

EUROPEAN GETAWAY

INSIDE THE MURKY WORLD OF GOLDEN VISAS

**Hot, new trend
and ultimate
status symbol**

...for oligarchs and tycoons. Zooming in
on Cyprus, Malta and Portugal | P.8

**Passport and
permit kings**

Golden visas don't sell themselves
– there is a very lucrative industry trading
in citizenship and residency | P.29

EU's time to act

Passport and permit trade in one Member
State affects the entire Union | P.48

HAS EUROPE OPENED
ITS DOORS
...to the criminal
and corrupt?

Transparency International and Global Witness 2018.

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Executive Summary

Just like a luxury good, European Union (EU) citizenship and residency rights can be bought. There are many buyers, and there is no shortage of suppliers, which explains why investment migration is a growing, multi-billion-euro industry. The rules of the game in this diverse market are shaped, on the one hand, by government officials who have effectively demonstrated their preference for quick gains over longer-term impacts, and, on the other hand, by profit-driven private sector players. However, the selling of passports and permits is not without risks. The response from the EU has been limited thus far, and Member States have been making use of their wide discretionary powers when it comes to issues of citizenship and residency. This report highlights the corruption risks posed by the sale of citizenship and residency and how these schemes threaten the integrity of the EU.

The idea is simple: investment migration schemes offer fast-track citizenship and/or residency to foreign nationals in exchange for their substantial investment in the country. Many European countries have such mechanisms in place. In some of the schemes, the qualifying requirement is a large and passive form of investment, e.g., in luxury property, a national development fund, government bonds or shares in an existing company. This report refers to these schemes as “golden visas”.

Currently, four EU Member States sell passports and 12 trade with residency rights through golden visa schemes. The two lists overlap, as three countries – Bulgaria, Cyprus and Malta – trade with both. In addition to those, Hungary operated a residency scheme between 2013 and 2018. The sale

of citizenship and residency – its profits, ethical implications and risks – affects all EU citizens. But as this report shows, EU citizens remain woefully ignorant of how these schemes work, how their national governments may or may not be mitigating the inevitable risks of selling passports and permits to the ultra-wealthy, and where the investments made by foreign nationals are ultimately going.

Despite increasing public interest, secrecy continues to enshroud the most basic information about golden visas. Having investigated publicly available sources and reached out to national governments for additional information, Transparency International and Global Witness are able to present a revealing but incomplete picture of the current situation.

KEY FINDINGS

- » In the last ten years, the EU has welcomed more than **6,000 new citizens** and close to **100,000 new residents** through golden visas schemes.
- » **Spain, Hungary, Latvia, Portugal** and **the United Kingdom (UK)** have granted the highest numbers of golden visas – above 10,000 each – to investors and their families. Next in line are **Greece, Cyprus** and **Malta**.
- » None of the countries, with the exception of Austria and Malta, publish lists of new citizens or residents.
- » EU golden visa schemes require varying amounts of investment. Residency can cost **€250,000** in Greece and Latvia, while a Cypriot passport can cost **€2 million**. It can even reach **€10 million** in the Austrian case, though the law does not officially tag the Austrian passport with a price.
- » Seven out of 17 schemes have not disclosed how much investment they have raised.
- » The golden visa schemes of EU Member States have attracted **around €25 billion** in foreign direct investment into the EU over the past decade.
- » **Spain, Cyprus, Portugal** and **the UK** appear to be the top earners, each receiving annually, on average, €976 million, €914 million, €670 million and €498 million, respectively.
- » In relative terms, the figures for small economies like Cyprus and Malta are especially impressive. Through the sale of citizenship, Cyprus has raised **€4.8 billion** since 2013, while Malta has reaped **about €718 million** in foreign direct investment since 2014.

The analysis of the schemes offered in **Cyprus, Malta** and **Portugal** shows the ways in which insufficient due diligence, wide discretionary powers and conflicts of interest can open Europe's door to the corrupt. Specifically, we found that:

- » Cyprus and Portugal, in spite of recent reviews and changes in their programmes, do not seem to take into account an applicant's source of funds or wealth when analysing applications.
- » While a four-tier due diligence process is in place in Malta, government officials enjoy wide discretion when deciding on an applicant's eligibility for the programme. Applicants who have criminal records or are subject to criminal investigation may still be considered due to "special circumstances".

Our analysis reveals that poor accountability and limited transparency can give rise to corruption within countries operating golden visa programmes, with groups of individuals bound to benefit from the schemes to the potential detriment of the local population.

Structural weaknesses and opacity in a highly discretionary government programme are problematic in any sector. But when such schemes are marketed directly at individuals of high net worth and high risk, such flaws risk exposing the government to undue influence, abuse of power, and bribery. In short, they risk not only the entrance of corrupt individuals into Member States, but also the corruption of states themselves.

By their very nature, golden visa schemes are an attractive prospect for the criminal and the corrupt. The risk profile of applicants should demand the strictest of

due diligence and the strongest measures to protect the integrity of the EU. In spite of this, recent scandals show that applicants are not as carefully scrutinised as they should be. Furthermore, the success rates of applicants seem to indicate that some Member States are not particularly selective, raising doubts about the strictness of checks and controls conducted on applicants. Hungary, Latvia and the UK, in particular, have granted residency to over 90 per cent of their applicants. Tellingly, these three countries also serve as salutary warning of the social, political, reputational and diplomatic risks of golden visas. Specifically, the Hungarian programme terminated with allegations that individuals with dubious background gained residency through the scheme, and Latvia and the UK had to put the brakes on their schemes and even consider revoking residency from a significant number of people.

It is an EU-wide problem. Member States that profit from selling golden visas are putting at risk not only their own citizens, but also other Member States and the EU as a whole. However, Member States apply different criteria and risk appetite when reviewing applicants. Authorities claim to follow best due diligence practices when screening applicants. But even if we were to take it for granted that authorities in Member States are truly following best practices during the screening process, what matters even more is how they assess their due diligence findings to make decisions – in other words, the level of risk they are willing to tolerate on behalf of other EU Member States when approving applicants. Foreign nationals are being awarded citizenship and residency, along with all the rights and privileges that come with them. Governments should use due diligence to assess the risks an applicant poses not only to the country, but to the EU as a whole. The bar needs to be set high, and golden visas should be given only to individuals with exceptional track records.

At the national level, governments administering golden visa schemes need to ensure that the individuals they welcome into their countries and, by extension, the EU, are clean – and that their money is, as well. Countries dazzled by profit are at risk of failing to exercise rigorous oversight over the decision-making process.

There exist no harmonised standards despite the fact that Member States are ultimately selling the same thing: EU citizenship and residency, and the accompanying benefits. It is critical to harmonise the sale of residency and citizenship across the EU, and that high standards of transparency and due diligence are implemented across the board. Only a unified and coordinated approach will prevent risky individuals from “passport-shopping” between jurisdictions and avert a race to the bottom when it comes to standards.

While the EU 5th Anti-Money Laundering (AML) Directive is a welcome recognition of the anti-money laundering risks posed by golden visas, it falls short of fully addressing the problem and could be counter-productive. The directive essentially amounts to shifting, and in fact diluting, the responsibility of conducting due diligence to banks and intermediaries. The EU needs to do more. In the immediate term, and before the end of its mandate, the European Commission must consider the money laundering and corruption risks of golden visas and formulate robust guidelines for Member States.

Because Member States have a collective obligation to ensure the safety of citizens and the integrity of European security and justice objectives, it is important to cast a wary eye upon such schemes. Should Member States decide that they want to continue profiting from the controversial trade in passports and permits, it is critical, at the very least, to harmonise and enforce high standards of transparency and due diligence in the sale of residency and citizenship across the EU.



RECOMMENDATIONS

WE URGE THE EUROPEAN UNION TO:

- » Set EU-wide standards of enhanced due diligence, operational integrity and transparency to prevent the abuse of these schemes by the corrupt and the criminal, and to ensure that all EU citizens are aware of the risks and benefits posed by the schemes.
- » Establish a mechanism that regularly reassesses these risks, and issues corresponding mitigation measures. This could be done as part of the Supranational Risk Assessment (SNRA) that the European Commission produces every two years, per new European anti-money laundering rules.
- » Explore ways to broaden anti-money laundering requirements to ensure that all those involved in the golden visa industry, including approved agents, are obliged to uphold these regulations.
- » Establish mechanisms for coordinating information sharing between Member States concerning rejected applicants.
- » Undertake infringement procedures against Member States offering golden visa schemes if they are deemed to undermine the principle of sincere cooperation and jeopardise EU values and objectives.

WE CALL UPON MEMBER STATES TO:

- » Ensure that all golden visa applicants and their family members are subject to enhanced due diligence. All information and documents provided by the applicant must be independently verified by the responsible government agency, rather than by private entities.
- » Ensure that the applicant's wealth is not disproportionate to their known lawful sources of income. Sufficient information should be obtained that give an indication of the volume of wealth to be reasonably expected of the applicant and of how it was acquired.
- » Ensure that checks on pending civil or criminal proceedings against the applicant or family members are conducted in addition to police and security checks.
- » Predefine and publish the specific objectives, investment criteria, residency criteria and enhanced due diligence standards of the scheme.
- » Ensure that adequate notes and documents relating to decisions are kept on file.
- » Exercise oversight by ensuring that the schemes are regularly audited and that the results are published.
- » Conduct impact assessments and make adjustments as necessary.
- » Set up a mechanism for receiving reports, e.g., from whistleblowers, and for reviewing problematic cases.
- » Revoke citizenship and residency rights, in the case that new evidence of corruption or criminality is uncovered.
- » Publish statistics on the success rate of applications as well as the names and countries of origin of successful applicants.
- » Share with EU authorities information on individuals who had their golden visa applications denied due to security issues or exposure to risk.



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WHAT DOES THIS REPORT DO?

This report was jointly conducted by Transparency International and Global Witness, as part of the Global Anti-Corruption Consortium (GACC), a partnership between Transparency International and the Organized Crime and Corruption Reporting Project (OCCRP).

This report begins with an overview of the key facts and figures to convey the scale at which Member States are selling visas and passports. Next, we identify the types of risks associated with the sale of citizenship and residency rights in the EU. In doing so, we examine the features and vulnerabilities particular to the golden visa schemes currently in operation in three EU Member States: Cyprus, Malta and Portugal. We also discuss Hungary's discontinued residence government

bond programme as well as the lessons learned from the UK's problematic experience with its Tier 1 (Investor) Visa.

In the country profiles, we specify how the different schemes function and their vulnerability to corruption risks. The final section presents recommendations for how the European Union and its Member States can reduce the risks of selling EU citizenship and residency to the criminal and the corrupt.

Golden Visas: Facts and Figures

Citizenship- and residence-by-investment schemes (CBIs and RBIs), commonly known as “golden visas”, offer fast-track citizenship and residency to foreign nationals in exchange for their substantial investment in the country.

This type of investment-based migration dates back to 1984, when the first programme of this kind appeared in the Caribbean region (Saint Kitts and Nevis) and soon thereafter in North America (Canada in 1986, the United States in 1990). The phenomenon is far newer in the EU, where most programmes were established, scaled up or revamped following the 2007-2009 financial crisis.

According to our research, many European countries have mechanisms in place for the facilitation of investment-based migration. Though definitions vary across the literature, we limit our analysis to schemes in which the primary qualifying requirement is a large and passive form of investment, e.g., in luxury property, a national development fund, government bonds or shares in an existing company. These schemes tend to offer a fast-track route to citizenship or residence with low requirements for physical presence. With the exception of Austria, the laws stipulate the cost of visas or passports offered by these programmes.¹

Under these criteria, four EU Member States currently sell passports:² Austria, Bulgaria, Cyprus and Malta. Twelve offer residency permits: Bulgaria, Cyprus, France, Greece, Ireland, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Spain and the UK. (See Annex 1.)

WHICH EU COUNTRIES SELL GOLDEN VISAS?



CITIZENSHIP-BY-INVESTMENT



RESIDENCY-BY-INVESTMENT



TERMINATED

HOW MUCH DOES A GOLDEN VISA COST? HOW MUCH MONEY HAVE MEMBER STATES MADE?

Commentators have estimated that golden visa schemes globally generate US\$13 billion (€11.15 billion) a year, of which citizenship-by-investment schemes represent about US\$3 billion, and residence-by-investment schemes probably exceed tens of billions of dollars.³ According to industry experts, golden visa schemes are expected

to generate as much as US\$20 billion (€17.17 million) annually in a year or two.⁴

European schemes represent the higher end of the market. The average cost of an entry ticket into the EU for most popular schemes⁵ (around €900,000) is much higher than the investment requirements for other popular schemes, such as Saint Kitts and Nevis (US\$150,000-400,000)⁶ or Grenada (US\$150,000-350,000).⁷

European schemes require varying amounts of investment. Residency can cost €250,000 in Greece and Latvia, whilst a Cypriot passport can cost €2 million. It can even go as high as €10 million, as is the case in Austria, though the law does not officially state a price for an Austrian passport.⁸ The type of investment required includes investment in real estate, government bonds or company shares, and investment through national specialised funds or donations.

Available public official data on golden visa applicants and investments is scarce, scattered and limited. The lack of harmonisation across the EU makes it even more difficult to get a complete picture of the total amount of money invested in the EU since the start of these programmes.

According to available statistics, however, we estimate that at least €25 billion in foreign direct investment has flown into the EU through golden visa schemes over the past decade (See Annex 2). Spain, Cyprus and Portugal, appear to be the top performers. They have been annually generating, on average, €976 million, €914 million and €670 million, respectively. Following suit, the UK and Hungary, earned approximately €498 million and €434 million per year from selling golden visas. Greece, Malta and Latvia have also been reaping sizeable investments – on average, €250 million, €205 million and €180 million per year, respectively. (See Annex 2.)

In relative terms, the figures for small economies like Malta and Cyprus are impressive. Following a recent reform that introduced an annual cap of 700 naturalisations through its Investment Programme, Cyprus has the potential to attract €1.4 billion annually, which represents about 7.5 per cent of the country's current Gross Domestic Product (GDP) levels.⁹ In Malta, the contributions of the Individual Investor Programme (IIP) to the Treasury and the National Development and Social Fund (NDSF) was reported to have risen from €50 million in 2015 to €172 million in 2016 (0.5 and 1.7 per cent of the GDP, respectively). In 2017, the International Monetary Fund (IMF) expected these inflows to reach €230 million, or roughly 2.1 per cent of the GDP and 5.4 per cent of fiscal revenue.¹⁰

Golden visa schemes can have a significant economic and fiscal impact, particularly in small island states like Cyprus and Malta. While they can boost private sector investment and

generate fiscal revenues for the state, they also come with fiscal and macroeconomic risks (e.g., boom-bust cycles, property market bubbles), due to the highly volatile nature of the generated inflows, which are dependent on external factors over which the country has no control (e.g., the introduction of a more attractive scheme in another country).¹¹

Golden visa schemes of EU Member States have attracted around €25 billion in foreign direct investment into the EU over the past decade.

HOW MUCH MONEY HAVE MEMBER STATES MADE FROM GOLDEN VISAS ANNUALLY?

AUSTRIA	
BULGARIA CBI: €25 million RBI: Unknown	
CYPRUS CBI: €914 million RBI: Unknown	
FRANCE RBI: Unknown	
GREECE RBI: €250 million	
HUNGARY RBI: €434 million	
IRELAND RBI: €43 million	
LATVIA RBI: €180 million	
LUXEMBOURG RBI: Unknown	
MALTA CBI: €205 million RBI: Unknown	
NETHERLANDS RBI: Unknown	
PORTUGAL RBI: €670 million	
SPAIN RBI: €976 million	
UNITED KINGDOM RBI: €498 million	

€50 MILLION OR LESS UNKNOWN

HOW MANY PEOPLE HAVE BOUGHT THEIR WAY INTO EUROPE? WHERE ARE THEY FROM?

Official public statistics on the number and profile of applicants are either non-existent or limited, and not harmonised across countries. Few countries have published any kind of statistics on applicants.¹² With the exception of Malta and Austria, no country has published a list of successful applicants for golden visas. Data for other countries has been obtained either through freedom of information requests or from leaks to the media.

Even when official data is published, it may come in a format that does not allow for meaningful use of the information. For example, the Maltese government published a list of naturalised persons sorted alphabetically by first name, which fails to distinguish between golden visa recipients and persons granted citizenship through other forms of naturalisation, such as marriage.¹³

According to the available data, more than 100,000 passports or visas have been granted through

European golden visa schemes thus far. More specifically, at least 2,500 investors and about 3,500 family members have acquired citizenship, and at least 34,000 investors and 69,000 family members have gained residence rights through the Member States' golden visa programmes. (See Annex 3.)

Since the start of their respective programmes, the following countries have granted the highest number of golden visas to investors and their families: Spain (~24,800), Hungary (~19,800), Latvia (~17,300), Portugal (~17,500) and the UK (~10,400). Next in line are Greece (~7,500), Cyprus (~3,300) and Malta (~2,400). (See Annex 3 for detailed figures.)

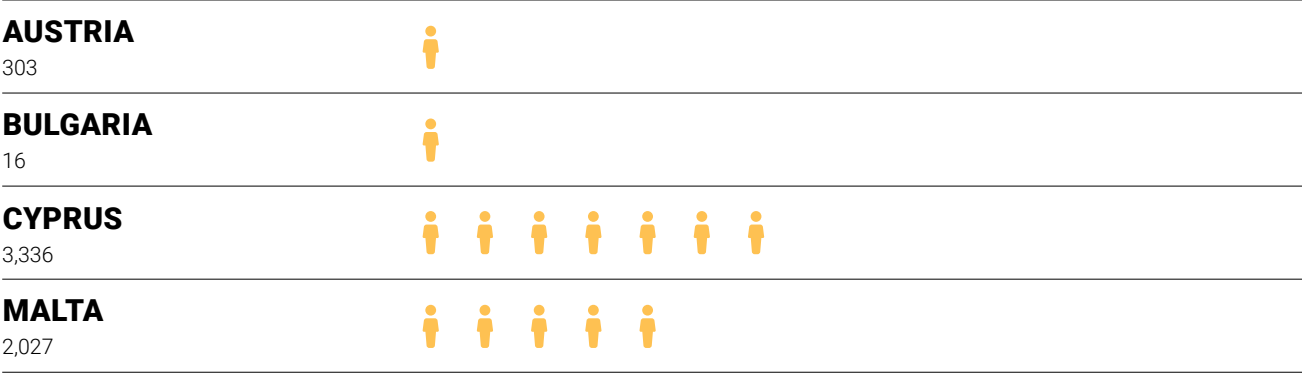
The success rates of applicants¹⁴ seem to indicate that some Member States are not particularly selective, raising doubts about the strictness of checks and controls conducted on applicants. Success rates in Hungary, Latvia and the UK are 98.7, 97.9 and 91.1 per cent, respectively. In Hungary, only 20 investors and 44 family members have been denied residence, on national security grounds.¹⁵ Tellingly, a majority of

the golden visa refusals (156) and revocations (3,278) in Latvia were made after a 2014 reform that imposed tighter security checks along with an increase in investment requirements.¹⁶


The top nationalities granted passports or visas through golden visa schemes are Chinese and Russian. According to an international advisor for citizenship programmes, Chinese nationals account for 70 per cent of the world's golden visa market.¹⁷

Our analysis (see Annex 3) confirms this trend, though the lack of harmonised and consistent data across Member States makes it difficult to derive aggregate figures at EU level. In Portugal and Hungary, Chinese investors represent, respectively, 61 and 83 per cent of the golden visas granted since the start of the programmes. In Latvia, 70 per cent of the golden visas issued went to Russian investors and their families since the start of the programme.

HOW MANY PEOPLE HAVE BOUGHT EU CITIZENSHIP?









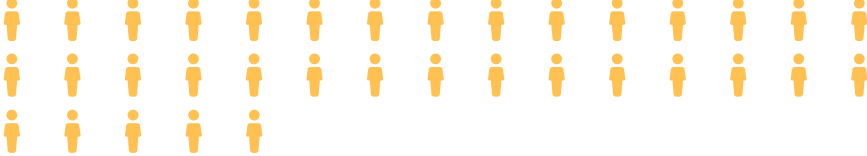




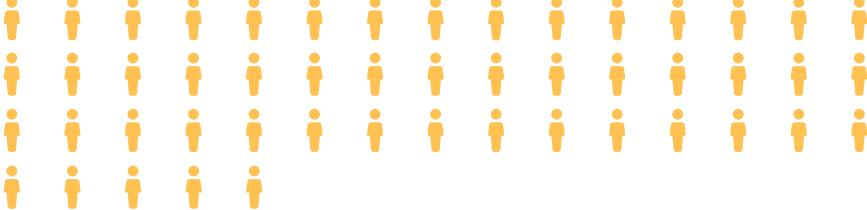

Reference periods vary; for more information please see Annex 3. Figures for Austria and Bulgaria don't include dependents, while Cyprus and Malta do.

 500 INDIVIDUALS OR LESS





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HOW MANY PEOPLE HAVE BOUGHT EU RESIDENCY?

BULGARIA 296	
CYPRUS Unknown	
FRANCE Unknown	
GREECE 7,565	
HUNGARY 19,838	
IRELAND ~1,290	
LATVIA 17,342	
LUXEMBOURG Unknown	
MALTA Unknown	
NETHERLANDS Unknown	
PORTUGAL 17,521	
SPAIN 24,755	
UNITED KINGDOM 10,445	

Reference periods vary; for more information please see Annex 3.
Except for Bulgaria, count includes dependents.

 500 INDIVIDUALS OR LESS  UNKNOWN

WHERE DO GOLDEN VISA AWARDEES COME FROM?

AUSTRIA



BULGARIA

2012 - October 2017



CYPRUS



FRANCE



GREECE

2013 - 27 July 2018



HUNGARY

2013 - 2017



IRELAND

2012 - March 2017



LATVIA

2010 - 2017



LUXEMBOURG



MALTA



NETHERLANDS



PORTUGAL

October 2012 - August 2018



SPAIN

2013 - April 2018



UNITED KINGDOM

2008 - March 2018



WHAT ARE THE REAL-LIFE IMPACTS OF GOLDEN VISA SCHEMES?

The main argument for setting up golden visa programmes is economic. None of the Member States analysed in this report, however, have performed an impact assessment of the schemes, whose socio-economic benefits remain largely undetermined in any official capacity.

In Hungary, the scheme granting residence permits in exchange for a €300,000 investment in government bonds actually resulted in a loss for the state budget. The loss is estimated at about €192 million for the period of 2013 to 2017.¹⁸ The state sold the bonds at a discount price (€271,000), but to be repaid the full amount (€300,000) after five years, with a fixed interest rate of two per cent.

In some cases, schemes that are expected to generate foreign investment can have uncertain economic benefits when the investment does not actually come from a “foreign” source, but is rather financed by a local bank. Indeed, Bulgaria’s First Investment Bank (Fibank) allegedly awarded loans of up to €500,000 to applicants for citizenship, as reported by the Bulgarian National Bank in a confidential report published in 2012 and leaked to the media in 2016.^{19,20}

The money channelled through golden visa schemes is usually invested in passive segments of the economy (e.g., real estate), thus generating fewer benefits in terms of employment, innovation and industrial development. In Portugal, there have been 6,141 investments in real estate properties as of August 2018, representing about 95 per cent of total investment, compared to just 12 investments in employment creation.²¹

This can lead to other problems. Although causality may be difficult to establish, some analysts have suggested that these programmes have contributed to increasing pressure on the housing market in places like Lisbon or Limassol.²² In Portugal, two-thirds of real estate purchases related to the golden visa programme are made in the capital city, and 98 per cent in the Greater Lisbon municipal area.²³ In Malta, the IMF has called for policy measures to tackle the growing demand for housing on the island, suggesting periodic reviews of the scope and parameters of Malta’s Individual Investor Programme and how it sets the minimum rent and real estate investment required in order to qualify for its golden visa scheme.²⁴





What's the Problem With Selling Citizenship and Residency?

Golden visas offer fast-track citizenship and residency to foreign nationals in exchange for their substantial investment in the country. For EU governments, these schemes are a low-cost method of generating substantial inward investment. For the wealthy elite, they are a means of securing the right to live, work and travel throughout Europe with ease. By virtue of these schemes, citizenship and residency rights have been turned into luxury commodities. The transaction may seem fairly straightforward and transparent – so what's the problem?

Apart from the basic ethical conundrum of selling citizenship as well as the unsettling notion that some Member States are profiting from the sale of a shared European asset, there is a distinctly sinister side to these schemes. In September 2017, *The Guardian* revealed that business executives implicated in Brazil's Car Wash corruption scandal were able to secure access to Europe through Portugal's golden visa programme.²⁵ The publication also uncovered that billionaire Russian oligarchs and Ukrainian elites accused of corruption had acquired EU citizenship through Cyprus's passport-for-sale scheme.²⁶

Golden visa schemes are highly desirable for those associated with corruption because they offer access to a safe haven. Not only does a golden visa provide a luxury lifestyle, but it also frees its holder from having to navigate the risk-based approach of banks, which may balk upon learning about the individual's original nationality. Indeed, a

bank may be less watchful when screening a customer with an EU passport than a passport from a country that sits higher in international country risk rankings. In general, travelling under the radar of sanctions regimes becomes much easier with a golden visa. In the event that circumstances back home become unfavorable, a golden visa can effectively serve as a get-out-of-jail-free card for the participant and their dependents, allowing them to skip town, evade law enforcement or prosecution efforts, and avail themselves of the freedom of movement, rights and protection conferred by their new European status.

These schemes share three qualities that produce high levels of risk. The first is the particular profile of the applicants and the high amount of investment required of them. The second is the lack of operational integrity in the governance of the schemes. The third is the lack of harmonised standards and practices at EU level.

DUE DILIGENCE PROCEDURES ILL-ADAPTED TO RISK PROFILE OF APPLICANTS

By their very nature, golden visa schemes are attractive to the criminal and the corrupt. The risk profile of applicants should demand the strictest of due diligence and the strongest measures to protect the integrity of EU governments and their officials.

In spite of the inherent risks associated with the high-risk profile of its applicants, a number of schemes operating in the EU have revealed alarming flaws in their architecture.

For the most part, authorities fail to routinely identify these risks. Recent scandals reported in the media suggest that in some EU countries, enhanced checks on applicants, their family members and the origin of their funds have not been adopted as standard procedure.

SHOULD EU CITIZENSHIP EVEN BE FOR SALE?

Following the financial crash in 2008, the idea of developing a lucrative industry with low overhead was attractive to many Member States, and rightly so. Selling passports and permits has proved to be a rewarding business. The sale of EU passports accounted for as much as 5.2 per cent of Cyprus's GDP in 2017; Portugal's scheme has delivered close to €4 billion to the economy; and Malta enjoys a budget surplus partly because of its booming trade in residency and citizenship.

For some, these facts alone settle the question of whether citizenship and residency should be for sale to the highest bidder. For others, however, the industry smacks of unfairness. According to this view, a minority of Member States are reaping profit from jointly shared EU assets by hawking internal free movement and external visa-waiver agreements, and they are enjoying the spoils whilst exposing their neighbours to risk.

Beyond the question of profit and its distribution, some believe that the schemes pose a threat to the meaning of citizenship itself. Many argue that citizenship is a public good, not a commodity for the open market. According to this school of thought, citizenship is an active duty and a critical building block in the development of a democratic community that should not be sold to the passive, footloose and mobile investor.

Whichever side may be right, one thing is certainly clear: the sale of citizenship – its profits, ethical implications and risks – affects all EU citizens. As this report shows, however, we remain woefully ignorant of how these schemes work, how our governments may be mitigating the inevitable risks that arise from selling mobility to the ultra-wealthy, and where their investment is ultimately going.

The debate, however fierce, cannot advance toward productive results without transparency and consultation regarding the risks and rewards, for the EU, of selling citizenship and residency.

LACK OF OPERATIONAL INTEGRITY IN GOVERNANCE OF SCHEMES

Though most countries that trade in visas and passports assert that they uphold the highest standards, audits performed in a number of countries in recent years have identified serious deficiencies. In 2014, Portugal's programme fell into the spotlight after allegations that the scheme had been subject to "corruption, money laundering, and influence peddling", for which several government officials were detained.²⁷ The Portuguese government has since claimed that its golden visa scheme "strictly follows all legally established security procedures" and that authorities possess the "adequate tools" for safeguarding security.²⁸

In March 2017, the Hungarian golden visa scheme was suspended following revelations that the right to sell residency bonds on behalf of the government was awarded to eight companies without any public procurement process.²⁹ Seven of the chosen companies were registered outside of Hungary, and there was little to no information about their real owners in the public domain. According to an investigation published by the Organized Crime and Corruption Reporting Project (OCCRP), while the government ran the scheme at a loss, these obscure companies netted over \$600 million (€480 million) in fees across the programme's four years of operation.³⁰

This is perhaps the starkest example of the risk posed by the secrecy with which some of these schemes operate. As this report shows, citizens are continuously kept in the dark about how their new wealthy compatriots have come to acquire residency or citizenship rights.

Do the Portuguese and Cypriot schemes require verification of the legitimacy of the wealth invested in luxury houses? The answer remains unclear. Do Maltese citizens know how the money that golden visa recipients contribute to the National Social Development Fund is used? Not at all.

Structural weaknesses and opacity in a highly discretionary government programme are problematic in any sector. But when such schemes are marketed directly at individuals of high net worth and high risk, such flaws risk exposing the government to undue influence, abuse of power, and bribery. In short, they risk not only the entrance of corrupt individuals into Member States, but also the corruption of states themselves.

LACK OF HARMONISED STANDARDS AND PRACTICES AT EU LEVEL

The lack of harmonisation of standards and practices at EU level adds another layer of risks by encouraging Member States to weaken their due diligence and integrity requirements in order to make their programmes more attractive and competitive on the market.

As this report shows, the way in which golden visa schemes operate varies from country to country. Each Member State has its own unique

approach to selling residency and citizenship, with differences in their due diligence practices and appetite for risk. In the end, however, they are all selling the same product: EU citizenship and residency. This shared asset, a body of rights and values, is haphazardly sold off, with Member States competing for clients — in sum, a scenario that risks triggering a "race to the bottom" when it comes to standards of due diligence and transparency. Countries dazzled by the profit that could be gleaned from golden visas risk failing to (1) exercise rigorous oversight over the decision-making process, (2) subject applicants to strict due diligence and (3) inform citizens of the potential risks.

To ensure the safety of citizens, the resilience of Member States and the integrity of European security and justice objectives, it is critical to cast a wary eye upon these schemes. And, if these schemes are deemed compatible with European values and acceptable to citizens, it is clear that the European Union must find a way to harmonise the sale of citizenship and residency across Member States, introduce rigorous checks on applicants and ensure that the schemes operate according to the highest standards of transparency and integrity.

CARIBBEAN GOLDEN VISAS: RUM DEAL FOR EUROPE

Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, and Saint Lucia are the Caribbean countries that offer a fast-track route to citizenship, with a significantly low investment requirement and an extremely fast processing time.

Passports for a family of four can be acquired with an investment as low as US\$100,000 within 90 days. There are no requirements to reside in these countries, with the exception of Antigua and Barbuda, which has a five-day residence requirement. In fact, applicants do not even need to pick up their passports in person.

Saint Kitts and Nevis's scheme claims the title of the world's first citizenship-by-investment programme. Since its establishment in 1984, it has undergone several changes. Henley & Partners became responsible for the re-design and international promotion of the programme in 2006.³¹ The success of the programme, however, only came around 2009,³² after the country was granted a visa-waiver status by the EU. In fact, according to Henley & Partners, the firm was "instrumental in the negotiations with the European Union that led to visa-free access for all Saint Kitts and Nevis citizens".³³

The other countries running citizenship-by-investment programmes also recently signed visa-waiver agreements with the EU (Antigua and Barbuda in 2009; Dominica, Grenada and Saint Lucia in 2015), coinciding with the time of establishment or re-design of their programmes. This means that successful applicants of these programmes can enter the EU Schengen Area and the UK without having to apply for a visa or undergo any enhanced checks by authorities in EU Member States.

Recent events raise red flags regarding the due diligence process in some of these countries. In March 2018, Saint Lucia cancelled the citizenship of six recently successful applicants, alleging that they had committed acts that had the potential to harm

the country's reputation.³⁴ In June 2017, Canada cancelled visa-free travel for citizens of Antigua and Barbuda over fears that its lack of residency requirement for applicants posed a risk.³⁵ Canada had made a similar move against Saint Kitts and Nevis back in 2014 due to security concerns.³⁶ A year earlier, the US Department of the Treasury Financial Crime Enforcement Network (FinCEN) issued an advisory stating that the Saint Kitts and Nevis citizenship-by-investment programme was being used to facilitate financial crime.³⁷ According to FinCEN, the program is attractive to illicit actors for its lax controls regarding who may be granted citizenship. FinCEN has yet to lift its advisory.

The opacity of these programmes compounds the risks. Caribbean countries publish limited information about due diligence checks carried out during the application process. There is also limited information regarding the number of applications received and rejected. None of the countries publish the names of individuals granted citizenship, thus preventing public scrutiny.

As the programmes become a fundamental part of the economy in these countries (in some cases, income from the programmes has contributed up to 25 per cent of the GDP³⁸), there may be a greater desire to attract more applicants and consequently more funds, increasing competition in such a way that it produces a race to the bottom. Weak due diligence processes and lax control can result in security and reputational risks not only to the countries running these programmes, but also to all countries and regions with which they have visa-free agreements, including the European Union.

In light of the risks of admitting the corrupt and the criminal, the European Union must review its visa-free agreements with these Caribbean jurisdictions and encourage governments to set high due diligence and integrity standards. Ultimately, if the EU is not confident in the ability of these schemes to identify and reject high-risk applicants, it should consider following Canada's lead by suspending the visa waiver to golden visa schemes outside the EU.



Victors of the European Golden Visa Market

The European golden visa market is diverse. A potential customer can browse through over a dozen of schemes and make a choice of their favourite destination based on their willingness to pay, the ease of paperwork, the processing time and other factors. No two schemes are identical in how they are set up and run. With this diversity in design comes a diversity in the corruption risks of each scheme.



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In this section, we take a close look at the well-established golden visa schemes currently in operation in three Member States: Cyprus, Malta and Portugal. Cyprus and Malta sell both citizenship and residency rights, whilst Portugal's programme offers residency rights that can lead to citizenship after six years. Our selection reflects the fact that there is more publicly available information about how corruption risks have manifested in these jurisdictions. In recent years, Cyprus, Malta and

Portugal have come under significant public scrutiny due to their golden visa recipients' questionable business connections or alleged involvement in international money-laundering scandals.³⁹

In the profiles below, we review the administration and management of the schemes across the three countries and identify the gaps in policy and practice that give rise to a range of corruption risks.

Cyprus and Malta also operate residency-by-investment schemes. For more information about the specifics of golden visa programmes in these three countries, please refer to Annex 4.

QUICK FACTS ON CYPRUS, MALTA AND PORTUGAL SCHEMES

	CYPRUS	MALTA	PORTUGAL
Type	CBI	CBI	RBI
Start year	2013	2014	2012
Golden visas sold to date (including dependents)	3,336	2,027	17,521
Cap on the sale of golden visas	700/year	1,800 for programme duration (excluding dependents)	None
€ invested to date	€4.8 billion	€718 million	€4 billion
Investment requirements	€500,000 in property purchase + €2 million in a national development fund, Cypriot companies or government bonds	€350,000 in property purchase or €16,000 in annual property rent + €650,000 in a national development fund and diverse fees + €150,000 in government bonds	€350,000-500,000 in property purchase or €1 million transfer to Portuguese bank account or €1 million in government bonds or €350,000 in Portuguese companies with the creation of 5-10 jobs or €250,000-350,000 in the field of culture heritage or scientific research

CYPRUS



€4.8 BILLION

Since 2013, Cyprus has sold more than **3,000** passports, including to dependents.

“

“Cypriot citizenship-by-investment programme is not one for those on a limited budget [...] But for those with the means, Cyprus ticks all the boxes.”⁴⁰

According to marketing materials, Cyprus's citizenship-by-investment scheme offers "the quickest, most assured route to citizenship of a European country".⁴¹ The statistics seem to support this: Cyprus's passports-for-sale scheme is the most prolific of its kind in Europe, with over 3,000 foreign nationals having secured EU passports since 2013.⁴² Prior to the programme's revamping in 2013, ministers granted Cypriot citizenship on a discretionary basis, in a less formal arrangement.⁴³

The trade has gleaned a whopping €4.8 billion. But Cyprus has been heavily criticised for its scheme. In May 2018, the government made its difficulties clear:

“

We're not hiding that some cases were maybe problematic and needed further research internationally. It is not easy to trace the activity of everyone around the world.

*Prodromos Prodromou,
spokesperson for the Cyprus
government⁴⁴*

Acknowledging the existence of "problematic cases", the Cypriot government unveiled a set of reforms on 1 August 2018. These reforms doubled the length of time for assessing applications and introduced an annual cap of 700 on the number of passports for sale. Furthermore, private sector agents are now accredited by and answerable to the Supervision and Control Committee. These agents are named on a public register and obliged to abide by a code of conduct that requires them to submit a "report of the findings of due diligence review" for every individual they support for citizenship.⁴⁵

When asked about the rationale behind the reforms, an anonymous government source told *The Cyprus Mail* that the changes were both for the sake of appearances and due to genuine abuses of the program.⁴⁶ Indeed, so concerned was the government about protecting its reputation, that it created a new code of conduct banning agents from referencing the "sale of passports" or from using the EU symbol or pictures of passports in their marketing material.⁴⁷

There is continued cause for concern, particularly as some of the reforms seem to be more cosmetic than substantive. For example, it remains unclear whether the cap on applications applies only to main applicants or includes dependents. If the former, the cap of 700 applicants is somewhat disingenuous, for the number of main applicants since the scheme's establishment has never been higher than 503 a year, a number that is far below the new cap.

While the register of agents is a welcome move toward transparency and oversight, it remains to be seen if the Supervision and Control Committee will be given

the independence, resources and mandate to rigorously apply the code of conduct and to pursue violations. Moreover, while agents appear to be under greater scrutiny, it remains unknown if applicants themselves have been subject to enhanced due diligence. In May 2018, it was reported that the government would be bringing in agencies that specialise in identifying money laundering to review applications. As of August 2018, however, there has been no confirmation that the government will conduct its own independent and in-depth due diligence checks or take any steps to verify the source and legitimacy of an applicant's wealth.⁴⁸ This leaves open a critical gap.

Despite their shortcomings, these new changes represent the long overdue recognition that the scheme may have exposed Cyprus and the EU to risky individuals. To prove that their reforms are not mere cosmetics, the Cypriot government must ensure that applicants are subject to enhanced due diligence as a matter of course. The government must not rely on banks or agents alone to conduct this critical work. Moreover, Cypriots, and indeed all EU citizens, deserve to know whether individuals who were successfully naturalised through the scheme prior to 1 August 2018 pose risks to the EU. To identify visa-awardees who have accepted dirty money and exposed citizens and fellow Member States to risk, the Council of Ministers must undertake retrospective checks on "problematic cases" and revoke citizenship where warranted.

As it stands, in spite of its reforms, Cyprus's trade in residency and passports remains at risk of exposing the EU to the corrupt and the criminal.

OLIGARCHS, CROOKS, CITIZENS

In 2017, *The Guardian* reported on a leak of the names of people who had applied for Cyprus's citizenship-by-investment programme. The list was a veritable "who's who" of the super-rich of Russia, Ukraine, China, Saudi Arabia and Iran.⁴⁹

Amongst them were the Ukrainians Gennady Bogolyubov and his former business partner Igor Kolomoisky,⁵⁰ who together founded PrivatBank and were its largest shareholders until its nationalisation by the Ukrainian government in 2016. On the heels of the nationalisation came allegations that the pair had illicitly extracted £4.2 billion from the bank.⁵¹ In December 2017, the High Court of Justice in London judged in favour of the newly nationalised bank and granted an order to freeze more than \$2.5 billion of the oligarchs' "worldwide" assets.⁵²

In response to the *Guardian* report, Bogolyubov's lawyer confirmed that he had been granted a Cypriot passport in 2010 "as a result of him having made substantial investments in the country (via certain companies) and being fully compliant with the legal requirements at the time".⁵³ As for Kolomoisky, a spokesperson confirmed that "he was granted citizenship of Cyprus, in recognition of his substantial investments in that country".⁵⁴ Kolomoisky has called the freeze a "temporary arrest during the trial of the case in court". Meanwhile, Bogolyubov dismissed PrivatBank's allegations as "unsubstantiated, untruthful and defamatory".⁵⁵

The fact that this oligarch duo successfully secured Cypriot citizenship broaches the question of whether there had been any red

flags in 2010, and if so, whether the government's risk appetite was such that it had been willing to overlook them. Now that the pair find themselves in court, the next question is whether Cyprus will consider revoking their status, should they be found at fault.

In March 2018, *The Guardian* named another newly minted Cypriot: Oleg Deripaska.⁵⁶ The oligarch was granted Cypriot citizenship in 2017, even though his application had allegedly raised questions, at least in the early stages. According to the same article, Deripaska was asked to resubmit his application due to the results of a preliminary inquiry into his affairs in Belgium.⁵⁷ The inquiry was dropped in 2016, and his application for a Cypriot naturalisation succeeded. The fact that American authorities revoked Deripaska's US business visa in 2007 on the grounds of alleged ties to organised crime in Russia did not seem to have weighed in on the Council of Ministers' decision.⁵⁸ But will they change their minds now that Deripaska has been sanctioned by the US Treasury?⁵⁹ Though Deripaska has denied the unsavoury allegations put to him by the US authorities⁶⁰ it remains to be seen if the Cypriot government will finally reconsider his citizenship.

Rami Makhoul, the cousin of Syria President Bashar Al-Assad, is another example of how golden visa programmes may be used to evade sanctions. He was sanctioned by the US in 2008 for his role in aiding corruption in Syria.⁶¹ In 2010, after unsuccessful attempts to buy Austrian citizenship, he became a Cypriot citizen.⁶² In May 2011, the EU sanctioned Makhoul for bankrolling his cousin's regime.⁶³ Only in March 2013 was his Cypriot citizenship revoked.⁶⁴



PASSPORT AND PERMIT KINGS

Passports and visas do not sell themselves. There is a very lucrative industry dedicated to the trade in citizenship and residency. In 2018, Henley & Partners CEO Christian Kälin, the so-called “passport king”, estimated that the trade would soon generate US\$20 billion a year.⁶⁵

It is safe to assume that investor visa firms are taking a healthy cut. These firms sell schemes to potential clients, help them with their applications and support them in their purchase of property. In some cases, these firms also design and / or administer the schemes on behalf of governments, even to the point of managing due diligence procedures or helping governments to lobby for visa-free agreements.

In the early days of Malta's scheme, Henley & Partners not only solicited applicants, but also conducted their due diligence. At the time, the firm received a 4 per cent commission for successful applications – an arrangement that led Members of the Maltese opposition to voice concerns about possible conflicts of interest in the application process.⁶⁶ In response, Henley insisted that “Chinese walls” were successfully protecting business functions from conflict, ensuring that due diligence could take place unimpeded by the profit motive.⁶⁷

Henley & Partners claims to have created the concept of “residence and citizenship planning” back in the 1990s, but they are not the

only players now. Other specialist global firms, such as Arton Capital and CS Global, compete against a range of small, medium and large law firms with expertise in immigration and a penchant for serving the needs of the ultra-rich. Large multi-national accountancy firms with expertise in tax planning have also joined the game.

This industry appears to be quite organised. It boasts not one, but two membership bodies: the Global Investor Immigration Council works “to protect the reputation of the investor immigration industry” and, somewhat obscurely, “serve[s] as solid ground” for the development of best practice,⁶⁸ whilst the Investment Migration Council exists to build “public understanding” of the industry and promote “high professional standards”.⁶⁹

This may all seem perfectly sound, until you realise that the “best practice” and “high professional standards” espoused by the councils are entirely voluntary. Despite the risk profile of their desired clients, firms in most countries are neither subject to statutory regulation nor considered obliged entities for the purposes of anti-money laundering regulations.

This is a big problem. These firms play a vital role in enabling governments to sell a public good, one that gives successful investors the right to travel and live freely anywhere in the EU, the means to acquire the right to vote in elections, and the right to request diplomatic assistance and protection. And they are doing this without regulation or scrutiny.



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MALTA



€718 MILLION

Launched in 2014, Malta's citizenship-by-investment scheme had sold over **2,000** passports, including to dependents, by mid-2017.



"If you have a yacht and two airplanes, the next thing to get is a Maltese passport [...] It's the latest status symbol."

- Chris Kälin, chairman of Henley & Partners²⁰

Since 2014, Malta has been operating the Investor Visa Programme (IIP). Like other golden visa programmes, individuals are granted a European passport in exchange for a significant investment. The benefits are noteworthy: right of establishment in any of the 28 EU countries and in Switzerland as well as the ability to travel without a visa to 182 countries, including the US and Canada. Companies specialising in citizenship and residence planning describe the process as “straightforward” and “efficient”.⁷¹ You do not need to physically reside in or move to the country, you do not need to learn Maltese, you obtain a new passport within a year, and you enjoy citizenship for life.

But the programme has not been without controversy. Recent events indicate that the IIP may not be as “straightforward” and “efficient” as its marketing claims. In its joint resolution on the sale of EU citizenship in January 2014, the European Parliament warned of the risks of golden visa programmes in general and of Malta’s programme in particular.⁷² Earlier this year, the report of the ad hoc delegation of the European Parliament that visited Malta to look into the state of the rule of law and the implementation of European anti-money laundering legislation in the country also mentioned the concerns of the Financial Intelligence Analysis Unit of Malta (FIAU) regarding the IIP. According to the report, the FIAU acknowledged “an element of risk” in the scheme.⁷³

There are also concerns regarding the risk appetite of the authorities who manage the programme. According to the IIP, applicants are subject to a four-tier due diligence process. Nevertheless, three Russians who were included on the so-called “Kremlin list”⁷⁴ – Arkady Volozh, Boris Mints and Alexander

Nesis – managed to obtain Maltese citizenship through the IIP in 2016, raising doubts on the rigour with which the programme manages its due diligence findings. While the Kremlin list, published by the US in January 2018, is not a sanctions list, it does identify Russia’s wealthiest businesspersons who are believed to be close to Russia President Vladimir Putin and who could have been enriched through corruption.⁷⁵ Neither has been on record with a response to these allegations. The three Russian were not included in the subsequent sanctions list released on April 6 by the US Treasury.⁷⁶

According to Maltese law, an applicant who has a criminal record, provides false information or is subject to a criminal investigation is not eligible for the programme – unless Identity Malta, the government agency that was established in order to administer the programme,⁷⁷ judges the applicant still worthy of being considered, due to special circumstances.⁷⁸ This gives Identity Malta wide discretionary power to assess individual applications and make a recommendation to the Minister for a final decision. In 2017, the Office of the Regulator, an independent body that was established in order to monitor the scheme, reported that Identity Malta’s communications to the Minister, involving recommendations for whether or not to approve an application, were usually not explicit enough about the red flags identified during the due diligence process.⁷⁹

There were a number of cases in which a cover letter written by Identity Malta to the Minister failed to mention potential issues that had been raised in the dossier, which tended to be more comprehensive.⁸⁰ The Office of the Regulator communicated these concerns to

Identity Malta, but it remains unclear if or what measures have been taken. Identity Malta has issued no further written guidance or more concrete criteria on what constitutes “special circumstances”, and government officials still enjoy wide discretionary power to define these “special circumstances” and to determine the level of risk they are willing to take on behalf of EU citizens.

Another aspect of the screening and due diligence process that may pose risks is that applicants are not required to purchase the passport using their own funds and may rely on a benefactor to make the investment on their behalf. While the benefactor is required to submit a declaration of their sources of wealth and funds,⁸¹ the law does not specifically require the conducting of enhanced due diligence on the benefactor. If no additional checks are undertaken, there may be risk of money laundering, as applications of individuals with clean criminal record could be financed by a dubious benefactor using illicit funds.

In addition, a lack of transparency and accountability in the IIP may offer opportunities for corruption and favouritism within Malta itself, which could lead to the diversion or spending of public money for the benefit of a particular group.

Upon the European Parliament’s criticism of the fact that Maltese and ultimately EU citizenship was available for sale without any residence requirements, the Maltese government established a 12-month residence requirement for IIP applicants. There was initial uncertainty regarding what this requirement meant in practice.⁸² Maltese authorities eventually clarified that no physical presence in Malta was required or expected. Assessment of an individual’s residence status – which is to say, what constitutes their genuine

links to the country – would be based on their commercial and financial commitments. Common proof of “links” include renting property, opening a personal bank account with a local bank, signing up for membership with clubs and donating to a charitable institution.⁸³

The extent to which a commitment is considered sufficient for satisfying the residence requirement is at the discretion of Maltese authorities. This may lead to conflicts of interest and offer opportunities for corruption and favouritism. For example, an approved agent interviewed by the Office of the Regulator suggested that Identity Malta was pointing applicants to specific charities for donation purposes.⁸⁴ On a number of occasions in 2016 and 2017, members of the Malta House of Representatives raised questions about these donations to the Minister responsible for the programme.⁸⁵ According to the Minister, by the end of 2016, 215 donations amounting to €1,703,700 had been made to philanthropic organisations and NGOs in Malta.⁸⁶ A list of organisations that benefited from donations was published in February 2017, but this information is not made regularly available for public scrutiny.⁸⁷

There is little information and accountability regarding the role of the concessionaire – Henley & Partners, in the case of the IIP. According to IIP law, the concessionaire is responsible for the programme’s operation and may be involved in the examination of applications and in the due diligence process. The Organized Crime and Corruption Reporting Project (OCCRP) reports that Henley & Partners receives 4 per cent of the application fee of successful applicants, and another 4 per cent of the applicant’s €150,000 investment in governments bonds.⁸⁸ The concessionaire may also introduce prospective applicants to the programme for a service fee of €70,000.⁸⁹ The role of the concessionaire as stated in the law produces clear conflicts of interest: the concessionaire, who receives a commission for every successful application, represents clients while also being responsible for the operation of the project. In other words, the concessionaire may be conducting due diligence checks on the very individual they represent.

In practice, however, it seems that some of these risks have been mitigated. The Office of the Regulator recently confirmed that the role of the concessionaire

has been “consensually toned down”.⁹⁰ This, however, raises another concern: given that the role of the concessionaire has been reduced essentially to marketing the programme, and that there has been a consensual change in the terms of the contract between the government, Identity Malta and the concessionaire, one might argue that the commission received by the concessionaire is far too generous. As of June 2017, Henley & Partners has reportedly earned €19,054,000 from the programme, while Identity Malta, now responsible for the programme’s implementation and administration as well as for conducting and making final decisions on due diligence processes, has received €23,701,500.⁹¹

In order for the IIP to contribute to the economy and social development in a sustainable manner, Malta needs to adequately address the programme’s reputational and money-laundering risks. It also needs to increase transparency and accountability in the management of contributions and decision-making, particularly by limiting the discretion of public officials. Otherwise, the programme is at risk of benefiting the few to the detriment of many.



ALLEGATIONS AND SUSPICIOUS PAYMENTS TARNISH MALTA'S SCHEME

If you wanted to buy a Maltese passport, you would need to find an approved agent and agree on a fee so that the agent can collect and submit your application to government authorities. But what if it was possible to pay an extra fee to expedite the process or to get in a good word from someone close to the decision-making? This was allegedly how three Russians obtained Maltese citizenship in 2015. A leaked report by the Malta Financial Intelligence Analysis Unit shows that the fees paid by the Russians in relation to their IIP applications reportedly ended up in the account of Keith Schembri, chief of staff to Malta Prime Minister Joseph Muscat.⁹²

The three Russians hired BT International / Nexia BT, an agent approved by Identity Malta, to handle their applications. But instead of transferring €166,831 in application fees to BT International, they sent the money to an offshore company's (Willerby Trade) account with Pilatus Bank.⁹³

Willerby Trade is a British Virgin Islands company that has no track record of operating in the passport industry and is not an authorised agent for the sale of Maltese passports. But BT International and Willerby Trade do have something in common. As revealed by the Panama Papers, Brian Tonna, BT International / Nexia BT Managing Partner and a close business associate of Prime Minister Muscat,⁹⁴ is the ultimate beneficial owner of Willerby Trade.⁹⁵

As reported by Daphne Caruana Galizia and revealed by the Panama Papers, an unsigned agreement between BT International and Willerby guaranteed that Willerby would receive a 50 per cent commission for direct referrals of clients to the IIP.⁹⁶ Considering that both companies are owned by the same individual, the agreement seems to make little sense. Why would part of the funds go to an offshore company with an opaque ownership structure unless there was something to hide? Brian Tonna did not reply to OCCRP's requests for a comment.⁹⁷

To further complicate matters, shortly after receiving the funds, Willerby reportedly transferred part of the money to another account with Pilatus Bank in the name of Keith Allen Schembri – again, Prime Minister Muscat's chief of staff.⁹⁸ Allegedly, a total of €100,000 of fees related to the IIP ended up in Schembri's account, reportedly, without any clear explanation.⁹⁹ Schembri denied wrongdoing on his part and alleged that the payments were a legitimate repayment of a loan given to his friend, Brian Tonna.¹⁰⁰ According to reports, the FIAU, on the other hand, thought it could be a bogus loan and ordered further investigations.¹⁰¹

"The office of the Prime Minister has been extensively involved in the actual establishment of the Individual Investor Programme and in the promotion of the scheme in different countries. The transfer of funds originating from applicants under the scheme to the personal account of an official holding a position of trust in the same office is seen to be suspicious transactions warranting further investigation by the Police", notes the FIAU report.¹⁰²

Despite the evidence, authorities in Malta seem to have taken no measures to investigate and sanction those involved. The Maltese police received the FIAU report, but did not open further investigations.¹⁰³ Pilatus Bank failed to submit suspicious transaction reports, in contravention to anti-money laundering rules, without facing any consequences.¹⁰⁴ In March 2018, Maltese authorities seized control of Pilatus Bank following the arrest and indictment in the US of its owner, Ali Sadr Hasheminejad, who was charged with money laundering and sanctions evasion.¹⁰⁵

BT International / Nexia BT continue to be registered as an "accredited agent" of the IIP,¹⁰⁶ raising questions about whether the Malta Individual Investor Programme Agency (MIIPA) has adequate procedures in place for reviewing the conduct of accredited agents and investigating potential wrongdoing. The MIIPA and the Office of the Regulator should also undertake a review of all applications handled by BT International / Nexia BT, in particular those of the three Russians named in the FIAU report, in order to determine the presence of any unusual behaviour in the processing of the applications.

NATIONAL DEVELOPMENT FUNDS: WHO BENEFITS FROM GOLDEN VISA SCHEMES?

Many golden visa programmes include direct contributions to the government as one of the available modalities of investment. The funds are kept in national development funds, which typically aim to promote education, quality health care and the country's overall development.

Most of the Caribbean countries offer these direct non-refundable contributions as the cheapest investment option. For example, a family of four can gain an Antiguan passport in exchange for a €87,000 contribution to the National Development Fund. In Europe, Malta has opted for the establishment of a development fund that manages contributions under the IIP. In contrast to the Caribbean programmes, the IIP requires a contribution to Malta's National Development and Social Fund (NDSF) as a mandatory investment, in addition to investments in real estate and other investment vehicles. The IIP also requires significantly higher amounts – namely, a donation of €650,000.

Countries running golden visas programmes have underscored the importance of these contributions to their economy. But are these funds really used for the benefit of the population? The simple answer is that we don't know.

There is very limited information not only on how funds are used, but also, more importantly, on how decisions regarding the allocation and investment of funds are made. In the absence of clear transparency and accountability mechanisms, and given the wide discretion enjoyed by public officials who award golden visas, the risk of corruption increases. Moreover, without access to information, citizens remain unable to make a fair judgement of the schemes' contributions to them and their country's economy.

In Malta, 70 per cent of the contributions received by Identity Malta under the IIP go to the National Development and Social Fund.¹⁰⁷ The funds are to be used in the public interest: the advancement of education, research, innovation, social purposes, justice and the rule of law, employment initiatives, the environment and public health. As of December 2017, the NDSF had more than €360 million.¹⁰⁸ According to Prime Minister Muscat's statement in Parliament, the NDSF invested approximately €27 million by December 2017.¹⁰⁹ More recently, in March 2018, money from the NDSF was used to buy shares of the Lombard Bank Malta from the Cyprus Popular Bank Public Co. Ltd.¹¹⁰ According to media reports, the NDSF Board of Directors explained that "this acquisition is by no means a strategic investment but intended solely to facilitate the exit of the Cypriot major shareholder of Lombard Bank Malta",¹¹¹ and it aims "to support [...] an important

operator in the domestic banking sector".¹¹² There is no publicly available information on how much the NDSF paid for the shares. The move has been met with criticism in Malta, with many stating that the investment does not align with the fund's purpose.¹¹³

In general, there is no publicly available information on how the funds are used and how investment decisions are made. The NDSF does not seem to share any information about its activities as well. Audited accounts and annual reports – which the fund needs to produce, according to the law¹¹⁴ – are not publicly available.

Countries should adopt a clear and transparent accountability framework for the management of resources earned through golden visa programmes. The amount of revenues earned, their use, and the amounts saved, spent or invested should be subject to financial audits, and all of this information should be made regularly available to the public. Otherwise, these schemes are at risk of offering a number of opportunities for corruption. In turn, public officials may be willing to accept applicants with controversial backgrounds simply for reasons of profit.



PORTUGAL



€4 BILLION

Having sold over **17,000** residence permits since 2012, Portugal is one of the top earners among EU golden visa schemes.



"[It] is a highly appealing and affordable opportunity – it's a hassle-free arrangement with guaranteed buy back."

- Chris Immelman, managing director of a South Africa real estate company Pam Golding International¹¹⁵

The Residence Permit for Investment (ARI) is one of the most popular golden visa programmes in the world. It allows investors to obtain a residence permit in Portugal and consequently free access to the vast majority of European countries. It also offers an indirect route to citizenship: after six years of residence, successful applicants can apply for a European passport. Firms offering residence and citizenship planning services describe Portugal's golden visa as flexible, with a fast process and low physical presence requirements.¹¹⁶

But the programme comes with high risks. This was the conclusion reached during discussions between the Financial Action Task Force (FATF), public sector authorities and private sector entities in Portugal.¹¹⁷ Ana Gomes, a Portuguese member of the European Parliament, said she fears the programme may be "abused by individuals and criminal organisations with great economic power". "It is a corrupt scheme to support the corrupt", she said.¹¹⁸

In its 2014 review, the Inspectorate General of Home Affairs in Portugal flagged a number of issues that make the ARI vulnerable to corruption. The lack of clear guidelines and the wide discretion given to public officials working in the regional immigration and borders services offices open opportunities for inconsistent application of the rules. The inspectorate found that regional delegations were applying different criteria when reviewing applications and supporting documents; that the rationale for decisions was not always properly documented; that many regional delegations had a poor audit trail, resulting in the inadequate filing of important documents and communication exchanges between public officials and applicants (and/or their representatives); and that

internal control mechanisms were "basic and weak, and in some areas fully inefficient".¹¹⁹ The programme was revised after alleged corruption involving high-rank officials responsible for the programme came to light, with the last revision taking place in 2017, when new modalities of funding were introduced.¹²⁰ Since then, no significant efforts seem to have been made to address the issues identified in the report.

The current legal framework does not explicitly mandate that Immigration and Borders Service conduct due diligence on applicants or determine whether applicants are politically exposed persons (PEPs).¹²¹ Applicants are only required to provide a police certificate from the country of origin, or, should they no longer reside in the country of origin, the country in which the applicant has resided for more than a year.¹²² This means that if an applicant left their country of origin after being convicted of a crime, they can easily provide a police certificate from the country of residence so that Portuguese authorities do not know that the applicant has a criminal conviction, unless an international arrest warrant has been issued. Moreover, it does not seem to be the case that documents and information provided by applicants are independently verified, with the exception of additional checks carried out by the Judicial Police and the Portuguese Central Department of Criminal Investigations.

When reviewing applications, Portugal's Immigration and Borders Service does not seem to check whether applicants are subject to ongoing investigations or open criminal complaints outside of Portugal.¹²³ There also seem to be no checks on applicants' source of wealth and funds used for investment.¹²⁴ We know little to

nothing regarding who invests in the programme, how much is invested, and whether and how the source of the investor's funds is verified.¹²⁵ Transparência e Integridade, Transparency International's chapter in Portugal, submitted access-to-information requests to competent authorities in Portugal, seeking to clarify these doubts, but Portuguese authorities replied that all available information about the programme had already been published.¹²⁶

There is the additional problem of main applicants acting as "Trojan horses" for family members who may have a more difficult time passing inspection. Currently, family members need to apply for "family reunion", in a process that is not subject to comprehensive due diligence and rely only on a certificate of a clean criminal record.¹²⁷ Enhanced checks should be extended to all family members who wish to obtain a residence permit through the programme.

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"It is a corrupt scheme to support the corrupt."

Ana Gomes, Member of the European Parliament

The FATF mutual evaluation of Portugal highlights the role of private sector stakeholders such as real estate agents and financial institutions in ascertaining the origin of the funds and the background of applicants. According to the evaluation, however, no specific measures or recommendations have been developed by Portuguese authorities or circulated to these stakeholders.¹²⁸ The programme's current rules and guidelines do not require applicants to open a bank account in Portugal for all modalities of investment. There is anecdotal evidence that this is nevertheless the current practice and that due diligence checks are thus conducted by the respective banks. But the government's outsourcing of the vetting of applicants to private sector stakeholders is insufficient for ensuring that money launderers and the corrupt do not abuse the scheme. It is the state's responsibility to verify the background and source of wealth of applicants and their dependents according to predefined criteria, which takes into account the particular risks posed by these type of programmes.

Without clear criteria and due diligence requirements, the programme is at higher risk of being misused by the corrupt, or by individuals who may be investing the proceeds of a crime or hiding from justice. Poor operational management and the lack of internal controls may increase opportunities for corruption within Portugal, allowing public officials to solicit bribes in exchange for the successful processing of an application.

To allow for public scrutiny and to increase transparency and accountability in the management of the programme, information about the ARI – including, at the very least, the number of applications received (by country of origin), granted and refused – should be published on a regular basis. The government should also consider publishing the names of successful applicants.

CLEAN CARS, DIRTY MONEY, GOLDEN VISAS

In 2014, senior public officials of the Institute of Registries and Notaries and of the Immigration and Borders Service were detained for allegedly running a network that took bribes and accepted gifts for expediting golden visas or turning a blind eye to programme requirements. Police investigators suspected that properties registered as having been purchased for €500,000, the minimum amount required for a golden visa application, may have been bought for significantly less in reality.¹²⁹ The scandal led to the resignation of then Interior Minister Miguel Macedo. Criminal proceedings against the senior officials as well as the applicants, three Chinese executives, are ongoing.¹³⁰

More recently, investigations by *The Guardian* revealed that individuals involved in corruption in Brazil might have been golden visa beneficiaries.¹³¹ Documents obtained by the journalists showed that Otávio Azevedo – the former president of the Brazilian construction company Andrade Gutierrez, who was convicted in 2016 for corruption – bought an apartment in Lisbon worth €1.4 million in 2014. The property was used as part of an application for a golden visa the same year. A spokesperson for Azevedo said he had not yet received a confirmation that his application had been accepted.¹³² Other names exposed by *The Guardian* included Sergio Andrade (executive of Andrade Gutierrez), Pedro Novis (former president of Odebrecht) and Carlos Pires Oliveira Dias (executive of the Brazilian group Camargo Corrêa).¹³³ Andrades' spokesperson told *The Guardian* he did not live in Portugal and had no plans to do so, but did not dispute that he had acquired

a golden visa.¹³⁴ A spokesman for Novis said he has nothing to declare and that his activities in Portugal are known by the Brazilian courts.¹³⁵ Oliveira Dias confirmed that he had obtained a golden visa.¹³⁶

Portuguese authorities have not commented on the security checks conducted in these specific cases. They merely underscored that all applications are assessed by means of criminal records and the consultation of national and international databases.¹³⁷ They also stated that golden visas need to be renewed after the first year, and then every two years thereafter, which offers authorities the opportunity to review applications. It is unclear whether the aforementioned executives tried to renew their visas or whether Portuguese authorities cancelled them. Regardless, these cases show that the current background checks, which focus solely on criminal convictions, may be insufficient, creating opportunities for corrupt individuals who wish to escape justice or move/laundry assets to misuse the programme.

It is true that at the time of their applications, there were no criminal convictions against the aforementioned individuals.¹³⁸ But one should keep in mind that the real estate purchases and golden visa applications took place in the midst of the Operation Car Wash investigations.¹³⁹ By the end of 2014, Brazilian prosecutors had already uncovered the role of Brazilian construction companies in setting up a cartel to win contracts with Brazil's state-owned oil company Petrobras, and several executives from the largest construction companies had been arrested.¹⁴⁰ Any proper due diligence checks conducted in 2014 should have raised red flags about these individuals.

When Things Go Wrong

HUNGARY: SHADY MIDDLEMEN

The Hungarian Investment Immigration Program was suspended in 2017¹⁴¹ and terminated at the end of July 2018,¹⁴² following pressure from civil society groups and independent media. The rationale for featuring the programme in this report is its perfect illustration of the risks associated with golden visa schemes and the need for harmonised rules and standards in addition to greater transparency.

The scheme had allowed non-EU citizens to acquire Hungary's permanent residency status by investing at least €300,000 in special Hungarian government bonds. Unlike other European schemes, the Hungarian programme foresees the full repayment of the investment to individual investors after five years, with a minimum interest rate of 2 per cent. In another unique feature, foreign nationals did not directly invest in the residency government bonds. The investment was made through designated intermediary companies, the majority of which had opaque ownership structures.¹⁴³ All intermediaries except one were registered outside Hungary, including in secrecy jurisdictions like the Cayman Islands, Cyprus and Liechtenstein, where little to no information about the real owners of these companies is available. The intermediary took a €29,000 commission paid by the Hungary's State Debt Management Agency, based on the mandatory rate of return of the bonds as well as service fees charged to investors that ranged from €40,000 to €60,000 per applicant.

These intermediaries were selected through a dubious process that may have violated Hungarian law, as shown by documents obtained by Transparency International Hungary through a court case.¹⁴⁴ Indeed, the Central Bank of Hungary is usually responsible for overseeing and licensing financial institutions, including those that buy and sell stocks and bonds. Therefore, the Central Bank would have been the logical choice for selecting and regulating companies that sell bonds to residency applicants. Instead, these responsibilities fell into the hands of the Economic Committee of the Parliament, which has a poor track record when it comes to the transparency and application of procedures.¹⁴⁵ Based on these findings, Transparency International Hungary reported the Parliament's Economic Committee to the police for suspected abuse of power and illicit concealment of public interest information. However, the Hungarian Prosecution Service rejected the complaint and terminated all proceedings in March 2018.¹⁴⁶ The decision is subject to appeal.

The opacity of the selection and of the operation of intermediaries raised the possibility of conflict of interest and corruption. This was all the more troubling, considering the generous profit margins made by intermediaries for each application. Media sources reported the concerns and fears of visa beneficiaries about dealing with "random offshore intermediaries"¹⁴⁷ instead of the Hungarian state. The media further revealed links between the main beneficiaries of the residency bond programme, intermediaries and Hungary's political elite.¹⁴⁸



Even more surprisingly, the scheme was designed to generate a net loss for the state by selling government bonds and repaying them five years later with a minimum 2 per cent interest rate. Transparency International Hungary estimates that the country's budget could have experienced a loss as high as €192 million resulting from the residency bond programme by the end of 2017¹⁴⁹ – and all this to the exclusive benefit of intermediaries, which made a total profit of about €480 million with the programme.¹⁵⁰ This can only raise suspicions about the underlying motivations for setting up such a scheme. This was the point made by a group of Members of Parliament, when they requested the formation of a commission of inquiry on the scheme in 2016.¹⁵¹

Hungary's residency state bond programme could also have been vulnerable to corrupt individuals or other criminals who could misuse the programme to gain access to Europe, launder their money or escape from justice. It is reported that in 2014, Atiya Khoury, Syrian dictator Bashar Al-Assad's "money man", was granted a Hungarian residence permit through the programme.¹⁵² According to a joint journalistic investigation by *444* and *Direkt36*, the permit was issued within 10 days of the application. Khoury applied for a permanent resident permit in September 2016,¹⁵³ two months after he had been put on the US sanctions list.¹⁵⁴ In spite of this, Hungarian authorities found no issues whilst conducting background checks and decided to grant him permanent residence the following year.¹⁵⁵

The Hungarian scheme is a unique example of mismanagement, discretionary decision-making and opaque governance. The pivotal role played by intermediaries is also a striking feature. This serves to underscore the need for greater transparency and accountability in the design and governance of European golden visa schemes. An analysis of the actual benefits and losses should be conducted. In the event that such an analysis identifies undue gains made by certain individuals or companies, they should be investigated, and the relevant funds should be recovered to benefit the Hungarian people.

THE UK TIER 1 VISA: THE DANGERS OF BLIND FAITH

Invest £2 million in UK bonds for five years, and you are on your way to buying UK residency. In fact, the more you invest, the quicker you can apply for “indefinite leave to remain”. This is the concept at the heart of the UK Tier 1 (Investor) Visa, a route into the country that has proven most popular with Russian and Chinese nationals since its establishment in 2008.

Compared to other schemes on offer around the world, the UK scheme may sound expensive but unexceptional. However, until relatively recently, there was an important loophole that could have made the scheme more attractive. Investigations by Transparency International UK revealed that the scheme undertook minimal checks on applicants’ wealth from 2008 to 2015.¹⁵⁶ The problem was that applicants were given visas *before* they opened a UK bank account. Transparency International UK discovered that a number of banks interpreted the fact that individuals

had been given a visa as verification from the UK Home Office that an applicant’s wealth was legitimate.¹⁵⁷ They incorrectly assumed that the government had already undertaken checks of the applicants and their money, and had been satisfied by what they found. Conversely, the Home Office assumed that the opening of a UK bank account would involve thorough due diligence checks.

During this ‘blind faith period’ over 3,000 high-net-worth individuals entered the UK, bringing with them at least £3.15 billion of questionable legitimacy. The scheme was most popular with citizens from high corruption risk jurisdictions, with 706 successful applicants from Russia and 1,126 from China entering the country between 2008 and 2015.¹⁵⁸

Realising their mistake, the Home Office reformed the programme in April 2015. Now, applicants have to open a bank account before

applying for the visa and are required to provide clean criminal records. Only in 2018, 10 years after the scheme began and three years since the flaws came to light, did the Home Office decide to review successful applications. Why the change of heart? The answer can be found in the small city of Salisbury, which found itself at the centre of a global diplomatic crisis when residents Sergei Skripal and his daughter were poisoned by a deadly nerve agent. The Russian state fell under suspicion. The amount of dirty money in the British financial system and the number of ultra-wealthy individuals who had made a home for themselves in the UK hit the headlines.¹⁵⁹

The UK’s story of blind faith and delayed scrutiny provides a salutary warning of the social, political, reputational and diplomatic risks of failing to properly coordinate or conduct enhanced due diligence on golden visa applicants.





ANNEX III OF THE 5TH AML DIRECTIVE IS NOT THE ANSWER

In April 2018, the EU issued the 5th Anti-Money Laundering (AML) Directive, which established stronger European anti-money laundering standards.¹⁶⁰ Annex III of the directive introduces a provision requiring banks and other obliged professionals, such as real estate agents, lawyers and accountants, to consider customers applying for golden visas as a potential higher-risk factor during the due diligence process.¹⁶¹

Although this amendment is a welcome recognition of the anti-money laundering risks posed by golden visas, it falls short of fully addressing these risks and essentially amounts to shifting, and in fact diluting, the responsibility of conducting due diligence to banks and intermediaries.

“

It's definitely a problem. Banks will have to ask, 'Do you have one passport, two passports, are you applying for second citizenship?' Ultimately they will have to rely on a declaration by the client.

Manfred Galdes, former head of Malta's Financial Intelligence Analysis Unit¹⁶²

The directive's "golden visa clause" presents a number of pitfalls and shortcomings that make it unfit for its intended purpose. First, due to the lack of publicly available data on golden visa applicants, banks and intermediaries have no way of determining whether a customer is a golden visa applicant, other than by relying on what the client says.

Second, the introduction of an amendment like the one made to Annex III is based on the assumption that the issuance of golden visas always involves an investment concomitant with the application and thus an intervention, first in the chain, of a national bank, a real estate agent or a similar intermediary. But it remains unclear whether this would suffice to cover all investments made into the EU through golden visa programmes. For example, the investment could have been made by the applicant years before the decision to apply for a golden visa. In such a case, the applicant may not have been rated as high risk at the time of the investment, and thus the applicant may have gone insufficiently checked by the bank or professional.

Moreover, in the case of multiple investment requirements, as in the Maltese scheme, there may be a risk that the origins of the money will be only partially screened. The Maltese scheme requires both investment in government funds and bonds as well as investment in a real estate purchase of at least €350,000 or a rental of at least €16,000 a year. Per new European rules, the latter may not be systematically covered by anti-money laundering obligations, which only apply to transactions for which the monthly rent amounts to €10,000 or more (€120,000 a year).¹⁶³

Third, it is problematic to assume that obliged entities will rate their customers and decide to proceed with the transaction based on the same risk appetite as public authorities deciding about granting citizenship to foreign nationals. The implications of those two decisions are very different and so need to be the criteria for making such decisions.

Finally, the directive should not be seen as a way to absolve Member States from their responsibility to establish, abide by and monitor robust due diligence standards.

There is a great risk of shifting such responsibility to banks and intermediaries. When it comes to delivering passports and residence permits, anti-money laundering checks cannot simply be outsourced to the private sector. Recent allegations of money laundering involving European banks in Latvia,¹⁶⁴ Malta¹⁶⁵ and Cyprus,¹⁶⁶ for example, suggest that this cannot be the way forward. Similarly, recent scandals like the Panama Papers have highlighted the key role played by intermediaries in the facilitation of money laundering.

Moreover, it is unclear how immigration authorities would be informed in a timely manner, should a bank or an intermediary detect an anomaly and file a suspicious transaction report. Suspicious transactions reports are submitted to the financial intelligence unit, which is responsible for redirecting the information received from professionals to competent authorities, including law enforcement or tax authorities. Immigration authorities appear nowhere in this architecture. While they should ultimately bear the

responsibility for due diligence, the process as envisaged by the directive would leave them with little to no control over the level and quality of due diligence checks.

The directive's golden visa provisions are clearly insufficient for preventing money laundering risks. They may even be counterproductive and prompt Member States to inaction by creating the impression that professionals are already taking care of the necessary work. This highlights the need for stronger harmonisation of regulations at EU level and for clarification of the roles and responsibilities related to due diligence, which should not fall to the private sector.



Security Check



Closing EU Doors to the Criminal and Corrupt: Key Recommendations

WHAT THE EU NEEDS TO DO

Our analysis has revealed clear discrepancies in the design and operation of European golden visa schemes. The risk appetite as well as the required levels of checks and transparency vary between Member States, while the “product on sale” remains the same: EU citizenship and residency.

In fact, Member States that profit from selling golden visas are putting at risk not only their own citizens, but also other Member States and the EU as a whole. Therefore, it is critical to harmonise the sale of residency and citizenship across the EU, and that high standards of transparency and due diligence are implemented across the board. Only a unified and coordinated approach will prevent risky individuals from “passport-shopping” between jurisdictions and avert a race to the bottom in terms of standards.

- » Current EU regulations, as set out in Annex III of the 5th Anti-Money Laundering Directive, are insufficient for mitigating the wide range of risks associated with the sale of golden visas. As discussed above, the application of Annex III could result in absolving Member States from taking any further action to identify and assess golden visa applicants, and compel states to outsource these critical checks to professionals subject to.
- » Explore ways to broaden anti-money laundering rules to ensure that all those involved in the golden visa industry, including agents accredited by the state, are obliged to uphold these regulations.
- » Collect harmonised statistics on applications and investment made through golden visa schemes in Member States.
- » Establish mechanisms for coordinating information sharing between Member States concerning rejected applicants.
- » Undertake infringement procedures against Member States offering golden visa schemes if they are deemed to undermine the principle of sincere cooperation and jeopardise EU values and objectives.

THE EU'S COMPETENCY TO ACT

“While it is for each Member State to lay down the conditions for the acquisition and loss of its nationality, this must be done in full respect of Union law.”

These were the words of European Commissioner for Transport Violeta Bulc when she kicked off in May 2018 a parliamentary debate on the corruption risks associated with the sale of passports on offer in a number of Member States.¹⁶⁷ Her words echo those of EU law experts:

“Access to European citizenship is gained through nationality of a Member State, which is regulated by national law, but, like any form of citizenship, it forms the basis of a new political area from which rights and duties emerge, which are laid down by Community law and do not depend on the State. [...] In other words, it is not that the acquisition and loss of nationality (and, consequently, of Union citizenship) are in themselves governed by Community law, but the conditions for the acquisition and loss of nationality must be compatible with the Community rules and respect the rights of the European citizen.” Opinion of Advocate General Poiares Maduro delivered on 30 September 2009 on Case C-135/08. Janko Rottmann v. Freistaat Bayern.¹⁶⁸

It is true, per Declaration No. 2 of the Maastricht Treaty, that citizenship is a matter for national competency,¹⁶⁹ but this competency has its limits. Member States should not have the unfettered ability to sell EU citizenship without regard for the rest of the union. A number

of arguments could be made for bringing citizenship-by-investment schemes within the scope of EU law, thereby justifying EU-level action.

THE CROSS-BORDER DIMENSION

It goes without saying that the passport trade in one Member State affects the entire union. After all, what is on sale in the golden visa industry is mobility and access to the EU rather than strictly integration into the community of the Member State in question. It is the cross-border effect of naturalisation and citizenship, that brings it within the scope of public international and EU law, and thus justifies action at EU level. This has been highlighted in a number of court cases.¹⁷⁰

THE PRINCIPLE OF SINCERE COOPERATION

There is also the question of how the schemes stack up against the principle of sincere cooperation as stated in Article 4(3) of the Treaty on European Union (TEU).¹⁷¹ The Court of Justice of the European Union (CJEU) developed this principle through case law, and it establishes the legal duty of Member States to respect their obligations in defence of the Union's interests.¹⁷² It also covers one specific prohibition or negative obligation, which consists of abstaining from adopting measures jeopardising the Union's objectives. The CJEU has further emphasised that the duty of genuine cooperation is of general application and does not depend either on whether the Community competence is exclusive [...].¹⁷³

This suggests that the scope of the principle of sincere cooperation extends also to areas of overlapping competence between the Union and Member States, or even in domains where Member States keep the monopoly of action. An EU-level intervention would therefore be justified in a case where the attainment of the union's objectives of preserving “freedom, security and justice without internal frontiers”, as stated in Article 3(2) of the TEU,¹⁷⁴ is jeopardised. And no doubt that this is the case when insufficient due diligence checks are made on applicants which may lead to corrupt individuals and money entering the EU.

In August 2018, European Commissioner for Justice Věra Jourová presented her myriad concerns regarding the schemes on offer in Europe, citing fears that “if an EU country opens its doors to third-country nationals, it will also open the floodgates to the entire union”, and expressing the sceptical view that some newly minted citizens have “constructed” their relationship with a country rather than forging genuine connections.¹⁷⁵ The European Commission, she has promised, will issue new and “more stringent” guidelines for Member States.

But will these guidelines be adopted across the board? Guidelines alone will not stop a race to the bottom. It is clear that the EU has grounds for curbing the risks associated with selling EU passports and permits as well as the leverage to harmonise standards. Given the risks at hand, it should utilise its mandate to do so.

WHAT NATIONAL GOVERNMENTS NEED TO DO

Enhanced due diligence

Understanding the background of golden visa applicants and their family members is the primary way in which governments can make an informed decision on whether an individual can gain access to the EU without posing risks. Therefore, it is critical that all applicants are subject to the most comprehensive form of enhanced due diligence checks. In particular, to ensure that golden visa programmes are not abused by the corrupt and the criminal, the following should be part of any assessment conducted by golden visa authorities:

- » Independent verification. All information and documents provided by the applicant must be independently verified by the responsible government agency.
- » Source-of-funds and source-of-wealth verification. The amounts being invested must be transferred via the applicant's personal bank account and must be subject to anti-money laundering checks. In addition, checks must be conducted to ensure the applicant's wealth is not disproportionate to their known lawful sources of income. Sufficient information should be obtained that give an indication of the volume of wealth to be reasonably expected of the applicant, and of how it was acquired.
- » Civil and criminal litigation. In addition to police records and security checks, governments must conduct checks of applicable court records to verify whether the applicant is or was subject to civil or criminal proceedings.

- » In-depth interview or analysis. Due diligence checks should include interviews with well-placed individuals to check for political connections/exposure; any corrupt business practices; source of wealth and professional experience; links to organised crime; suggestions of involvement in money laundering and other illegal activities; dealings with sanctioned entities; and social and environmental responsibility.
- » Processing time. There must be no restrictions on how long the due diligence process should take.
- » Dependents and benefactors. All applicants over the age of 13 years should be subject to enhanced due diligence. There should be no leeway for the corrupt and the criminal to gain residency or citizenship by posing as the "dependents" of family members who apply as the "main applicants". Similarly, given the possibility of applicants relying on benefactors to make their investment, the benefactor must be subject to the same checks.

Integrity Principles

Governments maintain primary responsibility for accepting or rejecting applicants, using due diligence findings to inform their decision. In some jurisdictions, government bodies undertake due diligence themselves, whilst in others, they may hire specialist agencies to conduct the checks that will then be factored into the final decision. If this key step in the application process is handed over to specialist agencies, it is critical that governments adopt a set of measures to avoid conflicts

of interest or bribery risks. These measures include the following:

- » The selection of specialist agencies adheres to open contracting principles.¹⁷⁶
- » Agencies contracted to conduct enhanced due diligence are barred from marketing the schemes or providing additional services to applicants.
- » Contracted agencies are not remunerated according to the number of successful applications processed.
- » Any enhanced due diligence report that identifies risks is discussed with the relevant agency to ensure that the government has a comprehensive picture of the type and level of risk at hand.
- » Governments ensure that they fully understand how the sources and research techniques applied by the provider adhere to the principles of best-practice methodology outlined above.¹⁷⁷

While enhanced due diligence is a critical component of preventing the corrupt and the criminal from taking advantage of golden visa programmes, what really matters is how governments assess due diligence findings and the level of risk they are willing to take when selecting applicants. Foreign nationals are being awarded with citizenship and residency, along with all the rights that come with them, for life. Governments should use due diligence to assess the risks an applicant poses not only to the country but also to the EU as a whole. The bar needs to be set high, and golden visas should be given only to individuals with exceptional track records.



Governments must also ensure that programmes operate with strong governance and oversight mechanisms, and that citizens are informed of the risks and rewards that come with selling citizenship and residency. Therefore, to safeguard the integrity of the schemes and to ensure that EU citizens know who their new compatriots are and have confidence in the screening processes, responsible national government departments must:

- » Publish the specific objectives, investment criteria, residency criteria and enhanced due diligence standards of the scheme.
- » Ensure that adequate notes and documents relating to decisions are kept for as long as the statutes of limitation of the falsification of documents and bribery offences allow.
- » Strictly monitor successful golden visa recipients to ensure that residency requirements are fulfilled.
- » Conduct impact assessments and make adjustments as necessary.
- » Exercise sufficient oversight by ensuring that the schemes are regularly audited and that the results are published.
- » Provide robust whistleblowing mechanisms for staff and citizens to report concerns and wrongdoing.
- » Revoke citizenship and residency rights, in the case that new evidence of corruption or criminality is uncovered.
- » Ensure that any suspicions about applicants arising from enhanced due diligence processes are shared in a timely manner with and between relevant domestic, regional and international investigations agencies. In particular, share with EU authorities information on individuals who had their golden visa applications denied due to security issues or exposure to risk.
- » Establish an open dialogue with citizens about the risk appetite, social and economic benefits or detriments of the policy, and the regulatory and operational aspects of the scheme.
- » Publish the names and countries of origin of successful applicants in an open-data format.
- » Publish statistics harmonised at EU level on the success rate of applications for investors and their family members and the number of instances in which citizenship or residency is denied due to regulation breaches.
- » Publish information on the total amount of funds invested, collected by the state and disbursed through schemes in an open-data format.

Annex

ANNEX 1. EUROPEAN GOLDEN VISA PROGRAMMES

COUNTRY	CITIZENSHIP-BY-INVESTMENT (CBI)	RESIDENCY-BY-INVESTMENT (RBI)	YEAR ESTABLISHED	ONGOING?
Austria	✓ ¹⁷⁸	✓	1985, amended in 2014 ¹⁷⁹	✓
Bulgaria	✓ ¹⁸⁰	✓ ¹⁸¹	CBI: 2013 RBI: 2009	✓
Cyprus	✓ ¹⁸²	✓ ¹⁸³	CBI: 2008, amended in 2013 and 2018 RBI: 2012	✓
France		✓ ¹⁸⁴	2009, amended in 2016	✓
Greece		✓ ¹⁸⁵	2013	✓
Hungary		✓ ¹⁸⁶	2013, amended in 2014	Terminated in July 2018 ¹⁸⁷
Ireland		✓ ¹⁸⁸	2012	✓
Latvia		✓ ¹⁸⁹	2010, amended in 2014	✓
Luxembourg		✓ ¹⁹⁰	2017	✓
Malta	✓ ¹⁹¹	✓ ¹⁹²	CBI: 2014 RBI: 2015, amended in 2017	✓
Netherlands		✓ ¹⁹³	2013	✓
Portugal		✓ ¹⁹⁴	2007, amended in 2012 and 2013	✓
Spain		✓ ¹⁹⁵	2013, amended in 2015	✓
United Kingdom		✓ ¹⁹⁶	1994, amended in 2015	✓



ANNEX 2. INVESTMENT REQUIRED AND MADE THROUGH EUROPEAN GOLDEN VISA PROGRAMMES

COUNTRY	SCHEME	TYPE	LEGAL STATUS	RESIDENCE REQUIREMENT
Austria	Article 10 (6) of Austrian Citizenship Act grants citizenship to foreigners with Extraordinary Merit "rendering exceptional services in the interest of the Republic" ¹⁹⁷	CBI	Citizenship	None ¹⁹⁸
Bulgaria	Investor Programme for Residence and Citizenship ²⁰¹	RBI	Temporary residence	None ²⁰²
		CBI (fast-track path) ²⁰⁵	Citizenship	Citizenship can be granted after 1-year permanent residence, but no physical presence requirement ²⁰⁶
Cyprus	Cyprus Investment Programme ²⁰⁸	CBI	Citizenship	None ²⁰⁹
	Immigration Permit ²¹²	RBI	Permanent residence	One visit every two years ²¹³
France	Residence Permit for Economic Agents ²¹⁴	RBI	Temporary residence	Over 6 months ²¹⁵
Greece	Permanent Residence Permit of the Investor ²¹⁶	RBI	Temporary residence for five years	None ²¹⁷
Hungary	Residency Hungarian State Bond ²¹⁹	RBI	Permanent residence after six months	None ²²⁰

MINIMUM INVESTMENT REQUIREMENT		TOTAL INVESTMENT SINCE THE START OF THE SCHEME, € MILLION	REFERENCE PERIOD
INVESTMENT TYPE	INVESTMENT AMOUNT		
No or vague criteria including significant investment, high economic performance, job creation ¹⁹⁹	No amount specified, but empirical evidence shows investment or donation in the range of €2 million to €10 million ²⁰⁰	Unknown	N/A
(a) Real estate purchase	Лв. 600,000 (~ €307,000 ²⁰³)	148 ²⁰⁴	2013 - October 2017
(b) Bulgarian company and creation of 5 jobs	Лв. 250,000 (~ €128,000)		
(a) Bulgarian company	Лв. 1 - 6 million (~ €511,000 - €3 million)	Unknown	N/A
(b) Concession agreements rights or other securities	Лв. 1 million (~ €511,000)		
(c) Bulgarian company and creation of 10 jobs ²⁰⁷	Лв. 500,000 (~ €256,000)		
(a) 1. Real estate ownership	€500,000	4800 ²¹⁰	2013 - 2017
2. Real estate purchase or Cypriot company or approved investment funds or a combination of the above	€2 million		
(b) Tax payment over a 3-year period ²¹¹	€100,000		
(1) Real estate purchase	€300,000	Unknown	N/A
(2) Bank deposit	€30,000		
French company	€300,000 (and creating or maintaining jobs)	Unknown	N/A
Real estate purchase	€250,000	1,500 ²¹⁸	2013 - 2018
Government bonds	€300,000	1,845 ²²¹	2013 - 30 June 2017

COUNTRY	SCHEME	TYPE	LEGAL STATUS	RESIDENCE REQUIREMENT
Ireland	Immigrant Investor Programme (IIP) ²²²	RBI	Temporary residence	1 day per year ²²³
Latvia	Third Country Investors and Residency Permit ²²⁴	RBI	Temporary residence for five years	None ²²⁵
Luxembourg	Residence Permits for Investors ²²⁷	RBI	Temporary residence for three years	At least 6 months ²²⁸

MINIMUM INVESTMENT REQUIREMENT		TOTAL INVESTMENT SINCE THE START OF THE SCHEME, € MILLION	REFERENCE PERIOD
INVESTMENT TYPE	INVESTMENT AMOUNT		
(a) Government bonds (currently suspended)	€1 million	14	2012 - March 2017
(b) Irish company	€1 million	138	
(c) Approved investment fund	€1 million	18	
(d) Real estate investment trusts	€2 million		
(e) Mixed investment of real estate purchase and government bonds (currently suspended)	€950,000	35	
(f) Endowment	€500,000	5	
(a) Real estate purchase	€250,000	1440 ²²⁶	2010 - 2017
(b) Latvian company that employs at least 50 people and €10,000 into State budget	€50,000 - 100,000		
(c) Liabilities with Latvian credit institution and €25,000 into state budget	€280,000		
(d) Purchase of state securities and €38,000 into State budget	€250,000		
(a) Luxembourgish company	€500,000	Unknown	Unknown
(b) Creation of a company and 5 jobs	€500,000		
(c) Investment fund	€3 million		
(d) Deposit in a Luxembourgish financial institution	€20 million		

COUNTRY	SCHEME	TYPE	LEGAL STATUS	RESIDENCE REQUIREMENT
Malta	Malta Individual Investor Program (MIIP) ²²⁹	CBI	Citizenship	12 months residence prior to the application, but no minimum physical presence requirement. ²³⁰
	Malta Residency & Visa Programme (MRVP) ²³⁵	RBI	Permanent residence ²³⁶	None ²³⁷
Netherlands	Residence of 'wealthy foreign national' ('foreign investor') ²³⁸	RBI	Temporary residence for three years.	Over 6 months ²³⁹
Portugal	Residence Permit for Investment Activity (ARI) ²⁴⁰	RBI	Temporary residence for 1-year, renewable. Permanent residence after five years.	7 days in the first year and 14 days in the subsequent two years

MINIMUM INVESTMENT REQUIREMENT		TOTAL INVESTMENT SINCE THE START OF THE SCHEME, € MILLION	REFERENCE PERIOD
INVESTMENT TYPE	INVESTMENT AMOUNT		
(1) Government funds	€650,000	509 ²³¹	2014 - June 2017
(2) Stocks, bonds, debentures, special purpose vehicles or other investments	€150,000	85 ²³²	
(3)(a) Real estate purchase or	€350,000	71 ²³³	
(b) Real estate rental	€16,000 / year	51 ²³⁴	
Government funds	€30,000 and	Unknown	Unknown
(a) Real estate rental	€12,000 / year (€10,000 if in Gozo or the south of Malta)		
(b) Real estate purchase	€320,000 (€270,000 if in Gozo or in the south of Malta)		
(c) Government bonds	€250,000		
Dutch company (and creation of 10 jobs or contribution to innovation or non-financial value added)	€1.25 million	Unknown	Unknown
(a) Real estate purchase	€500,000	3,967 ²⁴¹	October 2012 - August 2018
(b) Real estate purchase (if property is at least 30 years old or located in urban regeneration areas)	€350,000		
(c) Capital transfer	€1 million		
(d) Creation of 10 jobs			
(e) Investment funds	€350,000		
(f) Company creation and creation of 5 jobs	€350,000		
(g) Investment in research, arts, culture and heritage	€250,000 - 350,000		

COUNTRY	SCHEME	TYPE	LEGAL STATUS	RESIDENCE REQUIREMENT
Spain	Residence Visas for Investors ²⁴²	RBI	Temporary residence	One visit ²⁴³
United Kingdom	Tier 1 (Investor) Visa ²⁴⁵	RBI	Temporary residence; permanent residence after 5 years	185 days per year ²⁴⁶
			Temporary residence; permanent residence after 3 years	
			Temporary residence, permanent residence after 2 years	
Total Investment raised by all schemes				

MINIMUM INVESTMENT REQUIREMENT		TOTAL INVESTMENT SINCE THE START OF THE SCHEME, € MILLION	REFERENCE PERIOD
INVESTMENT TYPE	INVESTMENT AMOUNT		
(a) Government bonds	€2 million	5,200 ²⁴⁴	2013 - April 2018
(b) Spanish company	€1 million		
(c) Investment funds	€1 million		
(d) Bank deposit	€1 million		
(e) Real estate purchase	€500,000		
Government bonds, share capital or loan capital in UK-based companies	(a) £2 million (~ €2.25 million) ²⁴⁷	~5,100 ²⁴⁸	2008 - March 2018
	(b) £5 million (~ €5.6 million)		
	(c) £10 million (~ €11.2 million)		
		24,926	

ANNEX 3. NUMBER AND ORIGINS OF APPLICANTS TO EUROPEAN GOLDEN VISA PROGRAMMES

COUNTRY	SCHEME	TYPE	NUMBER OF PRINCIPAL APPLICANTS	NUMBER OF PRINCIPAL GOLDEN VISA AWARDEES
Austria	Article 10 (6) Paragraph 10, Article 6 of Austrian Citizenship Act law Act grants citizenship to foreigners with Extraordinary Merit "rendering exceptional services in the interest of the Republic"	CBI	Unknown	303 ²⁴⁹
Bulgaria ²⁵⁰	Investor Programme for Residence and Citizenship	RBI	Unknown	296
	Fast-track path	CBI	Unknown	16
Cyprus ²⁵¹	Cyprus Investment Programme	CBI	Unknown	1,685
	Immigration Permit	RBI	Unknown	Unknown
France	Residence Permit for Economic Agents	RBI	Unknown	Unknown
Greece ²⁵³	Permanent Residence Permit of the Investor	RBI	Unknown	2,968
Hungary	Residency Hungarian State Bond	RBI	6,621 ²⁵⁴	6,538 ²⁵⁵
Ireland	Immigrant Investor Programme (IIP)	RBI	543 ²⁵⁸	~430 ²⁵⁹

NUMBER OF DEPENDENTS	TOP 5 NATIONALITIES OF GOLDEN VISA AWARDEES	REFERENCE PERIOD
Unknown	Unknown	2006 - 2017
Unknown	Russia (70) China (38) Pakistan (32) Egypt (27) Lebanon (23)	2012 - October 2017
Unknown	Russia (5) Lebanon (2) India (2) Egypt, Ethiopia, China, Ukraine, Vietnam, Pakistan, US (1)	2007 - 2017
1,651	Unknown ²⁵²	2013 - March 2018
Unknown	Unknown	Unknown
Unknown	Unknown	Unknown
4,597	China (1,395) Russia (429) Turkey (308) Egypt (109) Lebanon (109)	2013 - 27 July 2018
13,300 ²⁵⁶	China (5,431) Russia (385) Iran (93) Turkey (74) Pakistan (57) ²⁵⁷	2013 - 2017
~860 ²⁶⁰	China (~395) USA (~8) UAE (~3) Russia (~2) Bahrain (~1) ²⁶¹	2012 - March 2017

COUNTRY	SCHEME	TYPE	NUMBER OF PRINCIPAL APPLICANTS	NUMBER OF PRINCIPAL GOLDEN VISA AWARDEES
Latvia ²⁶²	Third Country Investors and Residency Permit	Third Country Investors and Residency Permit	7,367	7,211
Luxembourg	Residence Permits for Investors	RBI	Unknown	Unknown
Malta	Malta Individual Investor Programme (MIIP) ²⁶⁴	CBI	1,101	566
	Malta Residency & Visa Programme (MRVP)	RBI	Unknown	Unknown
Netherlands	Residence of 'wealthy foreign national' ('foreign investor')	RBI	Unknown	Unknown
Portugal ²⁶⁷	Residence Permit for Investment Activity (ARI)	RBI	Unknown	6,498
Spain ²⁶⁸	Residence Visas for Investors	RBI	Unknown	4,592
United Kingdom ²⁷⁰	Tier 1 (Immigrant) Investor Programme	RBI	4,176	3,805
Total				34,908

NUMBER OF DEPENDENTS	TOP 5 NATIONALITIES OF GOLDEN VISA AWARDEES	REFERENCE PERIOD
10,131	Russia (~5081) China (~600) Ukraine (~578) Uzbekistan (~304) Kazakhstan (~279) ²⁶³	2010 - 2017
Unknown	Unknown	Unknown
1,461 ²⁶⁵	Unknown ²⁶⁶	June 2015 - June 2017
Unknown	Unknown	Unknown
Unknown	Unknown	Unknown
11,023	China (3,936) Brazil (581) South Africa (259) Turkey (236) Russia (227)	October 2012 - August 2018
20,163	China (~1352) Russia (~896) United States (~822) India (~614) Venezuela (~592) ²⁶⁹	2013 - April 2018
6,640	China (1,278) Russia (815) United States (187) Hong Kong (132) India (82)	2008 - March 2018
69,826		

ANNEX 4: GOLDEN VISA PROGRAMMES OF CYPRUS, MALTA AND PORTUGAL

Country	CYPRUS	
Type of scheme	RBI	CBI
Programme name	Immigration Permit ²⁷¹	Cyprus Investment Scheme
	General Information	
Year established	2012 ²⁷⁵	2008 ²⁷⁶
Total number of golden visas sold	Unknown	1,685 passports to main applicants and 1,651 to dependents ²⁷⁷
Total investment to date	Unknown	€4.8 billion ²⁸⁰
Cap on number of residency permits or passports for sale	Unknown	700 annually ²⁸³
Dependents	Spouses or civil partners as well as children under the age of 18 are included as part of the main application. ²⁸⁴	Spouse or partner, parents, financially dependent adult children and minor children (under the age of 18). ²⁸⁵
Body responsible for ultimate decision	Ministry of Interior ²⁸⁸	Council of Ministers
	Investment criteria	
Real estate	Property worth at least €300,000. ²⁹²	Property worth at least €500,000 as well as invest a further €2 million in one or more of the investment modalities listed below. ²⁹³

MALTA		PORTUGAL
RBI	CBI	RBI
The Malta Residency and Visa Programme ²⁷²	Malta Individual Investor Programme (MIIP or IIP) ²⁷³	Residence Permit for Investment (ARI) ²⁷⁴
General Information		
2015	2014	2012
Unknown	566 passports to main applicants and 1,461 to dependents ²⁷⁸	6,498 residence permits to main applicants, and another 11,023 residence permits through family reunification ²⁷⁹
Unknown	€718 million ²⁸¹	€3.97 billion ²⁸²
None	1,800 (excluding dependents) for the duration of the programme	None
Spouse, children, parents and parents-in-law can apply in conjunction with main applicant.	Spouses, children of the main applicant or children of the spouse up to 26 years old if not married, parents and grandparents can apply in conjunction with main applicant. Additional fees apply. ²⁸⁶	Spouses, children of the main applicant or children of the spouse if not married, parents of the applicant or spouse can apply through a request for family reunion. ²⁸⁷
Malta Residency and Visa Agency ²⁸⁹	Minister responsible for citizenship ²⁹⁰	National Director of the Immigration and Border Services ²⁹¹
Investment criteria		
Property of either: a minimum of €270,000 for properties situated in Gozo and the South of Malta, or a minimum of €320,000 for properties situated in the rest of Malta. Alternatively, applicants may rent property of either a minimum of €10,000 per year for properties situated in Gozo or the South of Malta, or a minimum of €12,000 per year for properties situated in the rest of Malta. ²⁹⁴	Property worth at least €350,000 or rent property for a minimum annual rent of €16,000. ²⁹⁵	Property worth at least €500,000, or €350,000, if the property is at least 30 years old and located in urban regeneration areas. Acquisition of property fitting any of the above requirements comes with 20% reduction on the minimum amount of investment if purchased in a low-density population area (€400,000 or €280,000).

Country	CYPRUS	
Type of scheme	RBI	CBI
Programme name	Immigration Permit ²⁷¹	Cyprus Investment Scheme
Social development fund	Not an option	Not an option
Job creation / investment in businesses	Not an option	Yes. €2 million in Cypriot companies.
Investment vehicles	Deposits €30,000 in Cypriot bank kept for 3 years; additional €5,000 for every dependent. ²⁹⁶	Alternative Investment Fund; €2 million units, bonds, bills, securities for 3-year period.
Direct investment / tax revenue	No	A high-ranking senior manager may apply, provided their salary generates tax revenues of at least €100,000 over 3 years.
Other requirements	Annual income of at least €30,000. ²⁹⁸	A combination of investments in real estate, the social development fund, businesses or the Alternative Investment Fund, provided that the total is at least €2 million.
	Eligibility criteria for main applicant ³⁰⁰	
Prior residence	None	None
Length of investment	3 years ³⁰³	

MALTA		PORTUGAL
RBI	CBI	RBI
The Malta Residency and Visa Programme ²⁷²	Malta Individual Investor Programme (MIIP or IIP) ²⁷³	Residence Permit for Investment (ARI) ²⁷⁴
Not an option	€650,000 from the main applicant; €25,000 for spouses and every dependant under 18; €50,000 for dependants aged 18-26 years or over 55 years. 70% of these contributions go to the National Development Social Fund (NDSF).	Not an option
Not an option	Not an option	(a) €1 million transfer to a Portuguese bank account, or (b) €350,000 investment in Portuguese companies, or (c) €350,000 in the creation of a Portuguese company combined with the creation of 5 permanent jobs, or (d) creation of 10 jobs.
Qualifying investment of at least €250,000 for a minimum of 5 years.	€150,000 in stocks, bonds, debentures, special purpose vehicles or other investments as stipulated by Identity Malta. ²⁹⁷	€1 million investment in treasury bonds or other public debt and savings certificate.
No	No	350,000 research activities in the public or private sector that are national scientific and technological system; €250,000 to support artist production for the maintenance or recovery of cultural heritage.
Minimum annual income of €100,000 arising outside of Malta, or minimum capital of €500,000.		Investments should have been made after 2012 and prior to the application process. ²⁹⁹
Eligibility criteria for main applicant ²²⁷		
None ³⁰¹	Minimum of 12 months residence required before becoming a Maltese citizen. Residence does not mean continuous physical presence. Connections to the country are deemed proof of residence. ³⁰²	None
5 years ³⁰⁴		5 years

Country	CYPRUS	
Type of scheme	RBI	CBI
Programme name	Immigration Permit ²⁷¹	Cyprus Investment Scheme
Modality of investment	Deposits must be held in a Cypriot bank. Other investments can be transferred from abroad via a Cypriot bank.	
	Due diligence checks	
Legal basis for due diligence	Regulation 6(2) of the Aliens and Immigration Regulations, 2nd revision (2016). ³⁰⁶	Subsection (2) of section 111A of the Civil Registry Laws of 2002-2017. ³⁰⁷
Length of due diligence process	Unknown	Unknown
Due diligence body or bodies	Civil Registry and Migration Department. ³¹¹	Registered agents must submit a "report of the findings of due diligence review" from an "internationally recognised electronic database" for each applicant. ³¹²
In-country interview	Only at the discretion of the Permanent Secretary of the Ministry of Interior.	Unknown
Identity checks	Passport; biometric data.	Birth certificate; passport; biometric data.
Criminal record checks	Criminal Record Certificate.	Police certificate from country of origin and country of residence, if applicable.
Verification of application documents	Unknown	Unknown
Verification of legitimacy of funds and source of wealth	Unknown	Unknown

MALTA		PORTUGAL
RBI	CBI	RBI
The Malta Residency and Visa Programme ²⁷²	Malta Individual Investor Programme (MIIP or IIP) ²⁷³	Residence Permit for Investment (ARI) ²⁷⁴
Bank transfer (or cheque). ³⁰⁵		Deposits must be held in a Portuguese bank. Other investments can be transferred from abroad via a Portuguese bank.
Due diligence checks		
Malta Residency and Visa Programme Regulations, Legal Notice 288 of 2015. ³⁰⁸	Maltese Citizenship Act Individual Investor Programme of the Republic of Malta Regulations of 2014. ³⁰⁹	No explicit requirement of due diligence. Portuguese Immigration and Borders Service is mandated to review applications and check security databases. ³¹⁰
Unknown	90 days	Unknown
Malta Residency and Visa Agency; official concessionaires ³¹³	Malta Individual Investor Programme Agency (MIIPA); approved agents; independent due diligence companies	Regional directorates receive applications, review them and draft a report that includes their proposal. ³¹⁴
No	Not mandatory	No
Birth certificate; passport; biometric data.	Birth certificate; passport; biometric data.	Birth certificate; passport; biometric data.
Police certificate issued by the country of origin and by all jurisdictions the applicant has resided in for more than 6 months in the past 10 years. ³¹⁵	Police certificate issued by the country of origin and by all jurisdictions the applicant has resided in for more than 6 months in the past 10 years. Checks are also conducted to verify whether the applicant is the subject of a criminal investigation.	Police certificate issued by Portugal and the country of origin (or the country of residence, if the applicant is no longer resident in the country of origin). ³¹⁶
Possibly. The law requires the applicant to undergo a "proper background verification".	The MIIPA verifies the information. One or more independent due diligence agencies are contracted to verify applicant information.	Possibly. By law, information provided by the applicant has to undergo a "proper background verification".
Unknown	Applicants are required to provide information on the legitimacy of funds. It is unclear the extent to which this information is independently verified. ³¹⁷	Unknown

Country	CYPRUS	
Type of scheme	RBI	CBI
Programme name	Immigration Permit ²⁷¹	Cyprus Investment Scheme
	Other criteria	
Publication of applicant name	No	Yes. A notice stating intention to apply must be published for 2 consecutive days in a national daily newspaper. ³¹⁸
Publication of names of individuals granted permit or passport	No	No
Length of time from application to residency or citizenship	Up to 2 months ³¹⁹	As of 1 August 2018, applications will take 6 months to review.
Length of time before investment can be recovered	3 years	3 years
Residence criteria post-award	It is not necessary to reside in Cyprus but a visit once every two years is required. ³²⁵	None
Does residency lead to citizenship?	Residence permit holders are entitled to apply for citizenship after 7 years.	N/A
Can permits or passports be revoked?	Unknown	Yes
Are checks carried out to ensure that residency or good conduct requirements are met?	Unknown	Unknown
Is the scheme regularly audited?	Unknown	Unknown
Was a public consultation or risk assessment conducted and made public before the scheme was established?	No	No

MALTA		PORTUGAL
RBI	CBI	RBI
The Malta Residency and Visa Programme ²⁷²	Malta Individual Investor Programme (MIIP or IIP) ²⁷³	Residence Permit for Investment (ARI) ²⁷⁴
Other criteria		
No	No	No
No	Names of all newly naturalised Maltese citizens are published annually. The publication does not specify which individuals received citizenship via investment.	No
60 to 90 days ³²⁰	120 days ³²¹	90 days ³²²
5 years ³²³	Investment of €650,000 cannot be recovered. Investments under other modalities can be recovered after 5 years.	5 years ³²⁴
None	None	7 or more days in the first year of residence, and 14 or more days in subsequent years. ³²⁶
Yes, after 5 years	N/A	Yes, after 6 years ³²⁷
Yes	Yes ³²⁸	Yes
The certificate is monitored annually for the first 5 years from its issue, and every 5 years thereafter. ³²⁹	MIIPA is required to monitor citizens and ensure that obligations are met for 5 years.	The residence visa needs to be renewed every 2 years, and checks are carried out during renewal. ³³⁰
Unknown	Yes. The Office of the Regulator conducts random checks on applications and award decisions. ³³¹	Unknown
Unknown	Unknown. There was, however, a public consultation (concluded in spring 2018) regarding the extension of the programme and regulatory reform. ³³²	No

Endnotes

- 1 The decision to include the Austrian scheme on the list of European golden visa schemes, even if it does not specify the amount and criteria required for eligibility, is due to the risky nature of the scheme, as recently reported in the media. See, for example, Sahel Zarinfard's March 2018 investigation for OCCRP: occrp.org/en/goldforvisas/visa-scandals-slammed-austrias-door-shut-or-did-they.
- 2 Hungary had a residence-by-investment scheme, but it was suspended in March 2017 and terminated in July 2018.
- 3 "CBI/RBI industry has grown into \$13 billion dollar industry", *Citizenship by Investment Journal* (web), 28 July 2018. Retrieved from: citizenshipbyinvestment.ch/index.php/2018/07/28/cbi-rbi-industry-has-grown-to-13-billion-dollar-industry.
- 4 "Investment migration nearly a US\$20 billion-a-year industry, estimates Chris Kälin", *Investment Migration Insider*, 8 August 2018. Retrieved from: imidaily.com/industry-trends/investment-migration-a-us20-billion-a-year-industry-estimates-the-passport-king.
- 5 Authors' calculations are based on available statistics (see Annex 2 and 3) and measure the average cost of the following schemes: Cyprus (€2 million), Greece (€250,000), Hungary (€300,000), Latvia (€250,000), Malta (in the range of €1 million), Portugal (€500,000 for real estate purchase, the most popular investment option, according to official statistics), Spain (€500,000 for real estate purchase, the most popular investment option, according to official statistics) and the UK (€2.2 million).
- 6 Government of St. Kitts & Nevis, *Citizenship By Investment Program* (website blurb). Accessed on 31 August 2018 at: ciu.gov.kn.
- 7 Grenada Citizenship by Investment Programme (website blurb). Accessed on 31 August 2018 at: cbi.gov.gd.
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- 16 Sanita Jemberga and Xenia Kolesnikova, "Latvia's once-golden visas lose their shine – but why?", *OCCRP*, 5 March 2018. Retrieved from: occrp.org/en/goldforvisas/latvias-once-golden-visas-lose-their-shine-but-why; Latvijas Republikas Ministru kabineta tiesību aktu projekti [Draft legislation of the Cabinet of Ministers of the Republic of Latvia], Iekšlietu ministrija, Informatīvais ziņojums "Par Imigrācijas likuma 23. panta pirmās daļas 3., 28., 29., 30. un 31. punktā paredzēto noteikumu īstenošanas gaitu un rezultātiem", Pielikums I [Ministry of the Interior, *Informative Report On the Implementation and Results of Implementation of the Provisions provided for in Section 23, Paragraph one, Clauses 3, 28, 29, 30 and 31 of the Immigration Law*, Annex I] (unofficial translation). Retrieved from: tap.mk.gov.lv/lv/mk/tap/?pid=40441522.
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- 18 Civitas Intézet Gazdasági és Társadalomtudományi Kutató Zrt. and Transparency International Hungary Foundation [Civitas Institute of Economics and Social Sciences Research Jsc. and Transparency International Hungary Foundation], "Black Book Corruption in Hungary between 2010 and 2018", 2018. Retrieved from: transparency.hu/wp-content/uploads/2018/03/Black-Book-EN.pdf; Tamás Wiedemann and Miklós Hajdu, "Kiszámoltuk, hogy forintba mennyit bukott az állam a letelepedési kötvényeken" [We have calculated how much the state was lost from the governmental bonds], *G7*, 23 May 2018. Retrieved from: g7.24.hu/allam/20180523/kiszamoltuk-hogy-forintba-mennyit-bukott-az-allam-a-letelepedesi-kotvenyeken.
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[...]

(g) customer is a third country national who applies for residence rights or citizenship in the Member State in exchange of capital transfers, purchase of property or government bonds, or investment in corporate entities in that Member State."

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