

**AUGUST 2023**



**A TICKET FOR RUSSIANS  
INSIDE THE EU: THE GOLDEN  
PASSPORTS**

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On 21 March 2023, the European Commission brought an action before the Court of Justice of the EU, claiming that the republic of Malta is in violation of article 20 of the Treaty on the Functioning of the European Union and article 4(3) of the Treaty on European Union and compromises the integrity of EU citizenship. This action is a consequence of the Maltese practices of issuing passports to non-EU citizens for which the government receives financial compensation instead (European Commission v Republic of Malta, 2023). This lucrative business is made possible by national laws; however, the problem lies in the fact that European citizenship is acquired automatically when acquiring national citizenship and, thus, the holder of the national citizenship has access to the entire EU (Treaty on European Union, 2012).

Moreover, not only the Maltese government uses this practice, but also the Bulgarian and Cypriot governments offered their passports for the right price, although the latter two officially stopped doing so in 2022 and 2020, respectively (Džankić, 2022). With the Russian invasion of Ukraine, the question must be asked: how desirable it is that access is offered by individual member states to citizens of nations EU member states have sanctions drawn up? Can the EU prevent the issuance of passports and, furthermore, impose a revocation?

To answer these questions, an examination of how EU citizenship is regulated and why it is so desirable will be made. Next, an outline of possible issues behind the issuance of passports to people with Russian nationality will follow. The final step will be to explore what the EU can do to avoid these practices.

## **Nationality as a Commodity**

The Maltese government has been held accountable in 2020 and 2021 through letters of formal notice by the European Commission (European Commission, 2022). These communications resulted from Maltese legislation allowing, through investment, the acquisition of Maltese nationality without the presence of a genuine link between the applicant and the country (European Commission, 2022). In this line, Article 16 of the Maltese Citizenship Act for Exceptional Services Regulations of 2020, stipulates that citizenship can be acquired through an investment of € 650,000 (with a minimum residence period of 36 months) or € 750,000 (with a minimum residence period of 12 months). Furthermore, purchasing real estate with a value of € 700,000 or renting a property for at least 5 years with a minimum annual rent of € 16,000 and donating €10,000 to a Maltese NGO is also required by law (Maltese Citizenship Act, 2020). When all the above investments are made, all that remains for the applicant to do is to take the Maltese oath and, after this last formality, the process is complete and the applicant will be the holder of a Maltese passport (Maltese Citizenship Act, 2020).

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## **The Golden Ticket Inside The EU**

There are several reasons why individuals are interested in obtaining a passport from an EU member state. National citizenship leads directly to EU citizenship, so the holder of such a passport simultaneously has an entry permit for the entire EU. This is reflected in Article 9 TEU which states that “every national of a member state shall be a citizen of the Union” (Treaty on European Union, 2012, p. 20).

Consequently, the granting of passports by the Maltese government also affects the other EU member states. Obtaining this passport leads directly to access to the rest of the EU, where the owner can live and reside without any problems or red tape. For investors, it is a participation ticket to the internal market of a major economy. It also creates the possibility of buying safe haven, which is desirable for people fleeing a certain politically unsafe situation (Surak, 2022).

## **The Danger Behind the Passport**

However, there are also potentially negative consequences associated with issuing a passport in this way. For instance, it opens the possibility for the owner towards possible tax avoidance practices by hiding assets offshore to have lower personal income tax rates (OECD, 2018). These direct investment schemes are also vulnerable to corruption practices. For instance, there have been some scandals in the past where citizenship was granted by Cypriot politicians through the Cyprus Investment Programme (CIP) to individuals with a dubious criminal past. Shortly afterwards, the CIP was no longer allowed in Cyprus (Al Jazeera, 2020).

Besides the risks of tax evasion, corruption or money laundering, further issues and even serious risks exist. For instance, there is also a serious risk for security. According to a report from the European Commission, third-country nationals allowed through investor citizenship schemes may avoid certain security checks installed by the European Commission (Commission, 2019). These checks aimed at strengthening the safety of the EU such as the Visa Information System or Eurodac System (Commission, 2019).

## **Not Welcome Anymore**

The invasion of Russia into Ukraine alarmed Parliament and, only a few days later a resolution passed. Here, Parliament referred to the principle of sovereignty of states and condemned Russia's use of aggression against Ukraine and the role of Belarus in it. (European Parliament, 2022). Parliament also asked member states that allow citizenship through investment schemes to revoke the citizenship status granted to Russian high-net-worth individuals, especially those associated with sanctioned companies and individuals (European Parliament, 2022).

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A month later, a recommendation was published by the Commission regarding the Investor Citizenship Schemes. The Commission expressed concern about the possible acquisition of Union citizenship by Russian or Belarusian nationals who are subject to EU restrictive measures or are outspoken supporters of the Russian or Belarusian governments. (European Commission, 2022). The institution asked member states that had granted such passports at the time to withdraw them and to not provide new ones (European Commission, 2022).

Subsequently, both Malta and Cyprus responded to these developments by revoking the passports of certain Russian oligarchs (SchengenVisa, 2023). Eventually, two Russians returned their Maltese passports to the government, although this is only a fraction of the total number (Farrugia, 2022) In this line, it is known that 175 Russians came into possession of such passports in 2020 alone (Farrugia, 2022).

### **Legal Action**

Since the Commission's recommendation has no legally binding force, and granting citizenship is a national competence of the respective member state, the question arises as to what the EU can do about such practices. On March 2, 2022, Malta declared that it would stop issuing passports to Russian and Belarusian nationals because a security check became too burdensome at this time (Scicluna, 2022). However, a complete end to these practices does not seem to be in sight. (Global Citizen Solutions, 2023).

As a result of this situation, on 21 March 2023, the Commission took the Maltese government to the European Court of Justice, arguing that the Maltese practice of granting citizenship without a genuine bond violates the principle of sincere cooperation in Article 4(3) TEU and the concept of Union citizenship in Article 20 TFEU (European Commission v Republic of Malta, 2023). The Court has not yet addressed this issue, so whether the Commission's argument is sufficient remains to be seen. If it is not sufficient, the question can be raised whether there is a need for a directive that would provide a solution in such situations and, when security is at stake, could provide a more coercive approach. As Ursula Von Der Leyen proclaimed, European values are not for sale (Von Der Leyen, 2020).

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## References

Al Jazeera (2022, March 24). Bulgaria ends controversial 'golden passports' scheme. Al Jazeera. Case C-181/23, InfoCuria (European Court of Justice March 21, 2023). <https://curia.europa.eu/juris/document/document.jsf?text=&docid=273734&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18218545>.

Dzankic, J. (2022, October 5). Rollback of 'Golden Passports' Shows Their Elusive Shine. Migration Policy Institute. <https://www.migrationpolicy.org/article/golden-passports-citizenship-investment-rollback>

European Commission. (2022, March 28). Commission recommendation on immediate steps in the context of the Russian invasion of Ukraine in relation to investor citizenship schemes and investor residence schemes. European Commission. [https://home-affairs.ec.europa.eu/system/files/2022-03/recommendation%20limit%20access%20individuals%20connected%20Russian%20Belarusian%20government%20citizenship%20residence%20EU%20through%20investor%20schemes\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-03/recommendation%20limit%20access%20individuals%20connected%20Russian%20Belarusian%20government%20citizenship%20residence%20EU%20through%20investor%20schemes_en.pdf)

European Commission. (2022, April 6). 'Golden Passport' schemes: Commission proceeds with infringement case against Malta [Press release]. European Commission. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2068](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2068)

European Commission. (2019, January 23). Investor Citizenship and Residence Schemes in the European Union. European Commission

European Parliament (2022, March 1). Resolution of 1 March 2022 on the Russian Aggression against Ukraine. European Parliament. [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0052\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0052_EN.html)

Farrugia, C. (2022, May 20). Russians topped Malta's list of new citizens in 2020. Times of Malta.

Global Citizenship Solutions (2023, June 14). Malta Citizenship Program (CES) 2023: An Ultimate Guide. <https://www.globalcitizensolutions.com/malta-citizenship-by-investment/>

Maltese Citizenship Act (11 November 2020), Government Gazette of Malta No. 20,524 20 November 2020. <https://legislation.mt/eli/cap/188/eng/pdf>

OECD (2018, October 16). OECD Clamps down on CRS avoidance through residence and citizenship by investment schemes. OECD. <https://www.oecd.org/tax/oecd-clamps-down-on-crs-avoidance-through-residence-and-citizenship-by-investment-schemes.htm>

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Schengen Visa News (2023, April 14). Cyprus Revokes Golden Passports of Three More Investors. Schengen Visa News. <https://www.schengenvisainfo.com/news/cyprus-revokes-golden-passports-of-three-more-investors/>

Sciicluna, C. (2022, March 2). Malta stops sale of passports to Russians, Belarusians. Reuters. <https://www.reuters.com/world/malta-stops-sale-passports-russians-belarusians-2022-03-02/>

Surak, K. (2022, March 15). Golden passports and visas: the global market in residence and citizenship. London School of Economics. <https://www.lse.ac.uk/research/research-for-the-world/politics/golden-visas-and-passports-the-global-market-in-residence-and-citizenship>

Treaty on the Functioning of the European Union, October 26, 2012. [https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF)

Treaty on the European Union, October 26, 2012.

Von Der Leyen, U. (2020, September 16). State of the Union Address by President Von Der Leyen at the European Parliament Plenary. European Commission. [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_20\\_1655](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1655)