parliamentary Research Service, October 2018), p. xx.

immovable property, investment in government bonds, donations contributing to the public good, and one-time contributions to the state budget,[21] which are sometimes combined or offered as alternatives in the context of specific RBI programmes. Also the amount of investment required varies widely, ranging from approximately EUR 13,500 in Croatia,[22] to over EUR 5 million in Slovakia and Lithuania.[23] Some RBI programmes require active residency by means of an active business engagement requirement, such as Latvia, while other programmes merely require the investor to be present in the country only a limited number of days per year.[24] On the status side, the duration of the residence permits associated with the particular RBI programmes varies from six months to ten years.[25]

Three Member States have CBI programmes: Cyprus, Bulgaria and Malta. Cyprus has been de facto offering a CBI programme since 2002, when it started granting Cypriot citizenship in exchange of an investment of at least EUR 10 million under the Cypriot Council of Ministers' discretion to grant citizenship for reasons of public interest.[26] In March 2013, Cyprus lowered the investment required for citizenship from EUR 10 million to EUR 3 million. Currently, required investments have been further lowered to EUR 2 million, plus permanent privately-owned residence of at least EUR 500,000. All investment requirements of the Cypriot CBI programme are of a passive nature, offering the option of investing in real estate or companies.[27]

Bulgaria's CBI programme, introduced in 2005, offers two ways to waiver the ordinary naturalization requirements, which include command of the Bulgarian language.[28] Under the Ordinary Investors' Scheme, investors who have held a permanent residence permit for five years and who are in possession of income or occupation to allow their subsistence in Bulgaria can waiver naturalization requirements by an investment of EU 500,000.[29] Under the Fast-Track Investors' Scheme, after only one year of having a permanent residence permit, investors can acquire Bulgarian citizenship by investing EUR 1 million without miscellaneous requirements.[30] The required investments are only of a passive nature and may be invested, among others, in shares or bonds and treasury bills, company ownership or Bulgarian intellectual property.[31]

By the end of 2013, Malta launched a passive CBI programme similar to that of Cyprus, albeit with even lower investment requirements. The initial Maltese citizenship-by-investment programme required only a lump sum of EUR 650,000. After protests from the European Parliament, Malta increased the requirements to include a lump sum donation of EUR 650,000 combined with a property investment of EUR 350,000 or at least EUR 16,000

[21] Commission staff working document, p. 17.
[22] HRK 100,000. Commission report, p. 7.
[23] Commission report, p. 7.
[24] Commission staff working document, p. 19–20.
[25] Commission staff working document, p. 20–22.
[26] Art. 111A Civil Registry Laws.
[27] For an overview, see Commission staff working document, p. 8.
[28] Bulgarian Citizenship Act (BCA).
[29] Art. 12a BCA.
[30] Art. 14a BCA.
[31] For a full overview, see Commission staff working document, p. 7.

investments in rented property per year, and investments of at least EUR 150,000 which can be in government bonds, stocks or securities, among others.[32]

The number of individuals who have taken advantage of these programmes to obtain residency or citizenship in the European Union is not very clear, as several countries do not publicize their data. According to the European Parliamentary Research Service, [33] Malta granted 947 citizenships through its CBI scheme between 2014 and 2016; Cyprus naturalized 3,336 individuals between 2008 and 2017; Bulgaria granted 16 naturalizations and 490 residency permits between 2009 and 2017. As for RBI schemes, Ireland offered 380 residency permits between 2012 and 2016, while Latvia granted residency to 14,047 foreign investors between 2012 and 2016 and Portugal 17,687 between 2013 and 2018.[34]

II. The supply side: the impact of the Euro crisis

Why have so many European countries started offering investment migration programmes over the past decade, and why do the characteristics of these programmes differ from those of the pre-existing programmes in other European countries? We argue that these programmes – selling the family's jewels, as it were – were created and diffused throughout the EU in direct reaction to the global financial crisis and subsequent euro crisis, as one additional tool in the national toolkit to attract foreign capital within the constraints on investment incentives posed by EU membership.[35] This section briefly explores the 'supply' of new investment migration programmes by several EU member states by focusing on the particular economic crisis faced by some countries at the turn of the current decade, the global investment context, and the constraints and opportunities of EU membership.

An economic and financial crisis at the turn of the decade

In the wake of the American financial crisis and Great Recession that erupted in the fall of 2008, several European countries experienced their own economic crisis. Both the timing and the nature of these individual crises, however, varied by country, presenting a complex picture of the so-called "euro crisis."[36]

The first, and most consequential, crisis to unfold in the Eurozone was in Greece. Following the revelation in October 2009 that the Greek budget deficit would be much higher than anticipated, Eurozone countries and the International Monetary Fund agreed the following year to give financial assistance to Greece to help repay its private lenders, which further exacerbated its debt, forced drastic austerity measures, and deepened the crisis.

Ireland, nicknamed the "Celtic Tiger", was the first EU country to fall into recession in 2008 and the next in line after Greece to experience a financial crisis when its economic growth,

[32] For an overview, see Commission staff working document, p. 8.
[33] Amandine Scherrer and Elodie Thirion, "Citizenship by Investment (CBI) and Residency by Investment (RBI) Schemes in the EU" (EPRS-European Parliamentary Research Service, October 2018), http://www.europarl.europa.eu/RegData/etudes/STUD/2018/627128/EPRS_STU(2018)627128_EN.pdf.
[34] Scherrer and Thirion.
[35] See also J. Dzankic, 'Immigrant Investor Programmes in the European Union' (2018) 26 *Journal of Contemporary European Studies* 64, 64–65.
[36] Ashoka Mody, *Euro Tragedy: A Drama in Nine Acts* (Oxford, New York: Oxford University Press, 2018).

coupled with a property bubble, was severely hit by the collapse of its two largest banks and a crash of its real estate market, with housing prices that fell 35% between 2007 and 2010. In November 2010 the EU and the IMF provided some financial assistance to Ireland, with the remainder coming from Irish cash reserves and other liquid assets, leading in turn to a sovereign debt crisis.

The economy of Portugal, which had not experienced rapid growth over the preceding decade, was also severely hit by the Great Recession, and the country plunged into a sovereign debt crisis, for which it received financial assistance from the EU and the IMF in April 2011. Spain started to show signs of crisis by August 2011, when its long economic boom, underpinned by a housing bubble that had been financed by cheap loans to builders and homebuyers, came to an end. Economic growth shrunk, property prices collapsed (by 37% between 2007 and 2013), unemployment skyrocketed, and the government borrowed heavily as a result, leading to the announcement of financial assistance to stabilize Spanish banks in June 2012. The economy of Cyprus was next hit by a severe financial crisis, partly as a result of the exposure of Cypriot banks to Greek debt. Cyprus received a bailout in March 2013. In Italy, hit hard by the Great Recession in 2008, the financial crisis has developed more slowly and its severe public debt problem has been getting worse for a decade.

Outside of the Eurozone, the Great Recession first spread to Hungary, hit by a very severe economic crisis in 2008, leading to a rescue package by the EU and the IMF that year. However, the economic uncertainty and instability led to a decrease in investment and a major political transformation. Similarly, the crisis immediately had repercussions in Latvia, whose booming economy came to a sudden halt, leading to a sharp rise in unemployment, a banking crisis, the collapse of a housing bubble, and an emergency bailout from the EU and the IMF in 2009.

Dwindling flows of Foreign Direct Investment

After two decades of growth, global flows of FDI[37] had surged between 2003 and 2007 to reach an all-time high of about $2 trillion in 2007. The Great Recession of 2008 suddenly and severely affected these flows for several reasons: the financial crisis impacted negatively the world's GDP, which is correlated positively with demand for FDI; access to credit dried up; and the uncertainty and instability led risk-averse potential investors to wait and see. As a result, global FDI flows were down 20% in 2008 compared to the previous year and took over seven years to get back to their pre-crisis levels. By 2010, the cross-border Mergers and Acquisitions deals of developed country companies were down 67% compared to 2007.[38][39]

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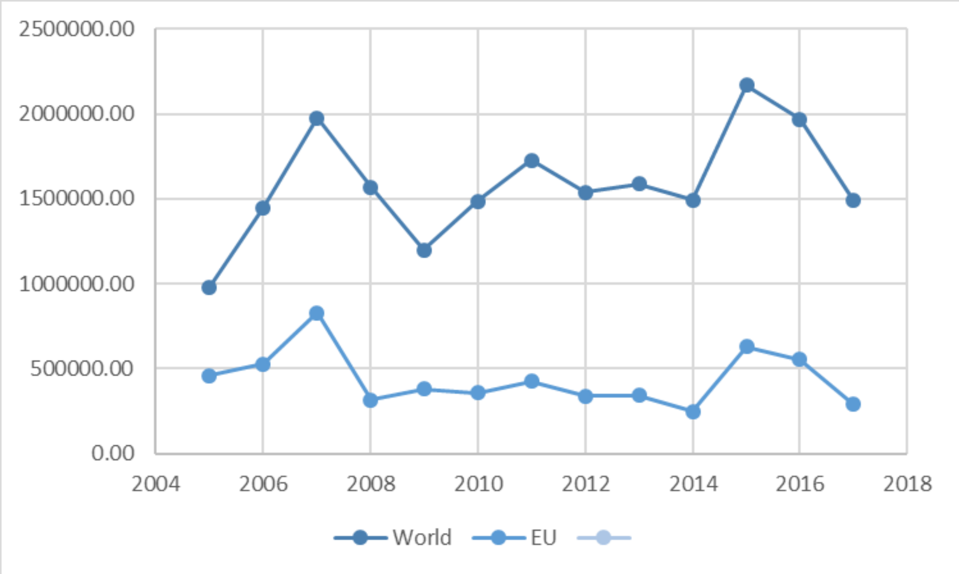
[37] FDI is a class of investment where the investor acquires at least 10 per cent of the voting power of an enterprise, which establishes 'lasting interest' and control over the affiliated company's operations. OECD, "OECD Benchmark Definition of Foreign Direct Investment" (OECD, 2008), http://www.oecd.org/daf/inv/investmentstatisticsandanalysis/40193734.pdf.

[38] UNCTAD, "World Investment Report 2014: Investing in the SDGs," 2014, http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf.

[39] Lauge Skovgaard Poulsen and Gary Clyde Hufbauer, "Foreign Direct Investment in Times of Crisis," *Transnational Corporations* 20, no. 1 (2011): 20.

Figure 1: Inflows of FDI in the World and the EU 2005-2017, in million USD



Source: Source: https://data.oecd.org/fdi/fdi-flows.htm

European countries were hit particularly hard by the downturn in global FDI flows and took longer to recover than the rest of the world. Before 2008, the EU was the main recipient of global FDI and attracted, on average between 2000 and 2007, 43.1% of the world's FDI.[40] The majority of EU countries underwent significant drops in inward FDI flows as a result of the joint sovereign debt crisis and general economic crisis in the region. Some EU Member States, such as Belgium and Germany, saw large declines in FDI inflows in 2011. In the Southern European countries hit by the crisis, the FDI flows were more than halved from 2011 to 2012; Italy even experienced sizable divestment. Between 2008 and 2016, the EU attracted, on average, only 26.7% of the world's FDI. As of writing, FDI inflows have still not reached pre-crisis level in the EU.

EU constraints on incentivizing FDI

At the turn of the decade, many EU countries were facing, on one hand, an economic crisis (sovereign debt, banking, housing, unemployment) and, on the other hand, dwindling flows of foreign investment, with the effect of prolonging the economic downturn. Foreign capital had become a scarce resource over which many countries, both inside and outside the EU, were competing. Some Member States were better placed than others in this competition, because their national economies include assets typically coveted by foreign investors –such as Small and Medium Sized Enterprises producing machinery in the German Mittelstand. But the countries hardest hit by the crisis were also the ones with little desirable assets, especially for the rising foreign investor at that time, China, whose companies were more interested in making technology-intensive acquisitions in Europe.[41]

In non-EU countries, including the United States, local and national governments try to influence the location decisions of foreign firms and attract FDI through the use of

[40] CITE ECB
[41] Sophie Meunier, "'Beggars Can't Be Choosers': The European Crisis and Chinese Direct Investment in the European Union," *Journal of European Integration* 36, no. 3 (2014): 283–302.

incentives. These usually fall into three categories: financial incentives (such as grants and loans); fiscal incentives (such as tax breaks); and other incentives (such as infrastructure and worker training). EU membership, however, limits the tools available for competition in attracting investments because of constraints imposed on government incentives. The most constraining EU policy are the State Aid rules, which prohibit Member States from giving selective aid to companies, which distort competition in the Single Market.[42] These EU rules bind and limit the type and amount of investment promotion incentives that can be offered to potential investors. It is up to the EU to decide where and how much aid may be provided. While the EU State Aid rules do not prevent Member States from taking measures of general economic policy that do not give a selective advantage to certain companies (such as certain general taxation cuts), recent case law of the CJEU has confirmed that even seemingly general taxation rules can violate EU law.[43] Following this trend, investment promoting measures run the risk of violating state aid law as well, including, but not limited to, tax rulings.[44]

Unlike traditional investment incentives aimed at companies, the investment migration programmes are not subjected to the EU's State Aid rules because citizenship is a national competence both under public international law and EU law. Determining who are their nationals, a key element of state sovereignty, is an exclusive competence of the Member States.[45] Therefore, several EU countries latched onto these schemes as incentives, legal under EU rules, to provide an influx of foreign capital in national coffers or as stimulus to the national economy.

Under EU law, moreover, Member States are required to recognize any person's nationality of another Member State.[46] In this regard EU law has expressly departed from the International Court of Justice (ICJ) 1955 decision in *Nottebohm* which states are not obligated to recognize for the purposes of diplomatic protection the nationality conferred on an individual by another state in cases where there is a perception that there no 'genuine link' between the conferring state and the individual where the legality of such conferral is not in dispute.[47]

[42] Art. 107 TFEU.
[43] C-20/15, *European Commission v World Duty Free Group SA and Others*, EU:C:2016:981. For commentary see P. Nicolaides, 'Excessive Widening of the Concept of Selectivity' (2017) *European State Aid Law Quarterly* 62. For earlier examples, see e.g. C-106/09, *Commission and Spain v Government of Gibraltar and United Kingdom*, EU:C:2011:732; C-143/99. *Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke*, EU:C:2001:598.
[44] European Commission, Decision SA.38373, Ireland/Apple tax ruling; European Commission, Decision SA.34914, Gibraltar tax exemption scheme; European Commission, Decision SA.51284, Netherlands/Starbucks tax ruling.
[45] 'It is for each state to determine under its own law who are its nationals' according to Art. 1 of the1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws (L.N. Doc. C 24 M. 13.1931.V). *See also* Art. 2 of the Convention: 'Any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State'.
[46] *Micheletti* (n xx), para 15.
[47] ICJ *Nottebohm* (1955) ICJ Reports 4. The citizenship of Lichtenstein held by Mr. Nottebohm, who was also a German national, was not recognised by Guatemala, the latter state treating Mr. Nottebohm as a German citizen. The ICJ agreed with such a restrictive vision, ruling that nationality is a 'legal bond having as its basis a social fact of attachment, a genuine connection of experience, interests and sentiments, together with the existence of reciprocal rights and duties'. On the *Nottebohm* case *see* the literature recommended in Bleckmann, Albert, 'The

While it is possible that the CJEU will infer some constraints to CBI schemes from the principle of sincere cooperation, in particular relating to due diligence,[48] in light of Article 20 TFEU it seems highly unlikely that the sale of national citizenship could be deemed to EU law in general.[49] This means in turn that the commercialization of citizenship will likely continue to be an alternative source of investment inflows and economic differentiation strategy to individual EU Member States.

The proliferation of investment migration programmes as a direct response to the crisis

Though they differ from traditional Foreign Direct Investment in many regards, notably because they apply to individuals and not companies, investment migration programmes are also a way to bring in foreign capital. By contrast to the incentives commonly deployed in the world to attract FDI, such as state aid and fiscal breaks, the individual incentives of residency and citizenship by investment do not fall under the competence of the EU. We argue that several member states conceived these programmes in the wake of their financial crisis as one additional incentive they could use to attract foreign capital into their ailing economy - one more tool in the national toolkit to attract foreign capital.

Common features of all the countries that have created investment migration programmes since 2008 include a financial/economic crisis, either in the form of debt or real estate crisis, and the lack of many desirable economic, productive assets. Table 2 compares the timing and features of European RBI/CBI programmes in view of their respective economic crisis.

Table 2: Comparison of economic crisis and investment migration programs (*to be completed -Justin*)

Date of introduction of IIP	Member State	Nature of IIP	Economic/financial crisis
2003	Romania	RBI	
2004	Lithuania	RBI	
2005	Bulgaria	CBI EUR 1 million Government bonds	
2007	Cyprus (lowered in 2013)	CBI EUR 2 million plus EUR 500,000 in real estate ownership	
2008	United Kingdom	RBI Government bonds	

Personal Jurisdiction of the European Community' (1980) 17 *Common Market Law Review* 467, 477 and fn. 16. For a representative list of international documents regulating citizenship status and the obligations of citizens *see* K. Rubinstein and D. Adler, 'International Citizenship: The Future of Nationality in a Globalized World' (2000) 7 *Indiana Journal of Global Legal Studies* 519, 525 and fn. 32.

[48] See also Scherrer and Thirion, p. 28–32; Commission report, p. 5 and 9ff; Commission staff working document.

[49] See also Sarmiento (n. xx).

2009	Estonia	RBI	
2010	Latvia	RBI Real estate Or government bonds Plus money paid directly to the state	Starts in 2008
2011	Croatia	RBI	
2012	Ireland	RBI Real estate	Starts in November 2010 Banking crisis Real estate crash
	Slovakia	RBI	
	Portugal	RBI EUR 350-500,000 in real estate purchase Or EUR 1 million transfer to Portuguese bank account Or EUR 1 million in government bonds Or EUR 350,000 in Portuguese companies creating at least 5-10 jobs Or EURO 250-350,000 in cultural heritage of scientific research	Starts in May 2011
2013	Hungary (abolished in 2017)	RBI Government bonds	Starts in 2008 Public debt
	Malta	CBI EUR 650,000 in national investment fund plus requirement to own EUR 350,000 in real estate property or EUR 16,000 in annual rent Plus EUR 150,000 government bonds	
	Poland	RBI	
	Netherlands	RBI	
2014	Greece	RBI Real estate of EUR 250,000 minimum	Starts in October 2009 Public debt Real estate crash
	Spain	RBI	Starts in June 2012

		Real estate Or government bonds	Real estate crash Banking crisis
2015	Malta	RBI	
2016	Cyprus	RBI	
	France	RBI	
2017	Czechia	RBI	
	Italy	RBI Government bonds	
	Luxembourg	RBI	

RBI through real estate property investment –such as in Greece, Latvia, Portugal, Spain- was expected to bring short-term relief to a depressed real estate market and stimulate the construction/home renovation sector. [50] But it may have negative consequences in the long run if it boosts property prices and leads to empty housing. Other countries preferred a bond model, such as Hungary and Ireland. The clearest and quickest economic benefits come from programmes that exchange residency or citizenship for cash payments, but they are also the most politically controversial because they represent the commodification of citizenship in its rawest form [51]

That European countries turned to selling residency and citizenship for economic reasons should not come as a surprise. Historically, the rationale for citizenship-by-investment programmes has almost unequivocally been to bolster the economic performance of the host country. Early programmes were initiated by former colonies with underperforming economies. St. Kitts and Nevis's early citizenship-by-investment programme can be seen as a response to the struggles of its agriculture-based economy to cope with frequent natural disasters and the global, competitive market.[52] Likewise, the CBI programme of the Commonwealth of Dominica purported to make its economy less dependent on its agricultural production.[53] Other schemes by Pacific and Caribbean states have been described as raising additional income while minimalizing potential risks of burdens, presuming that 'few, if any, purchasers will ever reside in the issuing country', and that others who do visit 'their' state 'may come for short periods – boosting the tourism industry'.[54]

The decision of the Cypriot government in 2013 to lower the investment required for citizenship from EUR 10 million to EUR 3 million was expressly aimed at recovering from the

[50] For a history and analysis of the Portuguese residence-by-investment programme, see L. van der Baaren and H. Li, 'Wealth Influx, Wealth Exodus: Investment Migration from China to Portugal' (2018) *IMC Investment Migration Working Papers* 2018/1.
[51] Madeleine Sumption and Kate Hooper, "Selling Visas and Citizenship: Policy Questions from the Global Boom in Investor Immigration" (Migration Policy Institute, October 2014), http://www.migrationpolicy.org/research/selling-visas-and-citizenship-policy-questions-global-boom-investor-immigration.
[52] J. Dzankic, 'The Pros and Cons of *Ius Pecuniae*: Investor Citizenship in Comparative Perspective', *EUI Working Papers* RSCAS 2012/14, 9–10.
[53] ibid 10–11.
[54] A. van Fossen, 'Citizenship for Sale: Passports of Convenience from Pacific Island Tax Havens' (2007) 45 *Commonwealth & Comparative Politics* 138, 140.

financial crisis by targeting Russian investors.[55] In March 2013, the country had received a EUR 10 billion bailout from the EU institutions and the IMF in exchange for a restructuring of the two largest banks and significant cuts on wealthy savers.[56] The latter had particular impact on Cyprus' attractiveness for foreign investment, as foreign investors – in particular from Russia – were heavily affected by the haircut on large savings.[57]

While the Maltese economy had not suffered from the same weaknesses as that of Cyprus, around 2013 the similarities between the Cypriot and Maltese economies led to speculation about a possible bailout programme for Malta as well.[58] Moreover, analysts feared that such speculation could lead to a loss of confidence in the Maltese economy, potentially entailing a massive withdrawal of foreign investment.[59]

A race to the bottom?

Like dominoes, these programmes have proliferated throughout the EU over the past decade, and the competition between Member States for a scarce resource felt at times like a race to the bottom. As Figure 2 shows, European countries lowered both the price and the status obligations of these programmes as the years progressed and more countries were offering their own IIPs.

[55] In April 2013, President Nicos Anastasiades announced the lowering of required investment to acquire Cypriot citizenship in a speech to Russian businesspeople. It was also announced that investors who had lost at least EUR 3 million by the bailout haircut would be eligible to apply for citizenship. See 'Cyprus to ease citizenship requirements, attacks EU "hypocrisy"' *Reuters*, 14 April 2013, at https://www.reuters.com/article/us-cyprus-president-russia/cyprus-to-ease-citizenship-requirements-attacks-eu-hypocrisy-idUSBRE93D09720130414.

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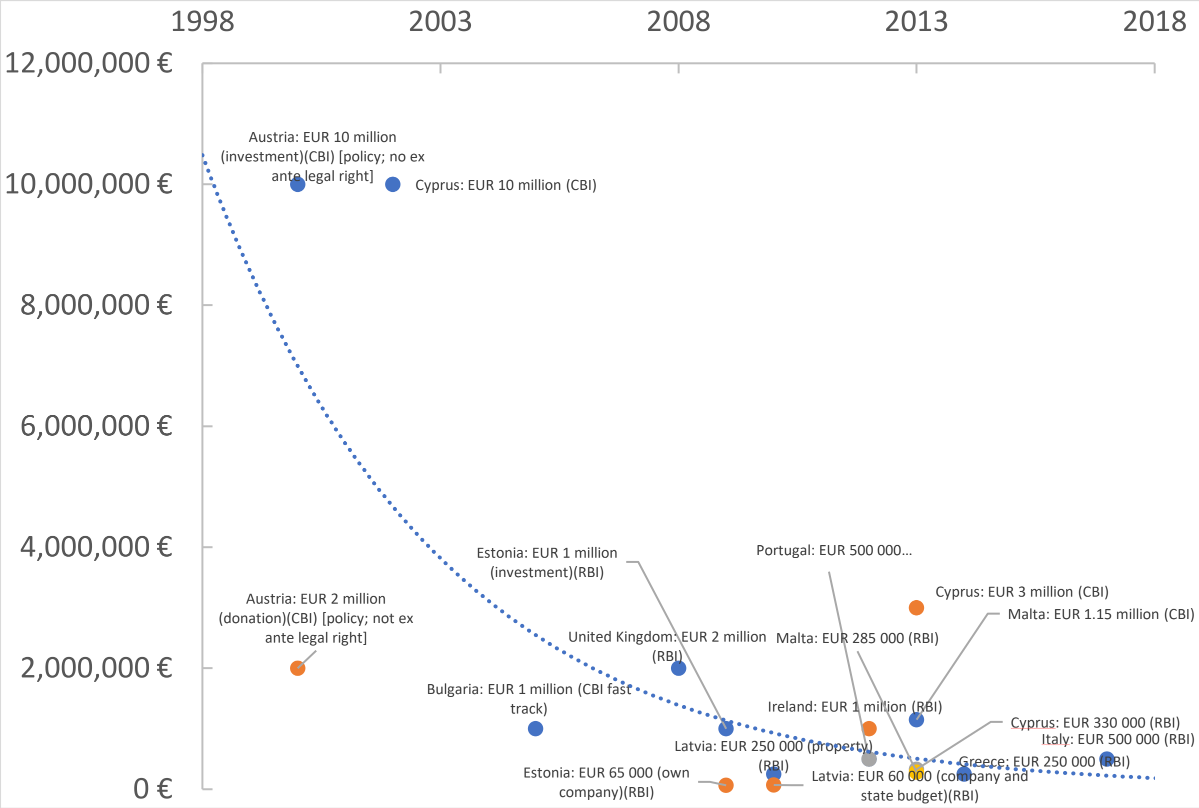
[59] 'Analysis: Malta unlikely to follow Cyprus into crisis' *Reuters*, 13 May 2013, at https://www.reuters.com/article/us-eurozone-malta-analysis/analysis-malta-unlikely-to-follow-cyprus-into-crisis-idUSBRE94C04H20130513: '"The key risk ... is that its international offshore investors begin to relocate in light of the policy uncertainty created by the Cypriot bail-in," Myles Bradshaw, a portfolio manager at PIMCO, said. "This would have significant negative economic effects that could in turn create a problem with domestic banks' asset quality. Together with the deep recession, this could force Malta to seek external assistance"'.

Figure 2: The race-to-the-bottom of IIPs in Europe in the 2010 decade



The lowering, even absence, of obligations can be interpreted as sheer commodification of citizenship. From an ethical and legal viewpoint, this commodification has been met with significant criticism over the past few years, the Maltese IIP having been a particular target of critique. In part, these criticisms are aimed at specific concerns related to the externalities of citizenship commodification, such as increased corruption and concerns of money laundering. More generally, the commercialisation of citizenship has been criticized from an ethical and political-moral perspective that links IIPs to neoliberal discourse and the commodification of political community.[60]

In the EU context, such critique is reinforced by reference to the intrinsic connection between national citizenship and EU citizenship.[61] By purchasing the citizenship of, say, Bulgaria, Cyprus or Malta, investor immigrants immediately acquire the right to move to and reside in all other EU Member States as well without discrimination.[62] Accordingly, both the European Parliament and the European Commission have expressed their concerns regarding CBI, and to a lesser extent also RBI, programmes, by referencing among others to the duty of sincere cooperation that it thought to impose limits to the conferral of citizenship by investment in light of the clear interests of all other EU Member States.[63] In this regard, the Commission observed:

[60] See e.g. O. Parker, 'Commercializing Citizenship in Crisis EU: the Case of Immigrant Investor Programmes' (2017) 55 JCMS 332; R. Barbulescu, 'Global Mobility Corridors for the Ultra-rich: the Neoliberal Transformation of Citizenship' (n. xx).
[61] Art. 20 TFEU.
[62] Arts. 18 and 21 TFEU.
[63] Commission report, p. 5–6; Scherrer and Thirion, p. 22–23.

> 'A decision by one Member State to grant citizenship for investment automatically confers rights in relation to other Member States, in particular free movement rights, the right to vote and stand as a candidate in local and EU elections, the right to consular protection if unrepresented outside the EU and rights of access to the internal market to exercise economic activities. It is precisely the benefits of Union citizenship, notably free movement rights, that are often advertised as the main attractive feature of such schemes'.[64]

Indeed, the specialized law firms pushing these programmes have understood what they were truly selling: it often takes turning a full twenty pages heralding the benefits of living in the European Union in their glossy brochures before getting to a description of the actual country in which the residency or citizenship is to be purchased.

III. The demand side: the rise of 'new' investors

Investor Immigrant Programmes have proliferated like dominoes in Europe since the late 2000s not only because of the realization by several Member States that these schemes could lead to a rapid influx of foreign capital but also because they responded to a growing demand by foreign individuals. On the demand side, the past decade saw the surge of individuals from non-EU countries interested in acquiring residency or citizenship in a member state. This surge, which has resulted in a vibrant market for investment migration programmes, can be explained by the rise of growth and wealth in non-Western countries characterized by limited democratic rights, travel restrictions, potential political instability, and poor environmental conditions. This section analyses the creation of these investment migration programmes in light of the rise of new investors from emerging countries, especially China, who may have different priorities than investors from advanced industrialised democracies.

The growth of a wealthy class in non-OECD countries

Thanks to the combination of globalization and capitalism, growth picked up spectacularly over the past two decades in countries that used to have less advanced economies. The growth of GDP per capita has been particularly dramatic in China, where it created a comfortable middle-class, which is estimated at 430 million people today and expected to expand to 780 million people by the mid-2020s.[65] To be sure, this new prosperity has been accompanied by growing and glaring inequalities, especially since the number of millionaires in China has been rising fast: 805,000 millionaires in 2010, corresponding to 3% of the

[64] Commission report, p. 5.
[65] Salvatore Babones, "China's Middle Class Is Pulling Up the Ladder Behind Itself," *Foreign Policy* (blog), February 1, 2018, https://foreignpolicy.com/2018/02/01/chinas-middle-class-is-pulling-up-the-ladder-behind-itself/.

world's millionaires; 3,480,000 and 8% in 2018.[66] Indeed, since 2014, China has been in the second place in the world, after the US, for the number of millionaires.

The past two decades also saw the growth of millionaires in other countries. There are now over 42 million of millionaires worldwide.[67] According to the Global Wealth report, at the beginning of the 21st century, "the 13.8 million millionaires in the world were heavily concentrated (97%) in high-income countries. Since then, 28.3 million "new millionaires" have appeared, of whom 4.3 million – 15% of the total additions – originated from emerging economies." [68]

Motivations for applying to investor migration programmes

Investor migration applicants' country of origin varies by country of destination. In the EU, the majority of investors who have expressed interest in the IIPs come from China and Russia. In the period between October 2012 and May 2018, 60% of investment residence permits in Portugal were granted to Chinese persons.[69] In Greece, 47% of all investment residence permits since the creation of the programme in 2014 went to Chinese investors; the other large groups were Russian (14.5%) and Turkish (10.4%) nationals.[70] Former Soviet Union nationals received 95% of all Latvian immigrant investor permits between 2010 and 2013 [71]

Potential individual investors have different motivations for seeking residency or citizenship in a EU country. Some reasons are purely economic: they may try to diversify their assets, take advantage of fiscal benefits, and hunt for bargains, especially in the real estate sector. In some cases, being a resident or citizen of a EU country may facilitate the administrative and regulatory burdens associated with these objectives.

Other reasons for applying to a residency or citizenship by investment programme are more political. For one, individual investors may seek to reside in a democratic country. Indeed, most recent economic growth in the world has taken place in countries with political regimes that restrict democratic rights.

Second, these investors most likely come from a country that restricts their international mobility and that does not allow visa-free travel to the rest of the world. Individuals who apply to the IIPs may seek the ease of access to other countries, in and out of the EU, offered by residency or citizenship in a Member State. European passports are particularly valuable. For instance, Chinese citizens can travel without a visa in only 66 countries, and do

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[66] Credit Suisse, "Global Wealth Report 2018," Credit Suisse, October 18, 2018, https://www.credit-suisse.com/corporate/en/articles/news-and-expertise/global-wealth-report-2018-us-and-china-in-the-lead-201810.html.
[67] Credit Suisse.
[68] Credit Suisse.
[69] L. van der Baaren and H. Li, 'Wealth Influx, Wealth Exodus: Investment Migration from China to Portugal' (2018) IMC-RP 2018/1, p. 9.
[70] Investment Migration Insider, "Portugal, Spain, Greece: A Statistical Comparison of Golden Visa Rivals," *Investment Migration Insider* (blog), September 11, 2018, https://www.imidaily.com/editors-picks/portugal-spain-greece-a-statistical-comparison-of-golden-visa-rivals/.
[71] Sumption and Hooper, "Selling Visas and Citizenship: Policy Questions from the Global Boom in Investor Immigration."

need a visa to enter some of the world's most desirable destinations, such as EU countries and the United States.[72] By contrast, citizens with a passport from Malta or Portugal, for instance, can travel visa-free to 171 and 175 countries respectively.[73]

Being a national of Malta or Cyprus allows one to live and work 41 other countries freely without any substantive requirements, while being a national of China does not allow one to settle in *any* other country.[74] Empirical analysis of such divergences, which may be particularly relevant to so-called High-net-worth individuals (HNWI) who are frequently travelling for business purposes, may explain in part of the attractiveness of EU passports to Chinese and Russian investors.[75]

Third, most of the wealthy individuals demanding the investor migration programmes come from countries with potential political and individual instability. European residency permits or citizenship is an insurance policy in case something happens in their home country. They may need an easy escape from political unrest, autocratic crackdown, or personal targeting and persecution by the regime for economic or political reasons, such as a corruption campaign targeting the source of their wealth, which may have been in some cases acquired under dubious circumstances.

Fourth, a residency or citizenship in Europe may also serve as an option to avoid poor and deteriorating environmental conditions. According to the environmental performance index, 10 out of 10 countries ranked the highest in the world are in Europe and 9 out of 10 are EU member states (Switzerland is the world's number one ranked country).[76] By contrast, China is ranked at the 120th place in this ranking.

Indeed, according to a 2018 report, about a third of all Chinese millionaires are currently considering emigrating to a different country (the US, the UK, Ireland and Canada topping the list) in order to live in a place with a better education system, cleaner air, more political freedom, and better protection for their wealth.[77]

The quality of nationalities is not always reflected in basic characteristics like economic power or the level of development of the countries with which such nationalities are associated. What your nationality allows you to do *outside* your home country matters at least as much as living standards within it. Thus, economically strong countries can have relatively unattractive nationalities insofar as they do not allow their nationals to settle freely in other countries (such as China and the Chinese nationality as well as Canada and

[72] D. Kochenov and J. Lindeboom (eds.), Kälin and Kochenov's *Quality of Nationality Index* (Hart Publishing 2019), p. xx.
[73] Ibid p. xx.
[74] Ibid p. xx.
[75] Taking into account the degree of visa-free and visa-on-arrival travel, as well as the freedom to settle in other countries without substantive requirements, Kälin and Kochenov's Quality of Nationality Index (QNI) tries to quantify the objective value differences among nationalities. As a result, as measured by the Quality of Nationality Index, the Maltese and Cypriot nationalities occupy the 16th and 21st place respectively, while the Chinese nationality only comes in at a shared 56th position (ibid p. xx).
[76] EPI, "2018 EPI Results | Environmental Performance Index," 2019, https://epi.envirocenter.yale.edu/epi-topline?country=&order=field_epi_rank_new&sort=asc.
[77] Robert Frank, "More than a Third of Chinese Millionaires Want to Leave China," July 5, 2018, https://www.cnbc.com/2018/07/05/more-than-a-third-of-chinese-millionaires-want-to-leave-china.html.

the Canadian nationality). Conversely, small economies can offer nationalities of great value (such as Malta and Cyprus and their respective nationalities) because they allow their holders to travel far more widely visa-free or by visa-on-arrival, and secondly, because they are gold-plated with the perks of EU citizenship. EU citizenship allows for extraterritorial rights equal to 'home treatment' in 26 other Member States other than the country principally associated with the nationality in question.

In previous decades, only the ultra net worth individuals could conceive of applying to investment migration schemes, which required a substantial sum in a productive investment. However, the diffusion of these programmes throughout the EU in the wake of the financial and euro crisis, which propagated like dominoes falling, lowered the bar for such investments on many dimensions: low physical presence requirements (that is, number of days required per year in the host country), passive instead of productive investments (for instance, existing real estate purchase instead of requirement to create new jobs through the investment), and increasingly lower thresholds (for instance, a required amount of GBP 2 million in the UK in vs. a mere mandated minimum investment of EUR 250,000 in Greece). This race-to-the-bottom competition has resulted in new, cheaper programs that target middle class individuals instead of the wealthy elite. Today, a Chinese middle class family can afford to invest in real estate in Greece or Portugal, especially given the soaring real estate prices in large Chinese cities while, by comparison, real estate in Greece was in 2018 down 40% compared to its 2009 peak.[78]

IV. Implications and conclusions

The recent proliferation of investments through citizenship- and residency-by-investment programmes in Europe is the direct result of the 2008 financial crisis, the subsequent global economic crisis, and the Euro crisis on particularly smaller economies. Member states hurt economically by these various crises devised these programmes as a way to obtain foreign capital.

As this fresh supply of IIPs met with fresh demand on the part of new investors, the initial programmes devised in the late 2000s were then emulated by other Member States, which "raced to the bottom" to simultaneously lower investment obligations and improve the correlated rights associated with the investment. In the end, Member States compete with each other to sell the same good –namely, the right to reside and travel in the European Union.

Did these programmes succeed in attracting foreign investment and how much did they contribute to the economy? Their true economic impact is very difficult to ascertain. The European Parliamentary Research Service has estimated that RBI and CBI programmes have resulted in at least the following amounts of investment: EUR 4.8 billion in Cyprus (2008-2017), EUR 210 million in Ireland (2012-2016), EUR 204 million in Malta (2013-2018), and

[78] Investment Migration Insider, "Greece Has Issued Nearly 1k Golden Visas a Month in 2018, Will Eclipse EB-5 by Year-End," *Investment Migration Insider* (blog), December 17, 2018, https://www.imidaily.com/editors-picks/greece-has-issued-nearly-1k-golden-visas-a-month-in-2018-will-eclipse-eb-5-by-year-end/.

EUR 4 billion in Portugal (2013-2018).[79] As percentage of GDP, the 2017 investments through RBI and CBI programmes have represented 2.5% of the GDP in Cyprus, 1% in Latvia, and 0.6% in Malta.[80] The latest estimations for Greece, arguably the most successful of these programmes though one of the most recent, is that it has now become the world's largest issuer of "golden visas". It has issued 21,873 residence permits to main applicants and their dependents since 2013 issued, and the trend is accelerating with close to 10,000 residence permits granted in 2018 alone.[81][82] According to a landmark report by Transparency International, over the past ten years, "golden visas" schemes in the EU have attracted EUR 25 billion.[83] As shown on Table 3, they are generating annually EUR 976 million in Spain, EUR 914 million in Cyprus, and EUR 670 million in Portugal.[84] The impact has been particularly important for small countries, such as Cyprus and Malta.

Table 3: Estimation of annual revenue generated by RBI/CBI Programmes in the EU (in EUR)

Austria	?
Bulgaria	25 million
Cyprus	914 million
France	?
Greece	250 million
Hungary	434 million
Ireland	43 million
Latvia	180 million
Luxembourg	?
Malta (CBI)	205 million
Netherlands	?
Portugal	670 million
Spain	976 million
United Kingdom	698 million

Source: Transparency International[85]

In addition to this influx of capital, these programmes also have potentially negative externalities, which include, but are not limited to upward pressure on real estate prices,[86] exacerbated macroeconomic vulnerabilities,[87] erosion of trust among the member states as

[79] Scherrer and Thirion, 'CBI and RBI Schemes in the EU' (n xx) 37.
[80] Scherrer and Thirion, 'CBI and RBI Schemes in the EU' (n xx) 40.
[81] Investment Migration Insider, "Greece Has Issued Nearly 1k Golden Visas a Month in 2018, Will Eclipse EB-5 by Year-End."
[82] Detailed Greek data available at: Entreprise Greece, "Residence Permits - Enterprise Greece - INVEST & TRADE," April 1, 2019, https://www.enterprisegreece.gov.gr/en/greece-today/living-in-greece/residence-permits.
[83] Transparency International, "European Getaway: Inside the Murky World of Golden Visas," Global Witness, 2018, https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/european-getaway/.
[84] Transparency International.
[85] Transparency International.
[86] Scherrer and Thirion, "Citizenship by Investment (CBI) and Residency by Investment (RBI) Schemes in the EU."' (n xx) 42–44. See also, L Alderman, 'In Greece, an Economic Revival Fueled by "Golden Visas" and Tourism', *New York Times* (20 March 2019).
[87] Scherrer and Thirion, 'CBI and RBI Schemes in the EU' (n xx) 39–41.

well as in national institutions,[88] and risks of corruption, money laundering and tax evasion.[89]

The diffusion of these schemes throughout Europe has raised political objections and prompted action by the EU institutions. The EU wants to clamp down on these Golden Visa programmes because of their potential security implications and because of the unregulated race-to-the-bottom competition waged by the Member States against each other. In 2014, the European Parliament adopted overwhelmingly a resolution demanding that the Commission investigate these programmes.[90] In a January 2019 report, the European Commission identified the risks created, notably, by the lack of transparency and lack of cooperation between the Member States.[91] The Commission would like to establish EU-wide standards on due diligence to ensure that one Member State is not allowed to pocket money from high-risk, dubious individuals in exchange for a residency permit or citizenship, which then gives this individual rights and privileges, such as traveling freely and even establishing residence in a different Member State. The implications of these Golden Visas apply to all European citizens, while the funds raised through these schemes only benefit the countries that issued the permits. The Commission proposes to monitor compliance with EU law and develop by the end of 2019 a common set of security checks, including risk management processes.

In February 2019, members of the European Parliament from the European People's Party demanded the abolition of the Golden Visa schemes on the rationale that they pose a security threat while devaluing EU citizenship. Members of the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) pointed in particular to Russian oligarchs who are killing two birds with one stone, obtaining EU citizenship while laundering money.[92]

Whether the access to the EU through investment should be regulated at the EU level will undoubtedly provoke a competence dispute between the various EU actors, since the Parliament, Commission and Member States all have different preferences on this issue: the Member States control the acquisition and loss of nationality and want to preserve that right, including their ability to sell it; meanwhile, the Commission and Parliament are in charge of preserving the interest of the EU as a whole, including the rights and obligations associated with Union citizenship and the interdiction of money laundering.[93] It might also

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[88] Scherrer and Thirion, 'CBI and RBI Schemes in the EU' (n xx) 45–46.
[89] Commission, 'Investor Citizenship and Residence Schemes' (n xx) 10–19.
[90] European Parliament, "European Parliament Resolution on EU Citizenship for Sale, 2013/2995(RSP)," January 16, 2014, P7_TA(2014)00 38, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2014-0038+0+DOC+PDF+V0//EN.
[91] European Commission, "Commission Reports on the Risks of Investor Citizenship and Residence Schemes in the EU and Outlines Steps to Address Them," January 23, 2019, http://europa.eu/rapid/press-release_IP-19-526_en.htm.
[92] Jeppe Kofod and Luděk Niedermayer, "On Financial Crimes, Tax Evasion and Tax Avoidance (2018/2121(INI))," November 9, 2018, 34.
[93] Council of the European Union, "Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 Amending Directive (EU) 2015/849 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing, and Amending Directives 2009/138/EC and 2013/36/EU (Text with EEA Relevance)," Pub. L. No. 32018L0843, OJ L 156 (2018), http://data.europa.eu/eli/dir/2018/843/oj/eng.

be discussed as part of a broader conversation about the delineation of competences in the context of the refugee and migrant policy in Europe.