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INVESTOR CITIZENSHIP SCHEMES IN THE WESTERN BALKANS AND THE EU ENLARGEMENT

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Abstract. *The investor citizenship programmes have been the subject of intense legal and policy debates within the EU over the past decade. In light of the evolving case law of the Court of Justice of the European Union, the Member State investor citizenship programmes conflict with the requirements arising from EU law, particularly the Union citizenship and principle of sincere cooperation. These requirements therefore significantly constrain the Member States' leeway, despite the fact that citizenship laws form a core part of Member States' domestic legal regimes. The paper considers investor citizenship programmes in the context of EU enlargement in the Western Balkans and addresses the key question of whether strict EU law standards regarding investor citizenship schemes should be similarly applied to Western Balkan candidate countries regardless of the status or outcome of the accession negotiations. After the introduction, the first substantial part of the paper outlines the criteria by which EU law assesses these programmes, and the requirements with which Member States must comply. The second part examines the importance of investor citizenship programmes in Western Balkan states, the principles upon which these regulations were established and the effect of the EU accession process on existing programmes in recent years. In the conclusion the paper determines the policy and regulatory leeway of candidate countries, and the available alternatives to increase their ability to attract foreign capital on the path to European Union membership.*

Keywords*: Nationality law, Union citizenship, investor citizenship schemes, Western Balkans.*

1. INTRODUCTION AND METHODOLOGY

"*Currently you are a citizen of nowhere*" says an immigration officer to the main character, Viktor Navorski in the Hollywood film 'The Terminal' (2004). Navorski, played by Tom Hanks, is a traveller from the fictional country of Krakozhia who becomes stranded at New York airport. His passport was invalidated by the officers because Krakozhia collapsed due to a coup d'état, leaving him unable to either enter the US or return home. This quote powerfully dramatizes how citizenship is not only a formal label but the condition of legal existence, mobility, and belonging (Brown Prener and Gammeltoft-Hansen, 2024: 1301–1304; Chacón, 2018: 57–60). Nationality (citizenship) expresses a sense of belonging to a country, a community or a nation, which forms the basis of a person's identity (Bauböck, 2018a: 37–40). Citizenship – or its tangible manifestation, the passport itself – does not merely signify this sense of belonging. Citizenship also conveys

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the passport itself – does not merely signify this sense of belonging. Citizenship also conveys a kind of underlying value that indicates the worth of this connection between the citizens – the passport holders – and their country. If this belonging implies a 'citizenship of nowhere', this connection has, of course, no value. However, if this citizenship links the person to a state that offers exceptional benefits, financial advantages, social services, or even enables visa free movement globally, its value is enormous.[1] However, if citizenship represents a value, then it is possible to 'trade' in citizenship on the basis of that value. The state can 'sell' its citizenship to those who wants to have all the benefits that this sense of 'belonging' promises.

In other words, the concept of citizenship involves also a kind of transactional logic, which leads us directly to the subject of the following paper. Countries can usually provide benefits and grant legal status to third-country nationals in exchange for a financial contribution within two mechanisms (Pitrová and Bindačová, 2024: 70). The investor citizenship programs ('golden passport' programs) allow individuals to obtain citizenship under simplified conditions in exchange for a specified investment or financial transfer. Investors often receive citizenship without a substantive background check and without having a genuine connection to the country in question (Džankić, 2015b: 5). Investor residency programs ('golden visa' programs) grant investors a residence permit, which allows them to settle in the relevant state (Surak and Tsuzuki, 2021: 3368). Thus, while a golden passport grants immediate citizenship, a golden visa 'only' grants the right of residence, although in many cases the latter can eventually lead to the acquisition of citizenship as well.

These programs are fundamentally relevant – primarily the golden passport programs – from an EU law perspective as well. In the case of EU Member States, the granting of national citizenship automatically results in EU citizenship, which ensures freedom of movement and residence throughout the entire EU. Over the past decades, the EU law implications of these programs have become a focal point of academic interest. Several Member States have come under scrutiny by the European Commission (EC) and the Court of Justice of the European Union (CJEU) regarding golden passport programs. Specifically, Cyprus, Malta, and Bulgaria have implemented investor citizenship programs that automatically granted citizenship – and thus EU citizenship – upon a specified level of investment. Moreover, Hungary is a notable example in the context of residency programs. The residency bond scheme operated from 2013 to 2017 and was criticized for exposing the program to corruption and security risks. Under the scheme, non-EU citizens who purchased special Hungarian government bonds worth at least 300,000 euros received a permanent residence permit in Hungary. This status not only ensured residence in Hungary, but also freedom of movement within the Schengen Area for the investors and their immediate family members. Investors did not purchase the bonds directly from the state, but rather through private intermediary firms. These firms were offshore-based and essentially channelled funds into the same political-business circle. The program was a loss for the state because it obtained funds at a higher cost than market interest rates (Nagy, 2023: 471–482). Meanwhile, the brokerage firms reportedly earned 192 million euros in profits from service fees (Romhányi, 2018: 4). Criticisms were raised regarding security

[1] In terms of the latter criterion, the Singaporean passport is currently the most valuable, granting Singaporean citizens visa-free entry to 192 countries. This is followed by the passports of Japan, South Korea and the United Arab Emirates, which allow visa-free travel to 188 countries. Third place goes to Swedish citizenship, with 187 countries accessible without a visa. (Henley, 2026).

risks, emphasizing that background checks on applicants were inadequate and that the origin of the invested funds was not thoroughly investigated.[2]

It is important to emphasise, however, that not only schemes introduced by EU Member States are relevant for the EU law. Any programme implemented by a third country could potentially have an impact within the Union if the EU grants visa-free travel or facilitated entry to nationals of that third state, including candidate countries. In such cases, an investor who acquires citizenship of that third state also gains easier access to the territory of the EU.

This paper focuses on investor citizenship in the context of candidate countries, particularly those in the Western Balkans. The European integration of these countries is shaped not only by the formal adoption of the acquis, but also by the extent to which they align their domestic policy choices with the European Union's broader legal and normative expectations. Candidate states' citizenship laws are relevant in this regard because they do not operate in complete isolation from the realm of the European Union. Western Balkan states generally benefit from visa facilitation or visa-free travel arrangements with the Schengen area. On the one hand, the visa liberalisation of the Western Balkan countries is considered one of the most successful aspects of the enlargement process (Džankić, 2015a: 138). However, if citizenship is granted in exchange for investment alone, without the usual criteria of residence, social integration or long-term commitment, the resulting status could be merely used to gain privileged access to the territory of the European Union. The paper therefore addresses the key question of whether strict EU law standards regarding investor citizenship schemes should be similarly applied to Western Balkan candidate countries regardless of the status or outcome of the accession negotiations.

In terms of methodology, the paper employs a non-empirical doctrinal legal approach. This traditional approach of legal scholarship is combined with conceptual and comparative analysis in the context of EU citizenship and the domestic nationality laws of Western Balkan EU candidate countries. Here, doctrinal legal research is understood as the systematic examination and interpretation of authoritative legal sources such as EU primary law, secondary legislation, CJEU case law and other components of the Union *acquis*, including Commission documents relating to accession negotiations or infringement procedures. To a certain extent, the analysis also extends to the domestic laws of EU Member States and third countries. The primary objective of this doctrinal legal research is to clarify the meaning, scope, and effects of EU law, and to shed light on the interaction between the EU legal order and national legal systems, including the domestic laws of candidate countries. In other words, the analysis reconstructs the legal framework governing citizenship and investor citizenship schemes by closely examining the aforementioned EU law and domestic legal sources using established methods of statutory interpretation and case law analysis.

After introducing the conceptual framework and literature review, the paper first presents the EU legal requirements and addresses the CJEU's landmark decision in the case of *Commission v Malta* delivered in 2025, which reaffirmed the obligations of member states regarding citizenship. Then, it examines the legal regimes of the relevant Western Balkan candidate countries in detail, and formulates conclusions.

[2] This allowed numerous sanctioned individuals to purchase residency bonds, including several members of the Russian elite – such as family members of the head of Russian foreign intelligence – and a banker associated with the Syrian Assad regime (Nagy, 2023: 479).

2. CONCEPTUAL FRAMEWORK AND LITERATURE REVIEW

A significant number of Member States applies specific criteria in naturalization procedures – such as cultural activities, scientific or sporting achievements, etc. – that allow third-country nationals to obtain Member State citizenship more easily. (Džankić, 2015: 5; Džankić, 2019: 181). These 'fast-track' routes typically reward individuals for exceptional achievements in specific fields or for providing extraordinary services to the state (Torpey, 2023: 236). However, most Member State naturalization rules take these criteria into account on a discretionary basis, meaning they allow for case-by-case consideration and offer a simplified path in cases where the Member State's national interest justifies. There are Member States where investment activities or economic impacts may also be taken into account. However, it is important to note that even in such cases, Member State regulations make the final consideration of these factors in the naturalization procedure. There are national regulations that ease certain prerequisites for acquiring citizenship in the case of investors (Džankić, 2019: 91–92; 182–187.). Compared to this approach, the investor citizenship schemes, which automatically result in citizenship upon completion of a specific investment activity, pose significantly greater risks. Following the aforementioned transactional logic, the Member State essentially 'sells' its citizenship for a 'price' determined by the level of investment.

For this reason, investor citizenship can be regarded conceptually as a significant topic and, as it was already noted earlier, the subject has come to the forefront of academic interest in recent decades. The paper examines the broader context of the research question, by situating it within three strands of the existing literature. The first layer of literature deals with investor citizenship in general, from a global perspective, the second one looks at the EU citizenship and investor citizenship within the context of EU law, examining, amongst other things, the requirements arising from EU primary law. Finally, given the specific focus of our topic, the strand of academic literature focusing specifically on the Western Balkan states is also relevant.

With regard to the general, globally focused literature, we must first and foremost refer to the works of Džankić and Surak, which represent the mainstream of legal scholarship in context with this topic. In their approach, they define investor citizenship as a form of *ius pecuniae* – the acquisition of citizenship through financial contribution –, which differs from the naturalisation criteria defined on the basis of the classical *ius soli* and *ius sanguinis*.[3] Džankić's monograph (Džankić, 2019) and numerous studies (e.g. Džankić, 2012; Džankić, 2015b) chart the emergence of investment-based citizenship (CBI) programmes within various national legal systems and analyse how states have codified regulations that grant access to citizenship on a financial basis. Similarly, Surak (e.g. Surak, 2016; Surak, 2021) also highlights the characteristic features of CBI programmes, contextualizes them within the broader field of investment migration, links their proliferation to geopolitical inequalities, and explores the emergence of the specific investor citizenship industry. In this narrative, therefore, *ius pecuniae* is a concept denoting the commercialisation of naturalisation and a wealth-based approach to entry into the political community. Although our analysis is non-empirical in nature, when mapping the broader academic literature, it cannot be ignored that, in recent years, the general literature

[3] It should be noted, however, that the concept of '*ius pecuniae*' was originally introduced by Joachim Stern, initially in reference to the rising bureaucratic costs of citizenship procedures (Stern, 2011), but the academic literature subsequently extended this concept to the issue of citizenship acquired through investment.

on investor citizenship has also been exploring the topic from an empirical perspective. The scale of these programmes is better understood through analyses that use data to estimate the impacts and profile of CBI programmes, highlighting that although only a dozen states regularly naturalise significant numbers of investors, CBI has become a multi-billion industry in certain regions (see, for example, Surak, 2024; Surak, 2025). Furthermore, numerous analyses examine the economic impacts of investment-based citizenship programmes, often focusing on their selective effects or those that have not materialised at the level of the society (Surak and Tsuzuki, 2021). In addition to this, other relevant publications take a holistic approach, discussing the legal, sociological, economic and historical aspects together (Kochenov and Surak, 2023). Finally, with regard to the general level sources, it is worth noting that numerous analyses sees a form of 'marketisation' or market transformation as the greatest challenge to the right to citizenship. In other words, the phenomenon whereby belonging to a community and the political status associated with citizenship become 'commodified' in accordance with market principles (Surak, 2016; Parker, 2017; Bauböck, 2018b; Surak, 2023). These research streams indicate that, due to the investor citizenship, the very concept of citizenship is shifting towards a functional and instrumental orientation, where membership no longer depends on participation or identity, but becomes a pure transaction based on a financial contribution.

The second strand of the literature relating to EU citizenship addresses the question at a theoretical level. From the very outset, shortly after the Maastricht Treaty introduced EU citizenship, these sources focused on the scope for manoeuvre available to Member States in shaping their own citizenship laws and naturalisation processes with regard to the application of various considerations of economic nature (De Groot, 2018). After the investor citizenship schemes introduced by several Member States in the 2010s sparked controversy and the European Commission began to examine the compatibility of these national regulations with EU law through infringement proceedings, the academic literature began to address, from a conceptual perspective, the question of what obligations EU Member States are subject to in relation to the design of these domestic programs. The fundamental question has therefore become the extent to which EU law may restrict national citizenship decisions (e.g. Džankić, 2019; Gyeney, 2023; Weingerl and Tratnik, 2023; van den Brink, 2025), whilst it was critically assessed how the European Commission attempted to intervene (Kochenov, 2020; Kochenov, 2023). The literature on EU citizenship therefore ultimately treats the dilemma as a question of the competence allocation and seeks to determine where the boundary between Member State sovereignty and the EU's interests lies.

Finally, the third specific strand of the literature provides an insight into the citizenship regimes and visa regulations of the Western Balkan states. Following the relative stabilisation of the region, the EU began negotiations with the states concerned on facilitated visa issuance for their citizens, and subsequently visa-free travel. In line with the requirements set out by the EU, the academic literature of the 2010s primarily examined various models of the so-called 'Europeanisation' of citizenship and visa issuance rules. National provisions typically met the technical conditions and expectations relating to border protection; however, in some cases, certain human rights standards continued to be applied only to a limited extent (Džankić, 2015a; Džankić and Keil, 2019). Since the introduction of visa-free travel, acquiring citizenship of a Western Balkan state has resulted in the right to free entry and residence in the European Union, which offers an attractive prospect for third country nationals to get the status. Taking advantage of this opportunity,

by the end of the 2010s most of the states in question had established their own investor citizenship programmes. These domestic law instruments were put under scrutiny by the academic literature in a global context and were addressed either tangentially or in connection with individual states' visa-free access to the EU and their accession processes (Twomey, 2023; Surak, 2023). However, no comprehensive analysis has yet been conducted that examines the legislative frameworks and practices of all the Western Balkan states concerned in the light of the latest EU law standards *vis-à-vis* the investor citizenship.

3. EU LEGAL REQUIREMENTS REGARDING INVESTOR CITIZENSHIP SCHEMES

It is important, however, that since the entry into force of the Maastricht Treaty, the acquisition of Member State citizenship has also resulted in the establishment of EU citizenship status. The Maastricht Treaty created a specific, sui generis legal status, which cannot be regarded as an independent category from national citizenship. EU citizenship is a subsidiary institution based on national citizenship: the founding treaties make it clear that every citizen of a Member State is an EU citizen (Džankić, 2019: 208–209; Gyeney, 2023: 120–121; Weingerl and Tratnik, 2023: 164; Pitrová and Bindačová, 2024: 68). This duality means that the rights arising from EU citizenship – such as the right to free movement – are directly and inseparably linked to the acquisition and loss of national citizenship. In this way, EU status complements, but does not replace, national citizenship.[4]

The close connection between EU citizenship and national citizenship has raised complex competence issues from the very outset. Based on the EU primary law and case law of the CJEU, it is fundamentally clear that the European Union does not possess an explicit competence that would allow for the direct regulation of citizenship requirements. Accordingly, the EU legislator's competence does not extend to determining who may become an EU citizen, as this issue must be decided exclusively in accordance with the national law of the Member States, pursuant to the declaration annexed to the Maastricht Treaty.[5]

This, however, gives rise to a legal dilemma: do Member States enjoy complete freedom in this area, and are they entirely free to determine the conditions under which they grant citizenship? Although the Union has no direct legislative power, this does not mean that EU law cannot impose certain limits on Member States' discretion. The subsidiary nature of EU citizenship imposes obligations on Member States that influence their citizenship policies. Landmark rulings by the CJEU have reinforced this sophisticated approach. In *Micheletti*,[6] the Court held that while Member States determine the conditions for naturalization within their own jurisdiction, they must do so in accordance with Community law. This principle was further emphasized in *Rottmann*,[7] which dealt with the loss of citizenship. The Court ruled that if a person loses the rights deriving from EU citizenship due to the revocation of their national citizenship, such a decision falls within

[4] "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship." Article 20(1) TFEU.

[5] "[...] the question whether an individual possesses the nationality of a Member State shall be settled solely by reference to the national law of the Member State concerned…." Declaration on the Nationality of a Member State, Treaty on European Union, signed at Maastricht on 7 February 1992. OJ C 191, 29/07/1992 P. 0098.

[6] C-369/90 Micheletti v Delegación del Gobierno en Cantabria. ECLI:EU:C:1992:295.

[7] C-135/08 Janko Rottman v Freistaat Bayern. ECLI:EU:C:2010:104.

the scope of EU law. According to the Court's reasoning, the exercise of national competence is subject to review under EU law if it affects rights protected by the EU legal order. This means that Member States must act with a kind of 'EU loyalty' in their own citizenship matters, particularly when their decision results in the loss of EU citizenship. One of the most important tools elaborated by the CJEU is the requirement for a strict proportionality test. Based on the *Rottmann* case, national authorities must assess whether the revocation of citizenship is proportionate to the consequences of the decision. The test must consider the gravity of the offense, the time elapsed since naturalization, and whether the individual has a realistic chance of regaining their original citizenship. Later in *Tjebbes*,[8] the Court further developed this principle. It held that while a Member State may require a genuine link to retain citizenship, automatic loss of citizenship by virtue of law violates the principle of proportionality. Such regulations are acceptable only if the authorities and courts have the opportunity to assess the consequences under EU law on a case-by-case basis. If proportionality is not met, the Member State must, where appropriate, restore citizenship with retroactive effect.

This framework of conditions, which are also seen as prerequisites for candidate countries, was contextualised within the infringement procedures initiated by the European Commission against Member States due to their investor citizenship programs. From the perspective of the Member States, the most fundamental point arising from the above conditions is that, although they have retained their powers in relation to national citizenship law, every decision they take concerning citizenship – whether regarding naturalisation or revocation – has a direct impact on policies falling within the EU's competence, and therefore on other Member States as well. This interaction explains why the issue of citizenship cannot be treated as an isolated, exclusively national issue in the EU context.

Along with the above framework of conditions, two specific legal principles should also be highlighted that play a crucial role in disputes over the investment citizenship schemes of Member States. In connection with the infringement proceedings initiated against Malta and Cyprus, the European Commission has stated that selling EU citizenship in exchange for an investment undermines the principle of sincere cooperation and thus the integrity of EU citizenship. In accordance with this principle, the Union and the Member States shall respect and assist one another in the performance of tasks arising from the Treaties.[9] The principle of sincere cooperation imposes both active and passive obligations on Member States. To ensure fulfilment of their obligations under Union law, Member States must therefore take appropriate general or specific measures and assist the Union in performing its tasks. Furthermore, Member States must refrain from any measure that could jeopardise the achievement of the Union's objectives. The principle of sincere cooperation had already been raised in early literature on EU citizenship in this context. In the *Micheletti* case, it was questioned what underlying considerations in the Court's reasoning might have established for requiring Member States to take EU law into account when shaping their citizenship laws. One distinct argument has been that the principle of sincere cooperation applies (De Groot, 1998: 115). Following a similar line of reasoning, the opinion drafted by the Advocate General in the *Rottmann* case also addressed the relevance of this principle. According to this opinion, the principle of sincere cooperation would be violated if a Member State were to carry out unjustified mass naturalisation of

[8] C-221/17 Tjebbes and Others v Minister van Buitenlandse Zaken. ECLI:EU:C:2019:189.
[9] Treaty on the European Union, Article 4(3).

third-country nationals without consulting the Commission and the other Member States. Consequently, the principle of sincere cooperation may also play a role because an investor citizenship programme is not limited to the Member State in question. As a Member State's citizen automatically acquires Union citizenship, decisions made by the Member State within the investment scheme affect other EU Member States. Furthermore, it is argued that EU citizenship represents a value in itself, making the 'golden passports' of individual Member States more attractive. In other words, Member States operating investor citizenship programmes benefit from the very fact that acquiring their citizenship also entails EU citizenship. In many cases, it is not so much the national citizenship itself, but rather the additional rights arising from EU citizenship, that attract foreign investors.

In addition to the principle of sincere cooperation, there is an other legal argument, which came up intuitively even before the CJEU assessed the Member States' investor citizenship schemes. It is also questioned how Member State practices comply with the requirements arising from the prohibition of discrimination. Namely, 'golden passport' programs offer significant advantages to exceptionally wealthy, privileged foreign investors, in contrast to the stringent and restrictive standard conditions applied in naturalization procedures by the respective Member States. In contrast to this, the criteria applied usually in standard procedures such as *ius sanguinis* or *ius soli*, are underpinned by the idea of equality (Bauböck, 2018b: 40). These objective criteria treat those acquiring citizenship equally and apply the citizenship criteria to them in an equal manner, contrary to cases where e.g. the size of the investor's asset is the decisive factor in acquisition of citizenship.

The judgment of the CJEU in the case of *Commission v Malta* marked a milestone regarding the legal assessment of investor citizenship programmes under EU law.[10] The infringement proceedings were triggered by the 2014 investor citizenship programme, through which Malta made it possible for foreign nationals to acquire Maltese citizenship under an 'individual investor programme' in return for predetermined payments and investments (Surak, 2023: 62–75). In April 2020, the Commission initiated a dialogue with Malta, during which it objected to the fact that the Maltese 'golden passport' programme exploited the common implementation of EU citizenship, thereby infringing the principle of loyal cooperation between Member States. In 2020, Malta amended its legislation, whereby the Citizenship Act authorised the Minister to grant citizenship by naturalisation in cases of 'exceptional services' rendered to the Republic of Malta or where the state has an 'exceptional interest' in naturalisation, to issue a certificate confirming the acquisition of citizenship by naturalisation to a foreign national or stateless person. The legislation classified contributions by 'investors and entrepreneurs' within this 'exceptional' category, alongside cases involving scientists, researchers and sportspeople. The implementing regulation for the amended Act specified the monetary thresholds for what constitutes a direct investment. Among other things, this included a payment of either €600,000 or €750,000 to the Maltese government, as well as the purchase or rental of residential property worth at least €700,000, for a minimum annual rent of €16,000. The first amount was subject to the condition of residing in Malta for at least 36 months, which was reduced to 12 months in the case of payment of the second amount.

In its judgment, the Court placed EU citizenship at the centre of its reasoning. Referring to the provisions of the Treaty and the 1992 Edinburgh Decision of the European Council, it confirmed that the granting and withdrawal of nationality of a Member State fall

[10] Case C-181/23 European Commission v Republic of Malta. ECLI:EU:C:2025:283.

within the competence of the Member States, whilst, on the basis of relevant case-law, it emphasised that Member States may exercise this competence in compliance with EU law. In order to lay the groundwork for the substantive part of the judgment, it rejected Malta's position that reference to EU values or objectives is possible only in the event of a general and systematic breach thereof, as no such restriction can be inferred from the intention of the legislators based on the text and structure of the Treaties. It emphasised that, in accordance with the principle of sincere cooperation, Member States are obliged to refrain from jeopardising the achievement of these objectives, which means that the conditions for the granting and loss of citizenship are not unlimited either (Athanasiou, 2026: 3–4).

The Court recognised, on the one hand, that EU citizenship derives from national citizenship and, on the other hand, identified the common values set out in Article 2 TEU and the mutual trust existing between Member States as the basis for this legal status (O'Neill, 2025: 1). Recalling previous case-law, it noted that it regards Member State citizenship as a special relationship based on solidarity and loyalty between a Member State and its citizens, as well as on the reciprocity of rights and obligations. The crux of his argument was that, by 'commercialisation' of Member State citizenship, the Maltese scheme had infringed this special relationship, which is contrary to the Treaty provisions concerning Union citizenship and the principle of sincere cooperation; thereby undermining the mutual trust that forms the basis of citizenship. Finally, it analysed in detail the relevant national provisions and practice, focusing on the eased requirements of prior physical presence, and concluded that the 'golden passport' programme sets out substantially more favourable conditions than the 'ordinary' naturalisation procedure. With a 'transactional procedure' enabling the acquisition of citizenship Malta has infringed the provisions on EU citizenship and the principle of sincere cooperation (van den Brink, 2025: 1–2).

The judgment established clear standards regarding Member States' nationality rules; however, the reasoning has been the subject of considerable criticism in legal literature. The Court derived its conclusions from the principle of sincere cooperation and the protection of the Union's objectives and the values enshrined in Article 2 TEU; however, it did not specify which particular objective or value justified the finding that the Maltese rules were contrary to EU law (van den Brink, 2025: 3). The argument linked the above to the principle of mutual trust, which is also endowed with constitutional status and must be applied horizontally amongst the EU institutions, the Member States and citizens (O'Neill, 2025: 4). The application of this principle is also a contentious issue in terms of the division of competences between the Union and the Member States. A contradiction can be identified between the two statements that EU citizenship automatically follows from national citizenship, whilst at the same time the judgment identified the principle of mutual trust as the basis for citizenship and assessed the Maltese legislation as a 'breach' of this principle (van den Brink, 2025: 3). Court's classification of citizenship rules – which fall strictly within the power of Member States – essentially blurs the distinction between EU values and rules on competence, and may raise the issue of a breach of the principle of conferral (Athanasiou, 2026: 3–4).

4. INVESTOR CITIZENSHIP PROGRAMMES IN SEVERAL WESTERN BALKAN STATES

In the judgment outlined above, the CJEU laid down a clear prohibition regarding investor citizenship programmes operating in certain Member States; however, the question arises as to how this affects the 'golden passport' programmes of third countries, whose citizens are permitted to reside in the European Union as a result of a simplified procedure.

This point is particularly relevant because similar programmes have been established not only by EU Member States but also by sevaral Western Balkan states with candidate status (Džankić, 2015a: 138–142). The preferential arrangements affecting citizens of Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia were decided at the EU–Western Balkans Summit held in Thessaloniki in June 2003, following which the European Union concluded agreements with the states concerned in 2007. These agreements have resulted in facilitated visa procedures for nationals of these countries, provided their intended residence does not exceed 90 days within any 180-day period. For certain categories of persons (journalists, students, etc.), the documents required for the issue of a visa have been specified, and the provisions authorise external representations of the Member States to issue multiple-entry visas valid for up to five years for the various groups.

The Commission has continuously monitored the operation of the visa facilitation scheme, and the adoption of Regulation (EU) 2018/1806, introduced a new chapter in this regard. The legislation already takes account of the significant number of third countries that have been granted visa exemption, whilst making the maintenance of this exemption contingent on factors such as illegal immigration, public security, tourism considerations, and the observance of human rights and fundamental freedoms. Annex I to the Regulation lists the countries whose nationals are subject to a visa requirement when entering an EU Member State, whilst Annex II contains the list of countries whose nationals are exempt from the visa procedure. This includes the five Western Balkan states mentioned, provided that the persons concerned hold a biometric passport. At the same time, Article 8 of the Regulation provides a legal basis for the Commission to temporarily suspend visa exemption for a period of nine months, and imposes an obligation on EC to draw up regular reports in order to assess the justification for such suspension. The reports drawn up under the visa suspension mechanism clearly illustrate how the investor citizenship programmes of the Western Balkan states have come to the forefront of the Commission's attention.

In 2019, Albania drew up a draft amendment to its citizenship rules; in view of the potential risks and consequences, the Commission requested information from the authorities. None of this prevented the Albanian legislature from bringing into force, in July 2020, an amendment to the Citizenship Act that would allow for the creation of a 'golden passport' programme (Surak, 2023: 106). In 2022, the Albanian government issued a decree authorising the Ministry of the Interior to set up a public-private partnership project to implement the investor citizenship programme. The following year, Albania announced that it was suspending the initiative, after which the Commission called on it to repeal the legal basis for the programme as well (European Commission, 2023, 2025). In early 2026, information websites reported on amendments to Albanian legislation governing foreign nationals, under which a one-year residence permit could be obtained by purchasing securities worth at least 100,000 euros and property worth at least 300,000, which can be extended by continuing to invest. A permanent residence permit can be obtained after five years of lawful residence, whilst citizenship can be acquired after a total of at least seven years (Nagy, 2026).

In terms of its consequences, the investor citizenship programme that has raised the most concerns has been implemented by Montenegro since 2019. The Commission has warned on several occasions that the operation of this programme entails risks related to immigration and security, with particular regard to the dangers posed by money laundering, tax evasion, the financing of terrorism and organised crime (Surak, 2023: 124–125). In light of these reports, Montenegro announced that it would discontinue the programme by

the end of 2021, but the government ultimately decided to extend it until the end of 2022 and to continue processing applications submitted prior to that date (European Commission, 2022). Following the start of Russia's aggression against Ukraine, the Commission issued recommendations for a more thorough vetting of applicants, which is justified not least because, in 2023, of the 701 people who acquired Montenegrin citizenship through the programme, 396, and in 2024, 709 out of 1,282 were Russian nationals (European Commission, 2023, 2024). According to press reports, Montenegro also amended its rules on foreigners in 2026; accordingly, a one-year residence permit – which is renewable – can be obtained by purchasing property worth at least 150,000 euros. Five years' lawful residence leads to the right of permanent residence, and citizenship can be obtained after a further five years (Daly, 2026).

North Macedonia laid the legal groundwork for the establishment of the 'golden passport' programme as early as 2012 by allowing citizenship to be acquired on the basis of the country's 'special economic interest'. Citing this legal basis, in the early 2020s approximately 110 people per year acquired North Macedonian nationality, prompting the Commission to point out that the programme allowed for the bypassing of EU rules on short-term stays and posed a security risk to Member States, for which reason it did not rule out the suspension of visa-free travel (European Commission, 2020a, 2022). According to the 2024 report, North Macedonia has not amended the relevant legislation; however, the number of people who acquired citizenship under the programme has fallen dramatically, with no positive decisions being made in 2023 and five applications still being processed.

Serbia does not operate an investor citizenship programme in the strict sense, but under the relevant legal framework it is possible to acquire citizenship without prior residence if this is 'in the interest of the Republic of Serbia'. In view of the Russia-Ukraine war, the fact that more than 200 Russian nationals have acquired Serbian citizenship in this way since 2022 may pose a security risk to the EU. In early 2023, the Serbian government proposed an amendment to the citizenship law which would have made it possible for self-employed individuals operating in Serbia or employees of local companies – who hold a higher education qualification obtained or recognised in Serbia – to acquire citizenship even after a short period of residence there. However, due to objections from the Commission, the government ultimately withdrew the initiative (European Commission, 2023, 2025). The sources cited also report on investment-linked residence permits in Serbia, which can be obtained on the basis of an investment of at least 50,000 euros in a Serbian company. Permanent residence may be obtained after three years of lawful residence, and citizenship after a further three years (Nagy, 2026).

The European Commission has expressed concerns regarding the investor citizenship programmes of the Western Balkan states involved ever since their inception. It has warned that the operation of 'golden passport' programmes could enable individuals who might pose a security risk to the Member States of the European Union to acquire citizenship, which calls into question the sustainability of the Schengen Area and, in the case of the states concerned, raises the prospect of the suspension of visa-free travel. These states not only have candidate status but have also commenced accession negotiations; consequently, compliance with EU law carries particular weight in their case. Both the 2025 enlargement reports and the visa suspension mechanism report for the same year classified investor citizenship programmes as contrary to EU law and called on the states to repeal the relevant legislative frameworks. The latter report referred to the judgment in the *Commission v Malta* case in relation to EU legal requirements, and emphasised that

granting citizenship in return for a predetermined payment or investment contravenes the provisions of the Treaty (European Commission, 2025). The new programmes launched by Albania, Montenegro and Serbia bear fewer of the hallmarks of 'golden passports', as they do not allow for the early acquisition of citizenship through investment. These initiatives fall more into the category of investor residency programmes ('golden visas'), which may, at the very latest, or in the event of a significant number of citizenships being granted, pose risks to the Schengen area similar to those of 'golden visa' programmes.

5. CONCLUDING REMARKS

Citizenship (nationality) has traditionally been considered a core attribute of state sovereignty. The power to determine who belongs to the political community has long been regarded as one of the state's defining competencies, but, as the above analysis has shown, EU law has reshaped this traditional legal concept. The nationality of a Member State is the gateway to Union citizenship, as established by the Maastricht Treaty and Union citizenship is not merely symbolic: it provides several substantive rights, including the right to move freely within the European Union. In other words, citizenship (nationality) remains a competence of EU Member States, but national decisions on naturalisation can have effects that extend well beyond the granting state. Investor citizenship schemes highlight this issue particularly sharply because they remove citizenship from the traditional justifications of residence, social ties or a 'genuine connection,' replacing them with an overtly transactional logic. Based on these concerns, we claimed that 'selling citizenship' within these schemes is not only a domestic policy choice, but also difficulty for integration. This is because the investor citizenship programmes may directly affect the architecture of EU citizenship by conflicting with the principle of sincere cooperation and equality-based understandings of naturalisation, which prioritise economic wealth when granting citizenship to applicants.

The paper attempted to contextualise these EU legal standards within the ongoing EU enlargement process, particularly in relation to the candidate countries in the Western Balkans. It demonstrated that the EU should apply the same strict legal standards to candidate countries as it does to Member States, regardless of the status or outcome of the negotiations. The main reasons for this are that candidate countries mostly benefit from visa facilitation agreements, which allow their citizens to enter and stay in the Schengen Area under simplified procedures. Furthermore, their 'golden passport' schemes can be seen as a way of circumventing these preferential regimes. For the reasons set out above, the European Commission has consistently classified the investor citizenship programmes of candidate countries as contrary to EU law and has raised the possibility of suspending visa-free travel for the countries concerned. Essentially, as an alternative to 'golden passports', several Western Balkan states have recently launched investor residency programmes which do not pose a direct threat to the Schengen Area and its member states comparable to the former, whilst, without the possibility of visa-free entry to the EU, they are certainly less attractive to investors.

It should be emphasized, however, that Western Balkan candidate countries have a broad range of alternative tools to attract foreign capital that are both more compatible with EU accession standards. The region's economies are among the most open to FDI globally (OECD, 2025), which suggests that improving rule-of-law, governance, and anti-corruption frameworks is likely to yield more sustainable capital inflows than ad hoc investor-citizenship schemes. They can deepen classic FDI policies as primary drivers (e.g. stable macroeconomic frameworks, predictable regulation, and investment-friendly tax

regimes, classical investment protection tools etc.), but also specific infrastructure-focused strategies funded or co-funded by the EU can attract foreign capital successfully. Among the available instruments, currently the Economic and Investment Plan for the Western Balkans might have crucial importance, which mobilises up to 9 billion euros for transport, energy, digital and green investments (European Commission, 2026). Besides, the new Growth Plan for the Western Balkans and related platforms, such as the Western Balkans Investment Framework, aim to bring partners closer to the single market while supporting private-sector development, export capacity and integration into European value chains (European Commission, 2026).

These measures therefore have a twofold positive impact. By increasing the ability to attract capital, they are not only economically beneficial, but also promote the competitiveness of these countries and, consequently, their smooth integration into the EU's internal market, which is essential for their future successful EU accession.

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