

# ***Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State***

## ***Study Overview***

*JUST/2016/RCIT/FW/RIGH/0152 (2017/06)*



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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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## I. INTRODUCTION

### *Project context and background*

Article 9 of the Treaty on European Union (TEU)<sup>1</sup> establishes that ‘[e]very national 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 9 TEU has a twofold meaning. Firstly, it is based on the Member State prerogative to decide who their citizens are. Secondly, the fact that Article 9 TEU establishes EU citizenship as additional to national citizenship means that EU citizenship constitutes a separate status from national citizenship and thus confers on its holders a new set of rights, which supplement those under national law.<sup>2</sup> Articles 20 to 24 of the Treaty on the Functioning of the European Union (TFEU) confer a set of Union-wide rights on EU citizens. These include the right to: move and reside freely within the EU; vote and stand as candidates in municipal and European Parliament elections wherever they live in the EU, under the same conditions as nationals; be assisted by another Member State’s embassy or consulate outside the EU under the same conditions as a citizen of that Member State, if their own is not represented; file a petition to the European Parliament and apply to the Ombudsman; write to European Institutions in any EU official language and obtain a response in that language; and access, under certain conditions, European Parliament, European Commission and Council documents.

On 16 January 2014, the European Parliament adopted the resolution ‘EU citizenship for sale’<sup>3</sup> in response to a growing trend among a number of Member States introducing schemes through which third-country nationals (TCNs) could obtain citizenship either directly or indirectly (by first obtaining the residence of the Member State concerned) by investing in the Member States concerned. This resolution was the result of a parliamentary debate, triggered by Malta’s decision, in October 2013, to introduce the Individual Investor Programme (IIP) enabling TCNs to obtain Maltese citizenship through a financial disbursement.<sup>4</sup>

In its 2017 EU Citizenship Report, the European Commission sets as a priority for 2017-2019, to safeguard the essence of citizenship and to produce a report on national schemes granting EU citizenship to investors.<sup>5</sup>

This Study contributes to the European Commission’s factual knowledge of Member States’ investors’ schemes. It presents the information collected through desk research and stakeholder consultation at Member State level, covering the legal and policy frameworks on investors’ schemes and their implementation. While this Study covers the economic and other possible impacts of these schemes to the

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<sup>1</sup> Treaty on European Union, available at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A12012M%2FTXT>.

<sup>2</sup> Maas, W., 2014, ‘The origins, evolution and political objectives of EU citizenship’, 15 German Law Journal, p. 808-812; Van den Vrink, M.J., 2012, ‘EU citizenship and EU Fundamental Rights: taking EU citizenship rights seriously?’, Legal Issues of Economic Integration 39, no. 2; De Waele, H., 2010, ‘EU citizenship: revisiting its meaning, place and potential’, 12 European Journal of Migration and Law, pp. 323, 328.

<sup>3</sup> European Parliament, resolution of 16 January 2014 on EU citizenship for sale ([2013/2995\(RSP\)](https://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0038)), available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0038>.

<sup>4</sup> Act XV of 15 November 2013, amending the Maltese Citizenship Act, Cap 188, available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=25798&l=1>.

<sup>5</sup> European Commission, 2017, ‘EU Citizenship Report 2017. Strengthening Citizens’ Rights in a Union of Democratic Change’, p. 14, available at [http://ec.europa.eu/newsroom/just/item-detail.cfm?item\\_id=51132](http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51132).

extent possible, it does not draw conclusions on the potentially problematic aspects and risks of these schemes as these fall outside the scope of the Study.

The Study is structured as follows:

- [Section II](#) provides a comparative overview of investors' citizenship schemes, including applicable criteria and procedural aspects.
- [Section III](#) presents a comparative overview of investors' residence schemes, including applicable criteria and procedural aspects.
- [Section IV](#) describes the interrelationship between investors' schemes and naturalisation procedures.
- [Section V](#) provides an analysis of the economic and financial impact of investors' schemes.
- [Annex I](#) includes the Executive Summaries of the Deliverable B national reports,<sup>6</sup> with the information specific to investors' citizenship and investors' residence schemes.
- [Annex II](#) is a bibliography of the applicable legislation and policy instruments as of June 2018.
- [Annex III](#) consists of Deliverable A – an Excel Table containing information on naturalisation procedures as of January 2018 (ordinary, discretionary on the grounds of national interest and discretionary facilitated) by Member State.

[Sections II](#) and [III](#) analyse those aspects of the schemes that can be compared on the basis of information provided in the national reports, namely: the **applicable criteria** to qualify as a beneficiary of the respective schemes; the **procedural aspects** of the schemes; and ongoing or expected **changes** to the legal and policy framework.

Retrieving statistical information proved challenging in almost all Member States. Where data were not available, it was because they were not disaggregated, i.e. data did not specifically indicate whether the application for residence corresponds to foreign investors (BE, BG, CY, CZ, DE, EL, HU, PL, RO, SI), they could not be obtained from the competent authorities (CAs) (i.e. HR, SK), or because the scheme is still very new and therefore no data are yet available (IT).

## ***Key concepts***

### *Naturalisation*

Through the process of **naturalisation**, States have the discretion to grant citizenship to individuals. Naturalisation refers to the range of procedures to grant citizenship of a given country to a foreign national on the basis of the notion of the individual's 'genuine link' or 'genuine connection'<sup>7</sup> with the destination State. The notion dates back to the *Nottebohm* judgment of 1955, when the International Court of Justice (ICJ), ruled that for an individual to be considered a national of a State, he or she needed to have established a 'genuine connection' with that State. In the same judgment, the ICJ defined the

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<sup>6</sup> For purposes of this Study, national reports were prepared by national experts from the Member States operating investors' citizenship schemes (Deliverable B.I) and investors' residence schemes (Deliverable B.II). This Study Overview (Deliverable D) is based on the information collected through Deliverable B. The national reports covered the legal framework of investors' schemes and their application, including statistical data on the applications by investors and their family members and an assessment of the economic impact of such schemes. National reports were drafted on the basis of desk research and consultation with the competent authorities and other bodies. The Executive Summaries presented in Annex I constitute Deliverable C of the Study.

<sup>7</sup> CJEU, [Case C-200/02](#), Judgment of the Court (sitting as full Court) of 19 October 2004 *Kungian Catherine Zhu and Man Lavette Chen v. Secretary of State for the Home Department*, ECLI:EU:C:2004:639; CJEU, [Case C-209/03](#), Judgment of the Court (Grand Chamber) of 15 March 2005, *The Queen on the application of Dany Bidar v. London Borough of Ealing and Secretary of State for Education and Skills*, ECLI:EU:C:2005:169; CJEU, [Case C-158/07](#), Judgment of the Court (Grand Chamber) of 18 November 2008, *Jacqueline Förster v Hoofddirectie van de Informatie Beheer Groep*, ECLI:EU:C:2008:630. Moritz, J., 2011, 'The value of integration in European Law – the implications of the *Förster* case on legal assessment of integration conditions for third-country nationals', *European Law Journal*, Vol. 17, Issue 2.

‘genuine connection’ as a ‘juridical expression of the fact that the individual upon whom it is conferred, either directly by the law or as the result of an act of the authorities, is in fact more closely connected with the population of the State conferring nationality than with that of any other State’.<sup>8</sup>

Citizenship at and after birth can be attributed through 27 different mechanisms.<sup>9</sup> Five of these mechanisms, namely descent, birth in country, foundlings, born stateless and establishment of paternity are referred to as birth-right citizenship. Most of the world’s population obtains their citizenship through the (commonly automatic) rules of *ius sanguinis*<sup>10</sup> and *ius soli*.<sup>11</sup> Other mechanisms for attribution of citizenship after birth are referred to as naturalisation.

Those seeking citizenship in another State undergo naturalisation procedures, aimed at attesting the existence of a ‘genuine connection’ between a State and an individual through substantive conditions for obtaining citizenship, including residence, language, and integration. These conditions are at the core of *ius nexi*, or the rules for admission of individuals into States by establishing different kinds of connections.

These connections are then coupled with the functional grounds for attribution of citizenship after birth, which can take place through the establishment of 1) link with a person (e.g., descent, marriage); 2) link with a country (residence, ethnic kinship, special achievements, etc.); 3) links created through international norms and processes (e.g., refugees, security). Conditions for each of these different ways of obtaining the citizenship of a specific country differ among themselves (i.e. the conditions to acquire citizenship on the basis of a link with a person are different to those of a link with a country and to those of links through international norms and processes), and there are also major variations among the different countries. There are commonly also provisions that facilitate the acquisition of citizenship on certain grounds, waiving in full or in part, some of the naturalisation conditions (e.g., language tests, etc.). For example, a person naturalising on grounds of marriage will normally have to spend less time in the respective country than a person naturalising through multiannual residence.<sup>12</sup>

Each sovereign State has the sole discretion to decide on how and to whom to attribute its citizenship. In doing so, it develops naturalisation procedures for each of the different mechanisms for the attribution of citizenship. In addition to the residence-based (ordinary) naturalisation, and other types of admission (e.g., marriage, adoption, special achievements, etc.), in recent years, there has been a proliferation of policies facilitating the acquisition of citizenship in exchange for investment, identified as *ius pecuniae*.<sup>13</sup>

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<sup>8</sup> International Court of Justice, Judgment of 6 April 1955, Second Phase, *Liechtenstein v. Guatemala (Nottebohm Case)*, available at <http://www.refworld.org/cases/ICJ/3ae6b7248.html>.

<sup>9</sup> Global Database on Modes of Acquisition of Citizenship, available at <http://globalcit.eu/acquisition-citizenship/>. The grounds are: descent (born in a country), descent (born abroad), birth in country (2<sup>nd</sup> generation), birth in country (3<sup>rd</sup> generation), foundlings, born stateless, establishment of paternity, birth in country (acquisition after birth), socialisation based acquisition, spousal transfer, filial transfer, adoption, transfer to other relatives, transfer from former citizen, spousal extension, filial extension, extension to other relatives, restricted citizenship rights, citizenship of another country, cultural affinity, presumed citizens, very long residence, refugees, stateless or unclear citizenship, public service, special achievements (national interest), other reasons.

<sup>10</sup> *Ius sanguinis* (‘right of blood’) is the principle of nationality law by which citizenship is determined by having one or both parents who are citizens of the State.

<sup>11</sup> *Ius soli* (‘right of soil’) citizenship is traditionally awarded on the basis of birth in that State’s territory.

<sup>12</sup> [Annex III](#) presents specific information on residence required for naturalisation on grounds of marriage.

<sup>13</sup> Džankić, J., 2012, ‘The pros and cons of *ius pecuniae*: investor citizenship in comparative perspective’, Robert Schuman Centre for Advanced Studies - EUDO Citizenship Observatory, Issue 14, available at [http://cadmus.eui.eu/bitstream/handle/1814/21476/RSCAS\\_2012\\_14.pdf](http://cadmus.eui.eu/bitstream/handle/1814/21476/RSCAS_2012_14.pdf).



This Study covers the programmes existing in some Member States through which investors are granted citizenship, and differentiates them from ordinary naturalisation, discretionary naturalisation on the grounds of national interest and discretionary facilitated naturalisation on the grounds of national interest. Other types of naturalisation (e.g. naturalisation on the grounds of ethnic kin, naturalisation on the basis of refugee or stateless status, etc.) are excluded from this Study as they do not apply to the acquisition of citizenship in exchange for investment.

**Ordinary naturalisation** is foreseen in all Member States and entails the granting of citizenship after a multiannual residence and the fulfilment of a number of conditions through which the State guarantees its new citizens have established a ‘genuine link’. In most cases, even if the applicant meets all of the ordinary naturalisation conditions, the granting of citizenship is not his or her guaranteed right but, rather, remains at the discretion of the State.

This prerogative of the State to decide on citizenship is mirrored in the procedure of **discretionary naturalisation on the grounds of national interest** and **discretionary facilitated naturalisation on the grounds of national interest**. These types of naturalisation entail granting citizenship to an individual, whether from a third country or not, on the basis of their exceptional contribution to the country’s society, sports, or culture or rendering an exceptional service.<sup>14</sup> For example, in a recent case, a Mali immigrant was granted French citizenship for saving a toddler whose life was at risk (exceptional service).<sup>15</sup> Cases of sportspersons or noteworthy persons from the cultural world receiving the nationality of a State are not uncommon (e.g. the granting of Spanish nationality to the Peruvian author Mario Vargas Llosa<sup>16</sup>). Furthermore, certain Member States (AT, BG, SK, SI) expressly recognise granting the nationality on the grounds of the ‘economic interest of the State’. In this case the ‘economic interest’ is a ‘national interest’. However, due to the lack of a common definition of what constitutes a State’s national interest, both of these mechanisms can be used to naturalise foreign investors, because investment may be equalised to ‘national interest’ or ‘exceptional service’. For example, through Article 10(6) of the Federal Law on Austrian Nationality, the Federal Government may decide to waive most of the ordinary naturalisation conditions and grant citizenship to a TCN who has made an exceptional contribution to Austria, including an economic one, which the Government considers to be in the national interest.<sup>17</sup> In 2010, there was a major controversy regarding the use of Article 10(6), when a corrupt Russian businessman offered the politician Uwe Scheuch a multimillion investment in the party (Freedom Party of Austria) coffers in exchange for the country's passport.<sup>18</sup> This was not done through a specific programme, but rather through the State's discretion to equalise investment with an exceptional contribution to Austria's economy.<sup>19</sup>

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<sup>14</sup> In Malta, there are two legal provisions regulating discretionary naturalisation: Article 10(9)(a) of the Maltese Citizenship Act, which grants naturalisation to individuals who have rendered the services listed therein, and Article 10(9)(c) of the same Act, which was recently added, and which refers to different services. These provisions simply regulate different cases and therefore set out distinct requirements. This is explained in the comments column (second tab, cell AG22 of Deliverable A, [Annex III](#)).

<sup>15</sup> BBC, ‘Mamoudou Gassama: Mali ‘Spiderman’ becomes French citizen’, 13 September 2018, available at <https://www.bbc.com/news/world-europe-45507663>.

<sup>16</sup> El País ‘The Peruvian writer Mario Vargas Llosa gets the Spanish nationality’ (*El escritor peruano Mario Vargas Llosa obtiene la nacionalidad española*), 3 July 1993, available at [https://elpais.com/diario/1993/07/03/cultura/741650401\\_850215.html](https://elpais.com/diario/1993/07/03/cultura/741650401_850215.html).

<sup>17</sup> A document explaining what ‘national interest’ is considered under Austrian legislation is included in [Annex III](#).

<sup>18</sup> Reuters, ‘Another Austrian politician goes as scandals rage’, 1 August 2012, available at <https://www.reuters.com/article/us-austria-corruption/another-austrian-politician-goes-as-scandals-rage-idUSBRE8700MK20120801>.

<sup>19</sup> There are two provisions regulating the potential admission of investors: 1) discretionary naturalisation on grounds of national interest (constitutional provision 10(6) FLAN) and the discretionary facilitated where residence is reduced by four years (art 11(4)). Both refer to exceptional interest of the State, including economic/commercial interest but are formally not an investors’ citizenship scheme as the ones existing in Cyprus, Bulgaria and Malta.

**Discretionary naturalisation on the grounds of national interest** entails **waiving all** of the substantial criteria applicable to ordinary naturalisation. **Discretionary facilitated naturalisation on the grounds of national interest** refers to naturalisation whereby substantial naturalisation criteria constituting the notion of ‘genuine link’ **are alleviated but not waived**. This includes criteria relating to residence, renunciation of prior citizenship, social integration, and language or culture tests. It should be noted that Member States usually retain certain security-related or symbolic naturalisation requirements, such as good character (‘no threat to public order’) and ‘oath of allegiance’ or a ‘loyalty statement’.

The State’s discretion to waive or alleviate some or all of the naturalisation conditions for investors covers two scenarios: 1) facilitating naturalisation on the basis of broadly defined ‘national interest’ grounds; and 2) facilitating naturalisation of investors, in particular through separate provisions in citizenship laws and subsidiary legislation.

### *Investors’ schemes*

While there is no consensus on the definition of **investors’ schemes**, in the EU context they can be conceived as<sup>20</sup> Member State legislative, policy or administrative initiatives aiming to attract investment by third-country nationals by facilitating the acquisition of **residence or citizenship** of the Member State concerned (directly or indirectly, by first granting residence) and, in the case of national citizenship, access to EU citizenship and related rights.<sup>21</sup>

This Study is based on the premise that a distinction could be drawn between ‘ordinary residence schemes’ and ‘facilitated residence schemes’ in view of two conditions: (a) the legislation regulating the scheme (primary vs. subsidiary); and (b) the residence criterion (effective – normally meaning physical – residence vs. formal residence (see below)). However, the findings from the national reports show that the initial classification would offer limited comparative insights, as residence schemes are often regulated in the general aliens’ legislation rather than in specific subsidiary laws. In order to allow for a more comprehensive analysis in line with the findings of the Study, [Section III](#) classifies investors’ residence schemes on the basis of (a) nature of the investment; (b) the level of investment; (c) the duration of the residence permit granted; and (d) the rights granted by the permit.

### *Entrepreneur programmes*

**Entrepreneur programmes** grant self-employed persons the right of residence on the basis of the establishment and management of a business, traditionally involving some cash investment as one of the main conditions. They are different from the more recent ‘start-up permits/visas’ where the emphasis is

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<sup>20</sup> Džankić, J., 2015, ‘Investment-based citizenship and residence programmes in the EU’, Robert Schuman Centre for Advanced Studies - EUDO Citizenship Observatory, Issue 8, available at [http://cadmus.eui.eu/bitstream/handle/1814/34484/RSCAS\\_2015\\_08.pdf](http://cadmus.eui.eu/bitstream/handle/1814/34484/RSCAS_2015_08.pdf); European Migration Network, 2015, ‘Admitting third-country nationals for business purposes’, available at [http://www.emn.lv/wp-content/uploads/emn\\_study\\_admitting\\_third-country\\_nationals\\_for\\_business\\_purposes\\_synthesis\\_report\\_vf\\_04may2015.pdf](http://www.emn.lv/wp-content/uploads/emn_study_admitting_third-country_nationals_for_business_purposes_synthesis_report_vf_04may2015.pdf); Sumption, M., and Hooper, K., 2014, ‘Selling visas and citizenship – Policy questions from the Global Boom in Investor Immigration’, Migration Policy Institute, available at <http://www.migrationpolicy.org/research/selling-visas-and-citizenship-policy-questions-global-boom-investor-immigration>; Shachar, A., and Bauböck, R. (eds.), 2014, ‘Should Citizenship be for Sale?’, Robert Schuman Centre for Advanced Studies EUDO Citizenship Observatory, Issue 1, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2380665](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2380665); Carrera, S., 2014, ‘How much does EU citizenship cost? The Maltese citizenship-for-sale affair: a breakthrough for sincere cooperation in citizenship of the Union’, Liberty and Security in Europe Paper No. 64, available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2430117](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2430117).

<sup>21</sup> Džankić, J., 2012, ‘The pros and cons of *ius pecuniae*: investor citizenship in comparative perspective’, Robert Schuman Centre for Advanced Studies - EUDO Citizenship Observatory, Issue 14, available at [http://cadmus.eui.eu/bitstream/handle/1814/21476/RSCAS\\_2012\\_14.pdf](http://cadmus.eui.eu/bitstream/handle/1814/21476/RSCAS_2012_14.pdf).



put on a business plan pitching a scalable and fast-growth business idea typical of the new economy but which may not necessarily require investment.<sup>22</sup> Therefore, unlike in investors' residence schemes, in **entrepreneur programmes** the active participation of the foreign investor in the running of the business is a *conditio sine qua non* to grant residence to foreign entrepreneurs. Entrepreneur programmes **fall outside the scope of the Study**. However, those programmes in Belgium and Germany are covered here, as they could include foreign investors (see [Section III](#)).

### Investment

The criterion common to both investors' citizenship and investors' residence schemes is the condition that the TCN make an **investment**. For the purposes of this Study, an investment is understood as any pecuniary disbursement required as part of the process for obtaining citizenship and/or residence under the investors' scheme (including the administrative fees of the procedure, investment in a company, State bonds, immovable property, etc.). Other aspects that can be considered an indirect investment, such as the creation of jobs or positive contribution to the economy of the State or a specific region, are, however, excluded from the concept of investment (see [Section III](#) for further information).

### Residence

In most naturalisation mechanisms, residence is one of the key criteria to grant citizenship. While there is no common definition of what constitutes residence across Member States, within the scope of this Study, this would refer to the legal status/ground under which a TCN is entitled to stay in the territory of the Member State concerned, normally certified by the granting of the corresponding permit. Depending on the length of the stay, residence can be either **temporary** (normally up to five years) or **permanent** (i.e. after a certain period of time – normally five years – the TCN can stay in the territory of the Member State indefinitely<sup>23</sup>).<sup>24</sup> Apart from this formal distinction, on the basis of the findings of this Study, residence can be also divided in two categories: **effective** or **formal**. While the former requires the physical presence of the TCN in the territory of the Member State concerned for the whole (or a significant part) of the duration of the permit; the latter only requires carrying out a formal act (normally of an administrative nature such as registering with the municipal office or the municipal police headquarters, although it can also simply require communicating an address to the competent authorities), or simply holding the necessary residence permit, without the real, physical presence of the TCN.

### Scope

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<sup>22</sup> ICF, 2016, 'Study for an impact assessment on a proposal for a revision of the Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment ("EU Blue Card Directive")', available at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal\\_migration/final\\_report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal_migration/final_report_en.pdf).

<sup>23</sup> For the period of time required to obtain permanent residence in each Member State, see Section III, Residence authorisation **Table 8** below provides an overview of the residence authorisation granted to foreign investors, including the requirement to be physically present in the territory of the Member State; the option to renew the authorisation (including whether there is a limit to the number of times that the renewal can be requested or not), the duration of the new authorisation and the conditions that have to be met to apply for the renewal; and the competent authority issuing the authorisation. These are discussed in more detail following the table.

Table 8.

<sup>24</sup> Bauböck, R., 2011. Temporary migrants, partial citizenship and hypermigration. *Critical Review of International Social and Political Philosophy*, 14(5), pp.665-693.

This Study covers the three Member States operating investors' citizenship schemes (BG, CY and MT),<sup>25</sup> together with 24 Member States operating investors' residence schemes in line with the concepts described above (BE, BG, CY, CZ, DE, EE, EL, ES, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI, SK and UK). Hungary is included among the Member States operating investors' residence scheme although the schemes, operated between 1 January 2013 and 30 March 2017, were discontinued. A preliminary overview of the different types of programmes covered by this Study is presented in **Table 1** below.

**Table 1 Overview of naturalisation procedures and investors' programmes operated by Member State**

Scheme	Naturalisation			Investors' citizenship schemes	Investors' residence schemes
	Ordinary	Discretionary on grounds of national interest	Discretionary facilitated		
MS	All MS	All MS except CZ, DE, DK, FI, PL, ES, SE, UK	AT, BG, CZ, DE, FR, RO	BG, CY, MT	BE*, BG, CY, CZ, DE*, EE, EL, FR, HR, HU**, IE, IT, LU, LV, LT, MT, NL, PL, PT, RO, SK, SI, ES, UK

\*Belgium and Germany operate a specific type of residence scheme, whereby foreign investors, like any other TCN, may only apply for residence for self-employment. See [Section III](#) of this Study.

\*\* Hungary operated investors' residence schemes between 1 January 2013 and 30 March 2017.

<sup>25</sup> Although academic literature had previously considered that Romania operated investors' citizenship schemes, it is now understood that such schemes only exist in Bulgaria, Cyprus and Malta. Like these Member States, the Romanian system also alleviates residence conditions, but not to a significant extent. As a matter of fact, it retains a substantial residence condition (four years of effective residence is required vs. the formal requirement of holding a residence permit in Bulgaria, Cyprus and Malta) in addition to all other naturalisation conditions. Consequently, the Romanian system shows more similarities with the investors' residence schemes described below in [Section III](#).

## II. COMPARATIVE OVERVIEW OF THE APPROACHES TO INVESTORS' CITIZENSHIP SCHEMES

Bulgaria, Cyprus and Malta introduced investors' citizenship schemes in 2005, 2007 and 2013, respectively.

The Bulgarian Citizenship Act (BCA), together with the Foreign Nationals in the Republic of Bulgaria Act (FNA), regulate two types of investors' citizenship schemes through which foreign investors may obtain Bulgarian citizenship by waiving some of the ordinary naturalisation criteria.<sup>26</sup> The Investments Promotion Act<sup>27</sup> and the secondary legislation on its implementation, are also relevant as they govern the procedures for certification of various types of investments, among other matters.

**Table 2** below summarises the differences between these two schemes.

**Table 2 Overview of Bulgaria's investors' citizenship programmes<sup>28</sup>**

<b>Requirements</b>	<b>Ordinary Investors' Scheme (Article 12a BCA)</b>	<b>Fast-Track Investors' Scheme (Article 14a BCA)</b>
<b>Holding a permanent residence permit<sup>29</sup> for a stipulated period of time</b>	Yes, for 5 years	Yes, for 1 year
<b>Additional investment to the initial one</b> (see Table 3)	No	Yes
Requirement for <b>income or occupation</b> allowing foreign national's subsistence in Bulgaria	Yes	No

In **Cyprus**, the Council of Ministers has the discretion to grant Cypriot citizenship to foreign investors for reasons of public interest (independently of their duration of stay), in exceptional circumstances where high level services were provided to Cyprus, under Article 111A of the Civil Registry Laws of 2002 to 2017. Implementing this discretionary power, the Council of Ministers regulates the **'scheme for naturalisation of investors by exception on the basis of subsection (2) of Section 111A of the Civil**

<sup>26</sup> The general criteria for the naturalisation of TCNs are: (i) having attained the age of 18 years; (ii) holding a permit for permanent residence or a permit for continuous residence in Bulgaria issued at least 5 years ago; (iii) he/she has not been sentenced by a Bulgarian court for a wilful crime prosecuted ex officio by the state, and is not subject to pending criminal proceedings for such an offence, unless the person has been rehabilitated; (iv) s/he possesses an income or occupation allowing him/her to subsist in Bulgaria; (v) he/she has a command of the Bulgarian language subject to verification according to a procedure established by an ordinance of the Minister of Education and Science (this requirement may be avoided in certain limited cases specified by law), and (vi) he/she has been released from his/her previous citizenship or will be released therefrom at the time of acquisition of Bulgarian citizenship (this requirement may be avoided in certain limited cases specified by law).

<sup>27</sup> Bulgarian Investments Promotion Act.

<sup>28</sup> In both schemes the applicant must be of legal age (above 18), have a clean criminal record, and their physical presence in Bulgaria is not necessary (only when submitting the application). The terms 'ordinary' and 'fast-track' are used since in the ordinary scheme the five-year permanent residence period required for naturalisation is maintained, while in the 'fast-track scheme' this requirement is lowered to one year.

<sup>29</sup> The investor must hold a permanent residence permit; however, for this purpose, it is not necessary to actually reside in Bulgaria. The residence requirement is further explained in the section '*Residence requirement*' below.

**Registry Laws’ (scheme for naturalisation of investors by exception or naturalisation by exception)** in its Decision 81.292 of 13 September 2016.<sup>30</sup>

Malta’s scheme - the **Individual Investor Programme (IIP)** - is regulated by subsidiary legislation issued under the Maltese Citizenship Act, namely, the Individual Investor Programme of the Republic of Malta Regulations, Legal Notice 47 of 2014 (LN 47/2014). This allows for the granting of citizenship by a **certificate of naturalisation** to foreign individuals and their families who ‘contribute to the economic development of Malta’.<sup>31</sup> The Citizenship Regulations are also relevant to the scheme.

## 1. APPLICABLE CRITERIA

### *General criteria*

In all three Member States, foreign investors applying for citizenship must be over the age of 18. The investors and their dependants must be covered by a global health insurance policy and a declaration that they are in a position to retain such a policy indefinitely. Both Bulgaria and Malta also require proof from a reputable health system that they are not suffering from any contagious disease and that they are otherwise in good health.

### *Investment requirement*

All three Member States operating investors’ citizenship schemes require the TCN to make **different types and minimum levels of investment**. **Investment in immovable property** is a condition in Cyprus and Malta, while investing in **companies** is only possible in Cyprus and Bulgaria.

**Table 3** below provides an overview of the investment requirements in Bulgaria, Cyprus and Malta.

**Table 3 Comparative overview of the types of investment in investors’ citizenship schemes<sup>32</sup>**

MS	Investment		Period for which the investment must be maintained		
BG	<b>Type of scheme</b>		<ul style="list-style-type: none"> <li>No specific timeframe within which the investment must be maintained but foreign investors must submit <b>annual declarations</b> on the maintenance of</li> </ul>		
	<b>Type of investment</b>	<table border="1"> <thead> <tr> <th>Ordinary</th> <th>Fast-track</th> </tr> </thead> <tbody> <tr> <td>EUR 500,000</td> <td>Increase to EUR 1 million OR invested no less than EUR 500,000 in the capital of a Bulgarian commercial company for a priority investment project</td> </tr> </tbody> </table>		Ordinary	Fast-track
Ordinary	Fast-track				
EUR 500,000	Increase to EUR 1 million OR invested no less than EUR 500,000 in the capital of a Bulgarian commercial company for a priority investment project				
	Shares, OR bonds and treasury bills, OR, ownership of company owned in more than 50% by State/municipality, OR shares owned by State/municipality, OR Bulgarian intellectual property OR rights under concession contracts				

<sup>30</sup> Council of Ministers’ Decision 81.292 and website of the Civil Registry and Migration, available at <http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/DABB1713307D8C4CC2257D2C0045433C?OpenDocument>.

<sup>31</sup> Regulation 3(1) of LN 47/2014.

<sup>32</sup> For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

MS		Investment	Period for which the investment must be maintained
		Licensed credit institution under trustee agreement	EUR 500,000
		In capital of Bulgarian trading company	EUR 3 million
		Bulgarian commercial company awarded Class A, B or priority investment project	Depends on type of company
		Bulgarian commercial company owned in no less than 50% by investor	EUR 250,000
			<p>the investment (any of the types)</p> <ul style="list-style-type: none"> <li>Revoking naturalisation is a possibility but not for reasons concerning the maintenance of the investment (see <a href="#">'ex-post checks'</a>)</li> </ul>
CY	Main applicant	Type of investment <sup>33</sup>	Financial threshold
		Real estate	EUR 2 million + Permanent privately-owned residence min. EUR 500,000 (+VAT)
Company <sup>35</sup>			
		Alternative Investment Funds or financial assets of Cypriot companies or Cypriot organisations that are licensed by CySec	
	Family members	Permanent privately-owned residence min. EUR 500,000 (+VAT) (except minor children)	Privately-owned property: permanently
			<ul style="list-style-type: none"> <li>Real estate, CySec<sup>34</sup> licensed investment or combination of all investments: at least three years</li> <li>Company: N/A</li> <li>Privately-owned property: permanently</li> </ul>

<sup>33</sup> A combination of the investments admitted under the Cypriot scheme is allowed, provided that the total investment amounts to at least EUR 2 million.

<sup>34</sup> Cyprus Securities and Exchange Commission (CySEC) is the independent public supervisory authority responsible for the supervision of the investment services market and transactions in transferable securities carried out in the Republic of Cyprus. <https://www.cysec.gov.cy/en-GB/cysec/vision-mission/>.

<sup>35</sup> With proven physical presence in Cyprus, with significant activity and turnover and employing at least five Cypriots or citizens of EU Member States. The number of employees must increase if more than one applicant invests simultaneously or almost simultaneously in the same business or company. The employees of the companies need to have legally and continuously resided in Cyprus during the five years preceding the application submission.

MS		Investment	Period for which the investment must be maintained	
MT	Main applicant	<b>Type of investment</b>	The investment and the immovable property must be kept for at least <b>five years</b> <sup>36</sup>	
		Residential immovable property <b>AND</b>		Financial threshold
		Investment <sup>37</sup> <b>AND</b>		Minimum EUR 350,000 (owned) OR minimum EUR 16,000 per annum (rented)
	Contribution	EUR 150,000		
Family members	Contribution:		EUR 650,000	
	<ul style="list-style-type: none"> <li>■ Spouse EUR 25,000</li> <li>■ Unmarried children between 18 and 26 years of age EUR 50,000</li> <li>■ Minor children EUR 25,000</li> </ul>			

Apart from the investment requirement, applicants must also pay non-refundable **administrative fees** as part of the application process. Cyprus and Malta have significantly higher fees than Bulgaria and foresee specific fees for applications from family members. These fees are summarised in **Table 4** below.

**Table 4 Overview of administrative fees in investors' citizenship schemes**

MS		Administrative fee
BG		<b>TOTAL EUR 650</b> EUR 100 (visa) + EUR 50 (reviewing application) + EUR 500 (issuance of permanent residence permit) + EUR 5 (administrative fee)
CY	Main applicant	<b>TOTAL EUR 7,000</b> EUR 2,000 when submitting the application + EUR 5,000 (for issuance of the Naturalisation Certificate)
	Family members	<ul style="list-style-type: none"> <li>■ Spouse: EUR 7,000 (EUR 2,000 at application and EUR 5,000 for issuance of Naturalisation Certificate)</li> <li>■ Adult child: EUR 7,000 (EUR 2,000 at application and EUR 5,000 for issuance of Naturalisation Certificate)</li> <li>■ Minor child: EUR 80</li> </ul>
MT	Main applicant	<b>TOTAL EUR 8,200</b> EUR 7,500 (due diligence fees) EUR 500 (passport fees) EUR 200 (bank charges fees) The applicant must also pay the Approved Agent's fees. These are determined by agreement between the agent and the client (applicant) and therefore it is not possible to indicate the amount of these fees as they vary. <sup>38</sup>
	Family members	Due diligence fees: <ul style="list-style-type: none"> <li>■ Spouse: EUR 5,000</li> <li>■ Each dependant unmarried child between 18 and 26 years of age: EUR 5,000</li> <li>■ Each dependant parent/grandparent above 55 years of age: EUR 5,000</li> <li>■ Each child between 13 and 18 years of age: EUR 3,000</li> </ul> + EUR 500 per person (passport fees) + EUR 200 per application (bank charges fees)

<sup>36</sup> Regulation 7(5) and (6) of LN 47/2014.

<sup>37</sup> Among others, in stocks, bonds, securities, special purpose vehicles or other investment as provided from time to time by Identity Malta by means of a notice in the Gazette.

<sup>38</sup> Information confirmed through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).



## ***Residence requirement***

In all three Member States, a period of prior residence is required for the foreign investor to qualify for the investors' citizenship schemes, with the issuance of the corresponding residence permit. Holding a residence permit for the required timeframe is sufficient to qualify for the investors' citizenship scheme. However, **physical presence** in the territory of the Member State concerned during the prior residence period, at the time of applying for citizenship and after the foreign investor has been granted citizenship, is not required.

In Malta, the applicant must be physically present twice (once to provide biometric data for the e-Residence Card and once to take the oath of allegiance).<sup>39</sup> In Bulgaria and Cyprus, their presence is required only once (for the submission of the application for citizenship in the case of Bulgaria, and for the collection of the residence permit in Cyprus).

In Bulgaria, the applicant must hold a **permanent residence permit** for five years (ordinary scheme) or one year (fast-track scheme) in order to be able to apply for Bulgarian citizenship. Foreign investors can apply directly for permanent residence (which grants an unlimited right of residence) under the investors' residence scheme (see [Section III](#)).

In Cyprus, the residence requirement is satisfied by proving that the TCN holds the corresponding residence permit (for at least six months before the application for citizenship by exception) and on the production of evidence that the applicant has a **permanent privately-owned residence** in Cyprus, the purchase price of which must be at least EUR 500,000, plus VAT. In light of this, to apply for citizenship, the applicant and family members must already have a **residence permit in Cyprus for at least six months** before the application for citizenship by exception. It should be noted that foreign investors may apply for permanent residence ('immigration permit') directly under the investors' residence scheme (see [Section III](#)).

The IIP process in Malta consists of several stages (see Section II.2, '[Stages of the procedure](#)'). The applicant first mandates an agent<sup>40</sup> to submit an **application for an e-Residence Card** (application form, supporting documents, initial due diligence) and pays the initial contribution – EUR 5,000 non-refundable deposit. The agent sets up an appointment for the applicant at Identity Malta at least one week after the submission of the documents. The e-Residence Card, valid for 18 months, is issued within one to five working days. Regulation 7(12) of LN 47/2014 requires the main applicants to prove that they have **been resident in Malta for at least 12 months** preceding the issuance of the certificate of naturalisation. Holding the e-Residence card is sufficient to do this and the date on the card denotes the start of the residency period for the purposes of the IIP.

## ***Checks***

For the purposes of this Study, national reports examined the checks carried out by the authorities and other bodies involved in the procedure to verify that the applicants fulfil the legal criteria. Two types of checks exist: (a) security checks covering all verification procedures on the background of applicants to determine whether they pose a threat to national security and safety, public order, public health and the international relations of the State concerned; and (b) checks on the origin of the funds used to make the investment.

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<sup>39</sup> Information confirmed through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

<sup>40</sup> See Section II.2, '[Competent authorities and non-public bodies](#)'.

## *Security checks on applicants*

**Security checks** are triggered by the information provided by applicants regarding their background. Although not all Member States use the common denomination of ‘clean criminal record’ for such information, for the purposes of consistency this term is used in this Study to refer to all documents provided by applicants to prove that they do not pose a threat as described above. Security checks encompass a variety of processes from checking the presented criminal records with the authorities that issued them, to checks in national and international databases (e.g. Schengen Information System (SIS), EUROPOL, INTERPOL), and interviews with the applicant. The term ‘security checks’ is hence used to refer to all these different processes. Checks on criminal records are a standard element of all naturalisation procedures and for investor schemes this is no different.<sup>41</sup>

The competent authorities (and, where applicable, non-public bodies) must always carry out security checks in investors’ schemes; however, the way in which they carry out such checks is highly discretionary and guidelines or legislation on how to carry out checks is scarce. Therefore, details obtained for the purposes of this Study are limited.

In all three Member States, checks are carried out to ensure that applicants and their dependants are not a potential threat to national security, public policy or public health. What is set out below is based on analysis of legislation and information obtained through the consultation of national stakeholders. While the Study identified that such checks are carried out, it was not able to identify for example how a person is identified as a threat to national security.

In **Malta**, the checks on the criminal background cover the main applicants and their dependants over 12 years of age. The checks are carried out on the basis of police records from the Maltese police and/or from the competent authorities in the country of origin and in the country or countries of residence where the applicant has resided for more than six months during the last ten years. The requirement to prove a clean criminal record may be **waived** in exceptional circumstances, where the competent authority considers such a certificate impossible to obtain. In those cases, a sworn affidavit from the applicant and any dependants, declaring a clean criminal record, will suffice.

The Maltese authorities consult the INTERPOL and EUROPOL, databases as part of a four-tier due diligence process covering: know-your-client due diligence checks by the agent and Identity Malta’s IIP unit (see below ‘checks on the source of funds’); clearance by the police authorities; a check for completeness and correctness of the application and verification of the documents submitted; and an outsourced due diligence check whereby Identity Malta commissions two reports from international companies on every IIP application.<sup>42</sup>

The **Cypriot police** prepare a criminal record report on the basis of the information provided by the applicants in their application. While preparing the criminal record report, the Cypriot police search in both EUROPOL’s and INTERPOL’s databases.<sup>43</sup> The investor’s name and family members’ names must

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<sup>41</sup> See [Annex III](#).

<sup>42</sup> Information gathered through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018). This is in line with Regulation 7(2) of LN 47/2014 that states that the ‘due diligence checks shall be of a four-tier nature’ without further specification.

<sup>43</sup> Information gathered through consultation with national stakeholder (Ministry of Interior Officer, competent authority, 29 May 2018).

not be included in the list of persons whose assets, within the boundaries of the European Union, have been frozen as the result of sanctions. No further information about the security checks was available.

In **Bulgaria**, legislation requires the applicant to present a clean criminal record certificate and a document showing that no criminal proceedings are pending or ongoing against the applicant. The Council for Citizenship gives an opinion on citizenship requests, following a written statement by the Ministry of the Interior and the **State Agency for National Security (SANS)**. The latter carries out checks on all applicants for Bulgarian citizenship (including those applying through investors' schemes) within the scope of its competence, such as police intelligence or police record databases. The competences of SANS include counter-terrorism, counter-intelligence, and combatting organised crime and corruption.<sup>44</sup> There is no publicly available information about the exact information databases checked and the internal regulations of SANS – stipulating the specific databases to be checked – are classified.<sup>45</sup> Bulgaria is not yet connected to the SIS.<sup>46</sup>

### *Checks on the source of funds*

Regarding **checks on the origin of funds**, all EU Member States<sup>47</sup> have notified transposition measures for the Anti-money Laundering Directive.<sup>48</sup> Under this legislation, the obliged entities (inter alia, credit and financial institutions, notaries and lawyers, and real estate agents)<sup>49</sup> must carry out customer due diligence measures,<sup>50</sup> which include identifying the person with whom a business relationship<sup>51</sup> is established (e.g. opening a bank account, money transfers of a certain amount,<sup>52</sup> legal advice provided in carrying out a business transaction such as buying immovable property, etc.), identifying the final beneficiary of such transaction ('beneficial owner') and checking the origin of funds. The obliged entities are not compelled (or even encouraged) to communicate this information to the State's competent authorities; however, they must do so when there is a suspicion that the funds involved in a business relationship/transaction are or might be the proceeds of criminal activity or related to terrorist financing (by filing the corresponding 'Suspicious Transaction Report').<sup>53</sup> Obligated entities can do this *motu proprio* or at the request of the State's competent authorities under the anti-money laundering legislation (Financial Intelligence Units<sup>54</sup>).<sup>55</sup> Furthermore, Member States must hold adequate, accurate and current information on their beneficial ownership, including the details (nature and extent) of the beneficial

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<sup>44</sup> Information gathered through consultation with national stakeholder (representative of the Migration Directorate, competent authority, 7 March 2018).

<sup>45</sup> Information gathered through consultation with national stakeholder (representative of the Migration Directorate, competent authority, 7 March 2018).

<sup>46</sup> DG HOME website, 'Schengen Information System', available at [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system_en).

<sup>47</sup> Except for Ireland and Romania. Source: Eur-lex, 'National transposition measures communicated by the Member States concerning Directive (EU) 2015/849' available at <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32015L0849>.

<sup>48</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), available at <https://eur-lex.europa.eu/legal-content/En/TXT/?uri=CELEX%3A32015L0849>.

<sup>49</sup> Article 2 of Directive (EU) 2015/849.

<sup>50</sup> Articles 10-24 of Directive (EU) 2015/849.

<sup>51</sup> 'Business relationship' is defined in Article 3(13) of Directive (EU) 2015/849 as 'a business, professional or commercial relationship which is connected with the professional activities of an obliged entity and which is expected, at the time when the contact is established, to have an element of duration'.

<sup>52</sup> Article 11(b) and (c) of Directive (EU) 2015/849.

<sup>53</sup> Article 33 of Directive (EU) 2015/849.

<sup>54</sup> Article 32 of Directive (EU) 2015/849.

<sup>55</sup> Article 33 of Directive (EU) 2015/849.

interests held, in a central register ('Beneficial Ownership Register') which is accessible, inter alia, to the Member States' competent authorities.<sup>56</sup> Therefore, formally, there is no obligation for the bodies involved in carrying out the checks on the origin of funds in investors' schemes to communicate to the Member States' competent authorities the results of these checks. However, in practice, such cooperation exists (see below and Section III on 'Checks').

Checks on the origin of funds are carried out in all three Member States.

Identity Malta is required to **verify the source of all funds** (Regulation 7(4) of LN 47/2014). The main applicant must confirm that his/her 'wealth has been obtained from completely legitimate sources, and is not, whether directly or indirectly, derived from the proceeds of criminal activities of any kind'.<sup>57</sup> The main applicant must also submit administrative documentation and bank statements for the account from which funds for the IIP are being remitted. Funds must be remitted from a personal account registered in the main applicant's name. All information in relation to the source of wealth must be triangulated before a piece of information is considered verified - Identity Malta seeks verification from three independent sources: the applicant and two independent service providers<sup>58</sup> and the provisions of the Anti-Money Laundering Directive are applied in verifying the source of funds for the contribution paid into Identity Malta's account.

Direct cross-reference to the anti-money laundering legislation is made in the Cypriot legal framework on investors' citizenship schemes. Cypriot Banks' compliance departments must implement the due diligence measures to verify and validate the origin of the funds used in the investment. This is based on the proof (bank transfer receipts) that must be submitted by all applicants (investor and family members) that the transactions were made through Cypriot banks from a foreign country to the Cypriot bank account of the seller/company/investment fund. The due diligence costs are borne by the applicant.<sup>59</sup>

In Bulgaria, the checks on the origin of funds (in accordance with the Law on Measures against Money Laundering) is carried out by the Invest Bulgaria Agency,<sup>60</sup> in the procedure to obtain a permanent residence permit<sup>61</sup> (which is a prerequisite to applying for citizenship under the investors' scheme). In such procedure the applicant must provide a declaration on the origin of funds in compliance with the anti-money laundering law. In the application for citizenship, the Citizenship Directorate and the Commission verify whether or not the declaration and checks carried out by the Invest Bulgaria Agency are valid.

#### *Personal interview with the applicant*

Personal interviews with the applicants are conducted in Bulgaria and may also be required in Malta. In Bulgaria, once the **citizenship application is accepted and registered** by the **Bulgarian Citizenship Directorate**, the **applicant is interviewed** by a member of the administration of the Minister of Justice, provided that all necessary documents have been submitted.<sup>62</sup>

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<sup>56</sup> Article 30 of Directive (EU) 2015/849.

<sup>57</sup> Form N, entry C14, available at: <http://iip.gov.mt/wp-content/uploads/2014/01/Form-N-Main-Applicant.pdf>

<sup>58</sup> Information gathered through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

<sup>59</sup> Council of Ministers' Decision 906/2018.

<sup>60</sup> Executive agency to the Bulgarian Minister of Economy. Website available at <http://www.investbg.government.bg/en>.

<sup>61</sup> See section on [checks](#) on the origin of funds in Section III.1 of this Study.

<sup>62</sup> Where the application is filed through the diplomatic or consular office of the Republic of Bulgaria abroad, the interview with the applicant is conducted by an employee of the respective office at the time of filing the application.

In Malta, it is not a requirement that the applicant be interviewed but it can be recommended by the concessionaire and/or considered by Identity Malta on a case-by-case basis. The procedures for personal interviews are determined by Identity Malta.<sup>63</sup>

### *Tools to carry out the checks*

Only Malta has developed specific tools to carry out the checks. Identity Malta has developed an **internal risk matrix** based on its experience since the start of the IIP. The matrix is based on seven elements: (i) identification and verification (how the applicant's identity has been established and verified); (ii) the applicant's business and corporate affiliations; (iii) whether the applicant is a politically exposed person or has been on a sanctions or watch list; (iv) establishing how the applicant has accumulated his/her wealth and the origin of the funds for financing the application; (v) the applicant's reputation (observed through open source intelligence, reports and on the ground intelligence); (vi) legal and regulatory matters such as charges or convictions for offences; (vii) analysis of the applicant's activities and their impact on his/her immediate network and society in general.<sup>64</sup>

### *Genuine link requirement*

As set out in the introduction, naturalisation procedures involve the fulfilment of criteria, which attest the individual's 'genuine link' or 'genuine connection' to the State in question. Nonetheless, despite the existence of the 'genuine link' requirement, there are no concrete norms in international law as to the precise naturalisation criteria that constitute such a link. As a consequence, each State develops naturalisation procedures and conditions in view of what it considers a sufficient connection for the different types of applicants. Furthermore, certain conditions may be explicitly referred to as the 'genuine link' in the national law, or the notion may be broadly defined, or it may not exist in the legislation per se (but, rather, it is assumed that any past or presumed relationship the individual has had with the State itself constitutes a 'genuine link').

In granting citizenship to investors, Bulgarian legislation does not require the foreign investor to prove a 'genuine link'.

In Cyprus, the Cypriot authorities maintain that a genuine link can be established on the basis of economic interests of foreign investors directly related to the Cypriot economy, thereby creating a strong bond between investors and the Republic of Cyprus.<sup>65</sup>

In Malta, applicants are encouraged to establish links with Malta depending on their particular situation, for example, opening a bank account in Malta or applying for a Maltese driving licence, and the Approved Agents can make introductions to Maltese entities relevant to the applicant's experience, e.g. an investor from the football world could be introduced to local football clubs.<sup>66</sup> Checks on these voluntary links may take place at the final stage of the process, after the issuance of the Letter of Approval in Principle and before the applicant can take the oath of allegiance. There is however no requirement in Maltese legislation in this regard.

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<sup>63</sup> Regulation 7(7) of LN 47/2014.

<sup>64</sup> Information gathered through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

<sup>65</sup> Information gathered through consultation with national stakeholder (Administrative Officer at the Ministry of Interior, competent authority, 16 March 2018).

<sup>66</sup> Information gathered through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018); see also ORiip Fourth Annual Report, p.32).

### *Ex-post checks*

None of the three Member States provide for ex-post checks. They do, however, provide for the **revocation of citizenship** in certain cases.

In Bulgaria, citizenship may be revoked if the data or facts provided in the application for Bulgarian citizenship are untrue and/or the beneficiary has concealed data or facts which, if known, would be grounds for refusing to grant Bulgarian citizenship, and/or has not maintained the investments for at least two years from the date of naturalisation (fast-track scheme only). However, citizenship can only be withdrawn within the first ten years after the acquisition of Bulgarian citizenship, unless the data and the facts refer to the person's participation in terrorism and provided that the person does not remain stateless.

Likewise, in Cyprus, if a criterion, term or condition of the scheme has been breached, the naturalisation granted may be revoked. The competent authorities thus carry out periodic checks to ensure that the conditions required for the issuance of the Naturalisation Certificate are maintained after the foreign investor has obtained Cypriot citizenship.

In Malta, the Minister responsible for identity management (see [competent authorities](#) below) may **deprive** IIP beneficiaries of **their citizenship** if they fail to comply with any investment requirements, become a threat to national security, or are involved in conduct that is seriously prejudicial to Malta's vital interests.

## **2. PROCEDURE**

### *Competent authorities and non-public bodies*

In Bulgaria and Cyprus, the competent authorities are State Ministries, while, in Malta, a new competent authority (CA) was recently set up specifically to run the IIP as explained further below. In Malta, non-public bodies were involved in designing, implementing and promoting the scheme, and all applications must be submitted through a non-public body (see below). By contrast, in Bulgaria and Cyprus, applicants to the investor citizenship scheme may opt to have non-public bodies involved.

In Bulgaria, the competent authority is the same as that for naturalisation procedures: the **Ministry of Justice** is responsible for making a proposal to the President of the Republic of Bulgaria to issue a decree on the acquisition of Bulgarian citizenship. Specialised services within the Ministry will examine the relevant files to be sent to the Minister to propose a draft final decision. Ultimately, the **President** issues the corresponding decree granting or refusing citizenship. As a foreign investor must first hold a residence permit in order to qualify for citizenship, the **Migration Directorate** will also be involved in the proceedings, together with other supporting **consultative authorities** (the **Council for Citizenship** and the **Bulgarian Citizenship Directorate** advising the Ministry of Justice, and the **Bulgarian Citizenship Commission**, advising the President's Cabinet).

The decision-making authority in Cyprus is the **Ministry of Interior** (MoI), although the competent authority deciding **to waive the naturalisation conditions** is the **Council of Ministers**. Applications are processed by the **Director of the Civil Registry and Migration Department** and the Director General of the Ministry of Interior, together with the **Ministry of Finance**, which must conduct studies assessing the



application of the Cyprus Investment Programme and its effects on the economy, and provide information to the Council of Ministers.<sup>67</sup>

The **competent authority for Malta's IIP and for migration and residence permits** is the Department of Citizenship and Expatriate Affairs, within the **Identity Malta Agency** (Identity Malta) and under the remit of the Minister responsible for identity management.<sup>68</sup> On 29 March 2018, the Maltese government set up the **Malta Individual Investor Programme Agency** (IIP Agency) to administer the IIP and cooperate with Identity Malta.<sup>69</sup> LN 47/2014 has not yet been amended to take into account the establishment of the IIP Agency, thus this Study refers only to Identity Malta as the competent authority.

IIP applications must be submitted by the main applicant to Identity Malta either through Approved Agents or the concessionaire.<sup>70</sup> These are **non-public bodies** with a significant role throughout the application process, acting on behalf of applicants and interacting directly with the competent authorities on their behalf. LN 47/2014 also provides the concessionaire – Henley & Partners - with a 'public service concession to design, implement, administer, operate and promote the Programme', including the exclusive rights to present and receive information on the outcome of every application.<sup>71</sup> This role has changed over time and Henley & Partners' involvement is now primarily concerned with promoting the IIP, organising events in Malta and advising Identity Malta on legal or technical aspects as needed. It also presents applications on behalf of its clients, similar to any other agent.<sup>72</sup> The Maltese legislation does not reflect these changes in its role.

Although in Bulgaria and Cyprus applicants may choose to employ consultants or lawyers to advise on the preparation of the necessary documents, these are not formally part of the procedure. Their role is limited to explaining the procedure, facilitating or acting as representatives. Cyprus does, however, have a specific Registry for investors' citizenship scheme service providers (e.g. accountants, law firms, real estate offices). If these service providers register, they must comply with the new Code of Conduct, which has not yet been officially published (see '[Legal and Policy Changes](#)' below).<sup>73</sup>

### ***Monitoring and reporting obligations***

Neither Bulgaria nor Cyprus has **specific monitoring mechanisms or reporting obligations**. In Bulgaria, since citizenship is granted by Presidential Decree, there is **no subsequent monitoring**, as Presidential Decrees enter into force at the moment of their issuance and are not subject to judicial review. The Bulgarian Citizenship and Bulgarians Abroad Committee at the President's office issue monthly reports<sup>74</sup> but these focus on the total number of citizenships granted and do not give details on the legal basis on which citizenship is granted. The first report was due in 2018 but had not yet been published by May 2018.

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<sup>67</sup> Council of Ministers' Decision 906/2018.

<sup>68</sup> LN 269/2013.

<sup>69</sup> LN 96/2018.

<sup>70</sup> Regulation 4(3) of LN 47/2014.

<sup>71</sup> Regulations 2 and 3(2) of LN 47/2014.

<sup>72</sup> Information gathered through consultation with national stakeholder (Identity Malta, competent authority, 15 March 2018) (in writing).

<sup>73</sup> Council of Ministers' Decision 84.068 and information gathered through consultation with national stakeholder (Administrative Officer at the Ministry of Interior, competent authority, 16 March 2018).

<sup>74</sup> Monthly Reports of the Bulgarian Citizenship and Bulgarians Abroad Committee, available at <https://m.president.bg/en/cat106/mesechni-otcheti-grajdanstvo>.

In Cyprus, monitoring may be possible, as the Council of Ministers must inform the House of Representatives before adopting a decision to grant citizenship.<sup>75</sup> However, there is no publicly available Parliamentary Report or question raised at the House of Representatives concerning the monitoring of the scheme.<sup>76</sup>

Malta's **IIP Regulator (ORiip)** reviews all aspects of the **IIP** and annually reports on its own functions to the Minister. These reports are public and subject to parliamentary scrutiny,<sup>77</sup> and must not include personal data relating to individuals who acquired Maltese citizenship under the **IIP**.<sup>78</sup> The Regulator must also investigate **complaints about the IIP**, but a legal instrument prescribing the procedure for complaints has not yet been adopted. A Monitoring Committee<sup>79</sup> consisting of the Prime Minister, the Minister responsible for identity management and the leader of the opposition monitors the **IIP**. This Committee must meet at least once a year and can ask the Regulator to attend and report at its meetings. In its Fourth Annual Report on the **IIP Programme of the Government of Malta**, published in November 2017,<sup>80</sup> the **ORiip** stipulates that between the start of the programme and 30 June 2016, only 11 complaints requested the Regulator's intervention. In the absence of regulation specifying how these complaints should be dealt with, these cases could not be considered. It is nevertheless worth noting that the key topic of complaints was due diligence. There is no further information on the details of these ad hoc complaints.

### *Stages of the procedure*

In all three Member States, the main steps of the procedure involve the submission and assessment of the application for citizenship. In Malta and Cyprus, an oath of allegiance must be taken at the end of the procedure.

The Bulgarian procedure for foreign investors to obtain citizenship consists of the following steps:<sup>81</sup> (1) filing an application for Bulgarian citizenship with the competent authority (Bulgarian Ministry of Justice or diplomatic or consular office of the Republic of Bulgaria if the applicant is abroad); (2) examination of the application by the Bulgarian Citizenship Directorate; (3) if accepted, interview with the applicant by a member of the Ministry of Justice (or employee of the diplomatic or consular office, if applicable); (4) examination of the application by the Council for Citizenship at the Ministry of Justice which issues an opinion; (5) based on this opinion, the Minister of Justice makes a proposal to the President to grant or refuse Bulgarian citizenship; (6) advice of the Bulgarian Citizenship Commission; and, (7) decision of the President.

In Cyprus, the procedure consists of: (1) submission of the application for naturalisation by exception; (2) assessment of the application; (3) if appropriate, approval of the application and issuance of a naturalisation certificate; (4) taking the **Oath of Faith** before a Registrar of a Cypriot court or a consular officer of the Republic of Cyprus; and (5) issuance of a Cypriot passport.

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<sup>75</sup> Article 111A(3) of the Civil Registry Law.

<sup>76</sup> Search at the website of the House of Representatives indicated no reference to the Scheme: <http://www.parliament.cy/easyconsole.cfm/page/search>

<sup>77</sup> Article 25 of the Maltese Citizenship Act.

<sup>78</sup> Article 25(8) of the Maltese Citizenship Act.

<sup>79</sup> Article 25B of the Maltese Citizenship Act.

<sup>80</sup> **ORiip** Fourth Annual Report.

<sup>81</sup> The preceding steps on obtaining an entry visa and a permanent residence permit are covered in [Section III](#) of this Study.

Identity Malta has a checklist and guidelines for the procedure, with milestones being the **residency stage** (see residence requirement, above), **application stage** (see applications, below) and the **oath of allegiance and naturalisation**.<sup>82</sup> The residency stage consists of signing an agreement between the applicant and the concessionaire or accredited person/approved agent acting on the applicant's behalf. This is followed by an application for an **e-Residence Card**, then formal submission of the **application**. Once Identity Malta has formally accepted the application and supporting documentation, and the payment of the relevant fees (see **Table 4** Overview of administrative fees in investors' citizenship schemes, above) it issues a **Letter of Approval in Principle**. If all of the conditions are satisfied, the Minister will issue the **certificate of naturalisation** within two years, but not less than six months from the date of application.<sup>83</sup> After the applicant takes an **oath of allegiance**, the certificate of naturalisation becomes effective and is made available to the applicant. At this point, the application for a passport may also proceed.<sup>84</sup> The applicant must be physically present in Malta to take the oath of allegiance.

### *Applications: formal requirements*

In all three Member States the application is a **standardised form**.<sup>85</sup> In Bulgaria it must be **submitted** by the applicant **in person** with the competent authority. Meanwhile, in Cyprus the application can be submitted by the applicant or by an agent and in Malta, this is done only through Approved Agents (or the concessionaire) (see '*Competent authorities and non-public bodies*' above), meaning there is no need for the applicant to submit the application in person.<sup>86</sup>

Malta<sup>87</sup> has three different forms, depending on the applicant:

- Form N is for main applicants,<sup>88</sup>
- Form O for the spouse or other adult dependants,<sup>89</sup> and
- Form P is for the main applicant or his or her spouse on behalf of a minor child, or a legal guardian of a child.<sup>90</sup>

### *Family members' applications*

In all three Member States, the spouse, minor and unmarried adult children<sup>91</sup> are considered family members for the purposes of family reunification under the corresponding investors' citizenship programme.

Regarding **unmarried adult children**:

- In Bulgaria, this means children over 18 years of age who, for serious **health** reasons, require personal care from the foreign investor or who, for such reasons, are objectively unable to provide their own support.

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<sup>82</sup> Malta IIP Checklist and Guidelines.

<sup>83</sup> Regulation 7(9) of LN 47/2014.

<sup>84</sup> Regulation 7(11) of LN 47/2014.

<sup>85</sup> **Bulgaria**: template in Appendix 2 of the **Ordinance on the terms and conditions for issuing visas and determination of visa regime** (Promulgated in State Gazette, Issue No 55, dated 19 July 2011, effective as of 4 August 2011 as subsequently amended and supplemented). Application form in English is available at [Sample form application](#) (EN); Application form (in Bulgarian) is available at [Sample form application \(BG\)](#). **Cyprus**: form M127.

<sup>86</sup> Information confirmed through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

<sup>87</sup> Article 10(9)(b) of the Maltese Citizenship Act.

<sup>88</sup> Available at <http://iip.gov.mt/wp-content/uploads/2014/01/Form-N-Main-Applicant.pdf>.

<sup>89</sup> Available at <http://iip.gov.mt/wp-content/uploads/2014/01/Form-O.pdf>.

<sup>90</sup> Available at <http://iip.gov.mt/wp-content/uploads/2014/01/Form-P-Minor-Dependent1.pdf>.

<sup>91</sup> Regardless of whether it is the child of one or both spouses/partners and including adopted children.

- In Cyprus, it refers to financially dependent adult children:
  - a) Students up to the age of 28 that are attending an institution of higher education aiming to obtain a diploma or an undergraduate or a master's degree. The Decision excludes individuals who are studying for the acquisition of a professional qualification (e.g. chartered accountant or barrister).
  - b) Children with severe physical or mental disability that renders them unable to work.
- In Malta, this comprises:
  - a) Children of the main applicant or his/her spouse, who are aged between 18 and 26, and who prove to the Minister's satisfaction that they are wholly maintained by the main applicant.
  - b) Physically or mentally challenged children of the main applicant or his/her spouse, who are at least 18 years of age and who live with, and are fully supported by, the main applicant. Such a person must have the capacity to take an oath of allegiance.

In Malta and Cyprus, the **parents of the applicant** also qualify as family members. In Malta, the legislation covers both the parents of the main applicant and those of his/her spouse, who are above 55 years of age, while, in Cyprus, the legislation only refers to the parents of the applicant him/herself. The Maltese scheme also covers the **grandparents** of the main applicant or his/her spouse, who prove to the Minister's satisfaction that they are wholly maintained or supported by the main applicant and thus form part of the main applicant's household.

While in Cyprus and Malta an additional financial disbursement is required when the foreign investor applies with a family member (see **Table 3** and **Table 4**), Bulgaria **requires no separate or additional disbursement**.

In Cyprus, in order to be eligible for naturalisation, family members of foreign investors must hold a residence permit. If the application for naturalisation is rejected for any reason, the residence permit of the family member will be **cancelled** immediately. This is assumed to also be the case in Bulgaria and Malta.

Concerning the interrelationship between foreign investors' naturalisation and their family members' naturalisation, in Bulgaria, if one of the spouses is deprived of their citizenship due to legal causes (see [ex-post checks](#), above), this does not invalidate the naturalisation of the other spouse and children, unless they, too, received Bulgarian citizenship on the basis of the same false or concealed data or facts that justified the citizenship of the investor being revoked. It is assumed that the situation is the same in the Cypriot and Maltese schemes, as the naturalisation status of the family members is independent from that of the foreign investor.

### ***Duration of the application process***

The duration of the application process varies across Member States. In Bulgaria, the Council of Citizenship must reach a position on whether Bulgarian citizenship is to be granted or rejected within **six months** of submission of the citizenship application and the set of accompanying documents. Likewise, the timeframe for the completion of the process in Cyprus is approximately six months.<sup>92</sup>

In Malta, the IIP Checklist and Guidelines refer to the process normally taking one year to complete. This dovetails with the legal requirement of at least twelve months of residence in Malta prior to the issuing of the certificate of naturalisation.

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<sup>92</sup> Council of Ministers' Decision 906/2018.

## ***Refusal of applications***

In all three Member States applications may be turned down if the legal requirements (including investment, prior residence, proof of not posing a threat to national security, public order and public health) are not met.

Making false statements, omitting information or not meeting requirements, and being a threat to public order, public morality, public health or national security are also general grounds for rejecting an application in all three Member States.<sup>93</sup>

In Malta, applications can also be rejected if the applicant has been denied a visa to a country with which Malta has visa-free travel arrangements and has not subsequently obtained a visa to the country that issued the denial. In addition, even if there are causes to reject the application, Identity Malta can nevertheless deem the application worthy of consideration for approval if the applicant demonstrates that there are special circumstances. In such cases, Identity Malta must issue a reasoned opinion on why the applicant should still be considered, and refer the application to the Minister, who will have the sole authority to grant such approval.<sup>94</sup>

## ***Legal remedies***

The refusal of applications can only be appealed in Cyprus and Malta. In Bulgaria, the final decision comes from the President and thus cannot be appealed.

In Malta, complaints can be lodged with the Regulator of the IIP<sup>95</sup> or with the Ombudsman<sup>96</sup> (general complaints against administrative authorities). In Cyprus, decisions on the granting of citizenship to foreign investors can be challenged under the General Principles of Administrative Law of 1999.<sup>97</sup> Under this Law, an appeal can first be lodged with the authority that rejected the application, i.e. the Ministry of Interior. However, applicants may also appeal directly to the administrative court, which is also competent where applicants are not satisfied with the decision of the Ministry of Interior on appeal.

The Fourth Annual Report on the IIP Programme of the Government of Malta, published in November 2017, indicated that there were two ongoing cases against Identity Malta in relation to the IIP: case No. 144/2016 (*Mifsud Cedric L-Avukat Dr Noe v L-Agenzija Identity Malta Et*) and case No. 834/2016 (*Schembri Alexander L-Avukat Dottor Noe v L-Agenzija Identity Malta Et*).<sup>98</sup> The first case concerned a failed IIP application by a Russian millionaire, Yury Sergeevich Danilov, who challenged the decision of Identity Malta on grounds of the agency's failure to provide him with an explanation for rejecting his application.<sup>99</sup> The details of the second case have not been released.

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<sup>93</sup> For example, in Malta, Regulation 4(8) of LN 47/2014 provides that making a false statement or omitting information requested are reasons to reject the application. Identity Malta confirmed that if formal requirements are not met (e.g. forms are not properly completed, dated and signed and accompanied by all required documents) the application will also be turned down.

<sup>94</sup> Regulation 6 of the Maltese Citizenship Act.

<sup>95</sup> Article 25A of the Maltese Citizenship Act.

<sup>96</sup> Malta Ombudsman website, available at <https://www.ombudsman.org.mt>.

<sup>97</sup> General Principles of Administrative Law.

<sup>98</sup> Office of the Regulator Individual Investor Programme (ORIIP), Fourth Annual Report on the Individual Investor Programme of the Government of Malta (1st July 2016 – 30th June 2017), November 2017, p. 37: <https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202017.pdf>.

<sup>99</sup> Times of Malta, 'Russian millionaire sues Malta after failing passport test', 8 July 2016: <https://www.timesofmalta.com/articles/view/20160708/local/russian-millionaire-sues-malta-after-failing-passport-test.618081>

### *Cap and information on successful applicants*

Cyprus and Malta have introduced caps on the investor citizenship scheme. The Cypriot Government recently decided to limit such citizenships to 700 per year, as of 2018.<sup>100</sup> In Malta, the number of successful main applicants (thus excluding dependants) is capped at 1,800 for the entire duration of the IIP.<sup>101</sup>

Bulgaria imposes no cap on the number of foreign investors that can apply for citizenship.

Statistical data on the number of successful applications is presented in [Section V](#).

The Member States operating investors' citizenship schemes have not established specific measures to ensure transparency of the decisions awarding citizenship under the schemes. In particular, neither Bulgaria nor Cyprus publish the names of third-country nationals who have been granted citizenship as a result of their investors' schemes. The **publication of names** is not required by the relevant legislation. On the other hand, Malta's IIP law contains a disclosure obligation requiring yearly publication of the names of all persons who during the previous twelve calendar months were granted Maltese citizenship by registration or naturalisation including those persons who were granted Maltese citizenship under the IIP.<sup>102</sup> The government published the list of persons naturalised as Maltese citizens between July 2013 and December 2014 in the Government Gazette of 31 July 2015 and the list covering January to December 2016 in the Government Gazette of 22 December 2017.<sup>103</sup> The published lists do not distinguish between citizenship obtained under the IIP and other routes to citizenship, such as marriage.<sup>104</sup> In addition, the lists are sorted in alphabetical order by first name meaning that it is not evident where whole families have obtained citizenship or where it is individual applicants.<sup>105</sup>

### *Cases of abuse or misuse*

As outlined earlier (see 'legal remedies' above) cases brought by investors against the decision-making authorities were identified in Malta.

There have also been some reports of abuse of the schemes in the media. In Malta, some news reports have pointed at the alleged corruption of the Prime Minister's Chief of Staff, Keith Schembri, in respect of his financial dealings with a Dubai-based company.<sup>106</sup> There was also controversy concerning Prime Minister Joseph Muscat's donations to the Puttinu Cares Foundation, allegedly transferred from the IIP

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<sup>100</sup> Council of Ministers' Decision 906/2018.

<sup>101</sup> Regulation 12 of LN 47/2014.

<sup>102</sup> Regulation 14(2) of LN 47/2014.

<sup>103</sup> The Malta Government Gazette, 31 July 2015, Government Notice 751 – Persons Naturalised/Registered as Citizens of Malta: <https://govcms.gov.mt/en/Government/Government%20Gazette/Government%20Notices/Documents/Naturalised%20list.pdf>;

The Malta Government Gazette, 22 December 2017, Government Notice 1434 – Persons Naturalised/Registered as Citizens of Malta: <http://www.gov.mt/en/Government/Government%20Gazette/Documents/12/Government%20Gazette%20-%2022nd%20December.pdf>

<sup>104</sup> Identity Malta Agency, 'Malta Individual Investor Programme Checklist and Guidelines', Version 2.0 – 2015, p. 5: <http://iip.gov.mt/wp-content/uploads/2014/02/MIIP-Checklist-and-Guidelines-V2-1.pdf>

<sup>105</sup> For further observations on this see Daphne Caruana Galizia's Running Commentary, 'Government publishes list of citizens naturalised last year', 1 August 2015: <https://daphnecaruanaGalizia.com/2015/08/government-publishes-list-of-citizens-naturalised-last-year/>.

<sup>106</sup> Malta Independent, 'First time Keith Schembri acknowledges connection between him and 17 Black', 19 April 2018, available at <http://www.independent.com.mt/articles/2018-04-19/local-news/First-time-Keith-Schembri-acknowledges-connection-between-him-and-17-Black-6736188424>.



Fund.<sup>107</sup> In Cyprus, news reported the revocation of the citizenship of Syrian President Bashar al-Assad's cousin, for reasons of public interest. Both EU and US financial sanctions were pending regarding Bashar's cousin, who had been granted Cypriot citizenship in 2011.<sup>108</sup> As regards Bulgaria, while the Study did not find any reports of abuse of its investment schemes, a report of abuse relating to other naturalisation procedures was identified.<sup>109</sup>

### 3. LEGAL AND POLICY CHANGES

Amendments to the investors' citizenship scheme have already been enacted in Cyprus and are envisaged in Malta.

In Cyprus, the Council of Ministers Decision No. 84.068<sup>110</sup> was published in January 2018 and introduces the following changes, however many of these changes have, at the time of writing, yet to be implemented:

- It provides for the establishment of a **Supervisory and Control Committee**, composed of Officers of the Ministry of Interior, the Ministry of Finance and the Cyprus Investment Promotion Agency (CIPA), with the terms of reference and tasks set out in Annex 1 of the Proposal.
- Regarding **non-public bodies** involved in the procedure (all natural and legal persons who provide services related to this scheme): it sets up an **Investor Citizenship Scheme Providers Registry**, indicating the criteria to be included in such Registry, a **Code of Conduct** for such service providers, an obligation on the applicant to submit a signed declaration, as well as an obligation on the registered service provider to confirm the application of good service practice, and full information with regard to the procedures of the scheme so that the application may be submitted through a registered service provider.
- A ban on advertising the scheme in public places.

As for Malta, at a recent Global Residence and Citizenship Conference hosted by Henley & Partners, the Maltese Prime Minister stated the government's intention to renew the scheme with 'more exclusive' eligibility criteria, stating that it had a strong mandate to renew the IIP.<sup>111</sup> While the limit of 1,800 successful applications under Malta's IIP has not yet been reached, the Maltese media have reported the **possibility of extending the IIP**. Identity Malta recently held a public consultation via an open online survey with a view to updating and revising the IIP. LN 47/2014 would also need to be amended to take into account the new IIP Agency.

No legal or policy changes have been reported or are anticipated in Bulgaria.

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<sup>107</sup> Malta Today, 'PD lambast Muscat's IIP donation to Puttinu as an insult and a sham', 31 March 2018, available at [https://www.maltatoday.com.mt/news/national/85724/politicians\\_lambast\\_muscats\\_iip\\_donation\\_to\\_puttinu\\_as\\_an\\_insult\\_and\\_a\\_sham#.W2RE-zozZhE](https://www.maltatoday.com.mt/news/national/85724/politicians_lambast_muscats_iip_donation_to_puttinu_as_an_insult_and_a_sham#.W2RE-zozZhE).

<sup>108</sup> Reuters, 'Cyprus rescinds citizenship of Assad billionaire cousin', 1 June 2013, available at <https://www.reuters.com/article/us-syria-crisis-cyprus/cyprus-rescinds-citizenship-of-assad-billionaire-cousin-idUSBRE95006F20130601>.

<sup>109</sup> L'Obs, 'How does Bulgaria create false (and dangerous) European citizens' (*Comment la Bulgarie fabrique de faux (et dangereux) citoyens européens*), 25 March 2018, <https://www.nouvelobs.com/monde/20180322.OBS4008/comment-la-bulgarie-fabrique-de-faux-et-dangereux-citoyens-europeens.html>

<sup>110</sup> Council of Ministers' Decision 84.068.

<sup>111</sup> Times of Malta, 'Cash-for-passports scheme will become more exclusive' – PM', 15 November 2017, available at <https://www.timesofmalta.com/articles/view/20171115/local/cash-for-passports-scheme-will-become-more-exclusive-pm.663206>.

### III. COMPARATIVE OVERVIEW OF THE APPROACHES TO INVESTORS' RESIDENCE SCHEMES

This Section assesses and compares the 24 Member States' investors' residence schemes (BE, BG, CZ, CY, DE, EE, EL, ES, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SI, SK, UK), including the legal framework as of 30 June 2018, procedural aspects and practical implementation issues. It covers the self-employment schemes existing in Belgium and Germany insofar as they implicitly target foreign investors.

While some Member States launched their schemes in the early 2000s (EE and RO operate these schemes since 2003), other Member States have only recently set up such schemes (e.g. IT in July 2017, CZ in October 2017). These schemes were adopted to attract foreign investment and boost national economies, particularly in the context of the financial crisis and economic recession that started in 2007/2008.

Some Member States have actively pursued the objectives of attracting investors in their public policy. For example, in France, the 'French Tech Visa' was launched to facilitate the arrival and integration of qualified tech talent, including entrepreneurs, employees and investors. While all applicants must follow the general procedure for the investors' residence scheme, the 'French Tech Visa scheme' involves a pre-screening by the Ministry of Finance which issues a letter of recommendation. This is also the case in Cyprus, Malta, Spain and Italy, where specific visas and residence authorisations are set out in particular legislation to target foreign investors.

**Table 5** provides an overview of the legal framework, the year in which the schemes were launched (if applicable) and the main competent authorities (distinguishing, where applicable, between decision-making authorities and those processing the applications).

**Table 5 Overview of legal framework and competent authorities for investors' residence schemes<sup>112</sup>**

MS	Name	Legal basis	Launch date	Main CA
BE	Professional card + residence permit (see Section on <a href="#">type of permit</a> )	<ul style="list-style-type: none"> <li>■ Professional card: Act of 19 February 1965 regarding the exercise of self-employed professional activities by foreigners. The Royal Decree of 2 August 1985 implements this Act.</li> <li>■ Residence permit: Act of 15 December 1980 regarding access to the territory of Belgium, the residence and expulsion of foreigners</li> </ul>	19 February 1965 <sup>113</sup>	<ul style="list-style-type: none"> <li>■ Professional card: Office of Economic Immigration of the competent region</li> <li>■ Residence permit: Immigration Office (part of Home Affairs Federal Public Service)</li> </ul>
BG	<ul style="list-style-type: none"> <li>■ Extended Residence Permit</li> <li>■ Permanent Residence Permit</li> </ul>	Foreign Nationals Act of the Republic of Bulgaria (FNA) of 23 December 1998	2005	Migration Directorate of Mol
CY	Scheme for naturalisation of investors in Cyprus by exception	<ul style="list-style-type: none"> <li>■ Civil Registry Laws of 2002-2015 of 26 July 2002</li> <li>■ Council of Ministers Decision 292 of 13 September 2016</li> </ul>	13 September 2016	<ul style="list-style-type: none"> <li>■ Decision-making authority: Director of the Migration Department of the Mol</li> <li>■ CA to process the applications: Civil Registry and Migration Department</li> </ul>
CZ	Acquisition of Czech residency by investment	Act No 222/2017 of 31 July 2017 implemented by Government Regulation No 223/2017 and by Decree No 224/2017	15 October 2017	Department for Asylum and Migration Policy of Mol
DE	Residence of third-country nationals who want to pursue an economic activity as self-employed	Residence Act of 25 February 2008	30 July 2004	Foreigners Offices (FO) of the Länder
EE	Based on the level of investment: <sup>114</sup> <ul style="list-style-type: none"> <li>■ General scheme</li> <li>■ Sole proprietor</li> <li>■ Major investors</li> </ul>	Aliens Act of 9 December 2009	1 May 2013	Police and Border Guard Board's migration department

<sup>112</sup> The complete legal references for the legislation in this Table are provided in [Annex II](#).

<sup>113</sup> There is no specific scheme for foreign investors to apply for residence. The professional card has been functioning since 1965.

<sup>114</sup> See section on [investment requirement](#).

MS	Name	Legal basis	Launch date	Main CA
EL	Based on type of investment: <sup>115</sup> <ul style="list-style-type: none"> <li>■ Residence by investment in real estate</li> <li>■ Residence by investment which will have a positive impact on national growth</li> <li>■ Residence by 'strategic investment'</li> </ul>	Law 4251-2014 ('the Immigration Code') of 1 April 2014, supplemented by Joint Ministerial Decision 30825-2014 of 6 June 2014 (amended by Joint Ministerial Decision 68019-2015)	2013	<ul style="list-style-type: none"> <li>■ Decision-making authority: Ministry of Migration Policy</li> <li>■ Application submitted with the one-stop service of the Alien and Immigration Department at the Decentralised Authority of the Ministry</li> </ul>
ES	Residence authorisation for investors	Law 14/2013 of 27 September 2013	29 September 2013	<ul style="list-style-type: none"> <li>■ Decision-making authority: General Directorate on Migrations (DGM)</li> <li>■ CA for processing the applications: Unit of Large Undertakings and Strategic Collectives (UGE-CE)</li> </ul>
FR	Talent Passport residence permit	<ul style="list-style-type: none"> <li>■ Law of 7 March 2016 relating to the right of foreigners in France and the implementing Decree of 28 October 2016</li> <li>■ Circular 2 November 2016 on the implementation of the law on foreigners in France</li> <li>■ Circular of 22 December 2016 of the Director General for business addressed to the Regional Directorate for business, competition, consumers, labour and employment</li> </ul>	1 November 2016	<ul style="list-style-type: none"> <li>■ French consulate or diplomatic authority (long-stay visa)</li> <li>■ Prefecture (Talent Passport residence permit)</li> </ul>
HR	2 schemes: <ul style="list-style-type: none"> <li>■ Employed investors<sup>116</sup></li> <li>■ Self-employed investors<sup>117</sup></li> </ul>	Aliens Act of 28 October 2011	28 October 2011	Mol through the relevant police administration or police station

<sup>115</sup> See section on [investment requirement](#).

<sup>116</sup> Foreigners performing key business in companies, branches and representative offices.

<sup>117</sup> Foreigners who are self-employed in their own company, a company which they do not own but in which they hold over 51% of the shares, or their own craft business (e.g. locksmiths, hair stylists, carpenters, etc.).

MS	Name	Legal basis	Launch date	Main CA
HU	Between 1 January 2013 and 1 July 2016: National Residency Bond Programme: permanent residence	Act II of 2007 on the Admission and Right of Residence of TCNs	1 January 2013	Immigration and Asylum Office (regional directorates)
	Between 1 January 2013 and 31 March 2017: facilitated residency through investment	Act CCXX of 2012 on amending Act II of 2007 on the Admission and Right of Residence of TCNs		
IE	Immigrant Investor Programme (IIP)	Immigration Act 2004 (Immigrant Investor Programme) (Application for Permission) (Fee) Regulations 2007	24 January 2012	Irish Naturalisation and Immigration Service (INIS) within the Department of Justice and Equality
IT	Entry and residence of investors	Legislative Decree n. 286 of 25 July 1998	July 2017	Police Headquarters of the place of residence
LT	Based on level of investment: <ul style="list-style-type: none"> <li>■ Small investors</li> <li>■ Medium investors</li> </ul>	Law on the Legal Status of Aliens (LLSA) of 30 April 2004	30 April 2004	Migration Department of Mol
LU	Investors' residence	Law of 29 August 2008 on the freedom of movement of people and on immigration	8 March 2017	<ul style="list-style-type: none"> <li>■ Immigration Directorate of the Ministry of Foreign and European Affairs</li> <li>■ Ministry of Economy</li> <li>■ Ministry of Finance</li> </ul>
LV	Temporary residence permit	Immigration Law of 20 November 2002	2010	Office of Citizenship and Migration Affairs (OCMA)
MT	Malta Residence and Visa Programme (MRVP) <sup>118</sup>	Malta Residence and Visa Programme Regulations (LN 288/2015) of 25 August 2015 adopted under Malta's Immigration Act	25 August 2015	<ul style="list-style-type: none"> <li>■ Malta Residence and Visa Agency (MRVA): regulation and running of the MRVP</li> <li>■ Identity Malta: issuance of the residence permit</li> <li>■ Non-public bodies (Approved Agents or accredited persons licensed by Identity Malta)</li> </ul>

<sup>118</sup> Foreign investors may also benefit from a special [tax regime](#) through the Global Residence Programme (GRP). However, the GRP does not itself grant residence rights to its beneficiaries even though the programme's official title contains the word 'residence', which is misleading.

MS	Name	Legal basis	Launch date	Main CA
NL	Residence for investors	Aliens Act implemented by the Aliens Decree and the Implementation Guidelines of the Aliens Act as amended in December 2017	2013	<ul style="list-style-type: none"> <li>■ Decision-making authority: Ministry of Security and Justice</li> <li>■ Implementing authorities: Dutch Immigration and Naturalisation Service (IND), Netherlands Enterprise Agency (RVO) and Financial Intelligence Unit (FIU)</li> </ul>
PL	Temporary residence permit for conducting a business activity	Act on Aliens of 12 December 2013	12 December 2013	Voivode
PT	Investment Residence Permit (IRP) also known as 'Golden Residence Permit'	Law 23/2007 of 4 July 2007 on the Legal regime of entry, stay and removal of foreigners from the national territory (Aliens Act)	8 October 2012	Immigration and Service Borders (SEF)
RO	Temporary residence permit for commercial purposes	Government Emergency Ordinance 194/2002 on the regime of foreigners in Romania (OUG 194/2002) (Law on Foreigners)	2003	General Inspectorate for Immigration (IGI)
SI	Residence in the (economic) interest of the Republic of Slovenia	Aliens Act of 15 June 2011	28 July 2011	<ul style="list-style-type: none"> <li>■ CA for issuing residence permit: Mol</li> <li>■ CA for deciding that the national interest exists: Government of the Republic of Slovenia</li> <li>■ CA consent for admission of the application: Ministry of Economy.</li> </ul>
SK	Based on type of residence permit: <ul style="list-style-type: none"> <li>■ Temporary residence for business purposes</li> <li>■ Permanent residence in the interest of the Slovak Republic: major investors<sup>119</sup></li> </ul>	Act No. 404/2011 Coll. of 21 October 2011 on the Residence of Foreigners	1 January 2012	<ul style="list-style-type: none"> <li>■ Decision-making authority: Mol</li> <li>■ CA for processing applications: Foreign Police Department (OCP) of the Bureau of Border and Alien Police of the Presidium of the Police Force within the Mol and Slovak Agency for the Development of Investment and Trade (SARIO)</li> </ul>
UK	Tier 1 (Investor) residence scheme	Immigration Rules of 8 November 2008	2008	Home Office

<sup>119</sup> Major investors are those who received a Certificate of Major Investments (EUR 100 million, economically significant, creation of 300 jobs and the Slovak Government decides that the implementation of the project would be in the public interest) or regional investment aid.



# 1. APPLICABLE CRITERIA

## *Investment requirement*

Under investors' residence schemes, **six main types of investment are possible**, although these are not necessarily mutually exclusive, i.e. a number of Member States allow for different types of investment and their combination (BG, CY, EE EL, ES, FR, IE, IT, LV, MT, NL, PT, RO, UK):

- **Capital investment in a company and in credit/financial institutions' instruments:** In most Member States, the investment is made in a **company** (by setting up a new company or investing in an existing company or its capital) (BG, DE, EE, ES, FR, HR, IE, IT, LT, LU, LV, NL, PL, PT, RO, SK, UK) regardless of the investor's role in the company (employed vs. self-employed (BE, DE, HR), or title under which the investor participates in the company – owner, shareholder, manager). Other Member States (BG, CY, ES, IE, LU, LV, NL, PT) also allow for investment in credit or financial institutions' instruments (e.g. trust funds, investment funds).
- **Investment in immovable property:** this seems to be more common in Mediterranean countries (CY, EL, ES, MT, PT) although this type of investment is also accepted under the Irish and Latvian schemes.
- Investment in **State bonds** (BG, ES, HU, IT, LV, MT and UK).
- **Donation or endowment of an activity contributing to the public good** (IE (endowment to a public project benefiting the arts, sports, health, culture or education), IT (philanthropic donations), PT (artistic and research activities)).
- **One-time contribution to the State budget** (MT and LV).
- **Non-financial investment:** a number of Member States' investors' residence schemes require the **creation of jobs** in addition to other investments (BG, CZ, ES, FR, HR, LV, NL, PL, PT, RO), while, for some, the fact that the TCN **contributes to the economy** of the Member State can be sufficient for eligibility (BE (economic added value), BG (specific to economically disadvantaged region); CZ (in the interests of the country or a region), DE (existence of an economic interest taking into account the sector, the business concept and the regional conditions),<sup>120</sup> EL (strategic investment, not defined), ES (business project of general interest), PL (contribution to the Polish economy), SI (investment in the economic interests of Slovenia)).

Different criteria are used to assess the economic interest of the activity carried out by the TCN. The German legislation establishes criteria to determine that the investment serves economic or regional interests, i.e. the viability of the business idea on which the application is based, the foreigner's entrepreneurial experience, the level of capital investment, the effects on the employment and training situation and the contribution to innovation and research.<sup>121</sup> In Belgium, the criteria for assessing the economic added value of a professional activity are not established in the applicable legislation<sup>122</sup> but are explained on the websites of the Flemish region,<sup>123</sup> the Walloon Region<sup>124</sup> and Brussels-Capital Region.<sup>125</sup> High company capital, economic needs of the region, economic repercussions for companies in the region, creation of employment, promotion of export, and

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<sup>120</sup> Recommendation on the draft law on the implementation of the Highly Qualified Workers Directive.

<sup>121</sup> Section 21(1) of the Residence Act.

<sup>122</sup> Professional Card Act and Royal Decree of 2 August 1985.

<sup>123</sup> Flemish Work and Social Economy (*Werk en Sociale Economie*) website, 'Professional Card. General conditions', available at <https://www.werk.be/online-diensten/beroepskaarten/algemene-principes>.

<sup>124</sup> Walloon Work website, 'Professional Card', available at <http://emploi.wallonie.be/home/travailleurs-etrangers/carte-professionnelle.html>.

<sup>125</sup> Flemish Work and Social Economy (*Werk en Sociale Economie*) website, 'Professional Card for non-EU nationals', available at [http://werk-economie-emploi.brussels/nl\\_BE/carte-professionnelle-pour-ressortissants-etrangers](http://werk-economie-emploi.brussels/nl_BE/carte-professionnelle-pour-ressortissants-etrangers).

undertaking innovative or specialised activities, are taken into account.<sup>126</sup> The applicant may also prove the importance of the project for the region in social, cultural, artistic or sports terms. In Slovenia, however, the competent authority has full discretion in determining whether such an economic interest exists.

Regarding the **financial threshold** of the investment, most Member States have different financial thresholds that apply depending on the nature of the investment (BG, CY, EL, ES, IE, IT, LV, MT, PT and RO) or the type of investor (EE (general scheme, sole proprietor and major investor), HR (self-employed vs. employed investors), LT (small vs. medium investors). In the remaining Member States (CZ, FR, HU, NL and UK) the financial threshold is the same, regardless of the nature of the investment.

Schemes can be categorised on the basis of the financial thresholds they apply. For Member States that implement different financial thresholds, only the minimum and maximum thresholds are taken into account. For example, in Bulgaria, the level of investment ranges from EUR 125,000 to EUR 3 million. Only these two extremes of the range are considered for the classification below:

- Member States **without a financial threshold**: on the one hand BE and DE, which, as explained in Section I, only allow for investors to be self-employed without requiring any minimum threshold; and other Member States where no financial threshold is established (EL (strategic investment), ES (business project), PL (investment in a company), SI (investment in the economic interests of Slovenia), SK (in the case of temporary residence).
- Member States which require a **very low investment (below EUR 100,000)**: EE, LT, LV.
- Member States which require a **low investment (EUR 100,000 – less than EUR 500,000)**: BG, EL, FR, IE, LT, LV, MT (if property rented), PT, RO.
- Member States which require a **medium investment (EUR 500,000 – less than EUR 1 million)**: CY, ES, LU (investment in a company) and MT (if property owned).
- Member States which require a **high investment (EUR 1 million – less than EUR 5 million)**: BG, EE, ES, IE, IT, NL, PT, RO, UK.
- Member States which require a **very high investment (over EUR 5 million)**: LU (investment as a deposit in a financial institution) and SK (in the case of permanent residence).

Once resident status has been obtained, all Member States – except Cyprus, Germany and Hungary – require that the investment be **maintained for the whole duration of the validity of the permit**. Failure to comply with this requirement will result in the permit being withdrawn and, thus, the right of residence of the foreign investor will be revoked (see [‘ex-post checks’](#) below). For example, in Latvia, an ‘annual registration’ (check) is carried out to ensure that the initial conditions under which the residence permit was first issued continue to be fulfilled, specifying the number of days’ residence and employment in Latvia. In Spain, the competent authority may carry out any checks that it considers convenient and necessary to verify that the requirements that justified the issuance of the corresponding permit continue to be fulfilled during the period of validity of the permit. The frequency of such checks is not established by law but, rather, take place at the discretion of the competent authority. If in light of the findings of such checks the competent authority concludes that the conditions are no longer met, the residence permit will be withdrawn.<sup>127</sup>

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<sup>126</sup> For applicants with the status of permanent resident in another EU Member State, the income and profile of the applicant (relevant work experience, diplomas, etc.) are assessed instead of economic added value.

<sup>127</sup> Seventh Additional Provision Law 14/2013.

**Table 6** below provides an overview of the **types of investments** required (nature and amount). The **applicable administrative fees** are then presented in **Table 7**.

**Table 6 Overview of the types of investment (nature and financial threshold) in investors' residence schemes<sup>128</sup>**

MS	Type of investment (nature of the investment)		Minimum financial threshold (amount of the investment)
BE	Self-employed professional activities		N/A
BG	Extended residence permit	Immovable property	EUR 300,000
		Company in an economically disadvantaged region <sup>129</sup>	EUR 125,000 + creation 5 full-time jobs
	Permanent residence permit	Shares of Bulgarian traded commercial companies <b>OR</b>	EUR 500,000
		Bonds and treasury bills and derivative instruments issued by the State or by municipalities with a residual maturity of no less than six months <b>OR</b>	
		Investment in a <b>Bulgarian commercial company owned</b> in more than 50% of the capital by the <b>State or by a municipal</b> participation under the Privatisation and Post-Privatisation Control Act <b>OR</b>	
		Units or shares owned by the State or municipalities in a Bulgarian commercial company under the Privatisation and Post-Privatisation Control Act <b>OR</b>	
		Investment in <b>Bulgarian intellectual property</b> (copyright, patents, trademarks, etc.) <b>OR</b>	
		Acquisition of rights under <b>concession contracts</b> <b>OR</b>	
		Investment in a licensed credit institution in Bulgaria under a <b>trustee agreement</b> for a 5-year period and not used to secure other monetary credits <b>OR</b>	
		Investment in the capital of a <b>Bulgarian company whose shares are not traded on a regulated market</b> <b>OR</b>	
Investment in a <b>Bulgarian commercial company</b> , awarded a <b>Class A, Class B,<sup>130</sup> or a priority investment project</b> <b>OR</b>	The amount of the investment depends on the type of company		
Investment in an <b>existing Bulgarian commercial company</b> where the investor is a partner or shareholder with registered shares and holds no less than 50% of the company's capital	At least EUR 250,000		

<sup>128</sup> For the purposes of this Table, the term 'investment' covers any pecuniary disbursement required as part of the process for obtaining residence under the investors' residence scheme.

<sup>129</sup> According to the Bulgarian Investment Promotion Act, economically disadvantaged regions are those where the unemployment rate is higher than the national average, or the gross per capita added value is lower than the country average.

<sup>130</sup> According to their size, investments are divided into Class A, Class B and Priority Investment Projects. The minimum thresholds for Class A and B are set out in the Rules of Implementation.

MS	Type of investment (nature of the investment)	Minimum financial threshold (amount of the investment)
CY	<b>Minimum capital</b> deposited into a Cypriot Bank for at least three years <b>AND</b>	EUR 300,000
	<b>Secure annual income AND</b>	EUR 30,000 + EUR 5,000 for each family member who applies with the investor
	Investment in <b>immovable property</b>	EUR 300,000 (excluding VAT)
	<b>TOTAL</b>	<b>EUR 630,000</b> (+ EUR 5,000 for each family member who applies with the investor)
CZ	<b>Significant investment beneficial for the Czech Republic as a whole, or for one of its regions or districts</b>	EUR 3 million (a maximum of 60% of the investment may be replaced by investment in other property on condition that the benefit of property for the applicant corresponds to the financial amount it replaces <sup>131</sup> + create at least 20 jobs <sup>132</sup> )
DE	<b>Self-employed</b> activity, which serves economic or regional interests <sup>133</sup>	N/A
EE	<b>General scheme</b> (investment in a business activity, e.g. equity capital, subordinated liability, registered amount of fixed assets)	EUR 65,000
	<b>Sole proprietor scheme</b> (normally investment in the business, e.g. equipment)	EUR 16,000
	<b>Major investor</b> (investment in a company or investment fund)	EUR 1 million
EL	<b>Real estate OR</b>	EUR 250,000
	<b>Investment with positive impact on national growth and the economy OR</b>	At least EUR 250,000 (not established in the legislation; obtained through stakeholder consultation)
	<b>Strategic investment</b>	No information on threshold in legislation nor through stakeholder consultation

<sup>131</sup> Section 1(b) of Government Regulation No 223/2017.

<sup>132</sup> Section 1(a) of Government Regulation No 223/2017.

<sup>133</sup> Section 21(1) Residence Act.

MS	Type of investment (nature of the investment)	Minimum financial threshold (amount of the investment)
ES	Spanish public debt securities <u>OR</u>	EUR 2 million
	Investment funds, close-end investment funds or venture capital funds set up in Spain <u>OR</u>	EUR 1 million
	Bank deposits in Spanish financial institutions <u>OR</u>	EUR 1 million
	Real estate <u>OR</u>	EUR 500,000 per applicant <sup>134</sup>
	Business project of general interest	<b>No financial threshold</b> Creation of jobs, relevant socioeconomic impact, relevant scientific/technological innovation
FR	Share capital <u>OR</u>	EUR 300,000
	Reinvested earnings (undistributed portion of the operating results of subsidiaries and other entities) <u>OR</u>	
	Loans between affiliates (loans between direct investors and companies in which they have invested or loans between companies of the same group)	
HR	Tangible or Self-employed investors	EUR 27,000
	Intangible assets or Employed investors	EUR 13,500
HU	Securities with a maturity of not less than 5 years	EUR 300,000
IE	Immigrant investor bonds (temporarily suspended) <u>OR</u>	EUR 1 million
	Enterprise investment (new or existing Irish businesses) <u>OR</u>	EUR 1 million for a minimum of 3 years
	Investment Fund <u>OR</u>	
	Real Estate Investment Trust (REIT) (listed company, used to hold rental investment properties) <u>OR</u>	EUR 2 million
	Mixed investment (currently temporarily suspended as of 18 July 2016) <u>OR</u>	Purchase of a residential property in Ireland with a minimum value of EUR 450,000 combined with a EUR 500,000 investment in the Immigrant Investor Bond
	Endowment to a public project benefiting the arts, sports, health, culture or education	EUR 500,000 (EUR 400,000 if investment pooled in at least five individuals)

<sup>134</sup> The reference to ‘per applicant’ in the Spanish legislation is due to the fact that the acquisition might be carried out by a married couple. Specifically, Article 63(4) Law 14/2013 provides that when the investments in, inter alia, real estate are carried out by a married couple with a common property portfolio or an analogous regime (i.e. a portfolio in which all goods belong to the couple and are not distinguished per member of the couple) and the amount of the investment does not amount at least to double the thresholds therein, it shall be deemed that the investment has been carried out by only one of the members of the couple. The other spouse, instead of applying for an investors’ residence visa, may apply for a family member visa.

MS	Type of investment (nature of the investment)	Minimum financial threshold (amount of the investment)
IT	Investment in <b>Government bonds</b> maintained for at least two years <u>OR</u>	EUR 2 million
	Investment in <b>instruments representative of the capital of a company that is operating in Italy</b> maintained for at least two years <u>OR</u>	EUR 1 million (or EUR 500,000 if in innovative start-up)
	<b>Philanthropic donation</b> in support of a project of public interest, in the areas of culture, education, management of immigration, scientific research, recovery of cultural heritage and landscape	EUR 1 million
LT	Investment in a <b>Small investor</b>	EUR 14,000
	<b>company</b> <b>Medium investor</b>	EUR 260,000
LU	Investment in a <b>company (new or existing)</b> <u>OR</u>	EUR 500,000 + 5 work positions <sup>135</sup>
	Investment in a <b>management and investment structure (new or existing) with necessary substance</b> <sup>136</sup> <u>OR</u>	EUR 3 million + 2 work positions
	<b>Deposit of funds with a financial institution</b>	EUR 20 million <sup>137</sup>
LV	<b>Contribution to the equity capital</b> of a capital company (limited liability or joint stock company) or <b>establishing a new capital company</b> <u>OR</u>	<ul style="list-style-type: none"> <li>■ EUR 50,000 to a capital company, employing no more than 50 employees, with an annual turnover/ annual balance below EUR 10 million, <u>or</u></li> <li>■ EUR 100,000 to a capital company, employing more than 50 employees and having an annual turnover/ annual balance of over EUR 10 million, <u>or</u></li> <li>■ EUR 100,000 to a company, which, together with one or more subsidiaries registered in Latvia, employs more than 50 employees, and its total annual turnover/ annual balance exceeds EUR 10 million;</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>■ One-time payment to the State budget: EUR 10,000</li> </ul>

<sup>135</sup> The investment must be kept for five years unless the acquired existing company is in difficulty and under a redundancy plan.

<sup>136</sup> 'Necessary substance' refers to the required physical and tangible installation of a business in order to operate properly. This is assessed in the context of business structures, the set-up of professional premises, the need for financial, human and technical resources, the number of employed workers (minimum two) and the contractual relationships with professionals of the financial sector. Source: Government of the Grand Duchy of Luxembourg website, 'Glossary', available at <https://guichet.public.lu/en/support/glossaire/substance-appropriee.html>.

<sup>137</sup> The investment must be kept for at least 5 years.

MS	Type of investment (nature of the investment)		Minimum financial threshold (amount of the investment)
MS	Purchase of property <u>OR</u>		EUR 250,000 <b>AND</b> One-time payment to the State budget: 5% property value
	Investment in subordinated liabilities of a credit institution <u>OR</u>		EUR 280 000 <b>AND</b> One-time payment to the State budget: EUR 25,000
	Purchase of interest-free State securities <u>OR</u>		EUR 250,000 <b>AND</b> One-time payment to the State budget: EUR 38,000
	Development of innovative products (start-ups) <u>OR</u>		EUR 90,000 (EUR 30,000 after the granting of the initial permit + EUR 60,000 within 18 months of the granting of the initial permit) No payment to the State budget
MT	Purchase <u>or</u> lease of qualifying property  <b>AND</b>	Owned property <u>OR</u>	Immovable property purchased for not less than EUR 320,000 if situated in Malta <b>or</b> for not less than EUR 270,000 if situated in the south of Malta <sup>138</sup> or in Gozo
		Rented property	Immovable property rented for not less than EUR 12,000 per annum if situated in Malta <b>or</b> not less than EUR 10,000 per annum if in the south of Malta or in Gozo
	Qualifying investment (Malta Government Bonds) <b>AND</b>		Initial value of <b>EUR 250,000</b>
	Contribution		<b>EUR 30,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse)

<sup>138</sup> Regulation 2 of LN 288/2015 defines ‘south of Malta’ as the areas within set boundaries as designated in the Second Schedule to the Local Councils Act of the localities listed in the Schedule to LN 288/2015. The Schedule to LN 288/2015 lists 23 localities in Malta for the purposes of the definition of ‘south of Malta’.



MS	Type of investment (nature of the investment)			Minimum financial threshold (amount of the investment)
	TOTAL	If property owned	in Malta	<b>EUR 600,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) or
			in South of Malta/Gozo	<b>EUR 550,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse)
		If property rented	in Malta	<b>EUR 340,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) <sup>139</sup>
			in South of Malta/Gozo	<b>EUR 330,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) <sup>140</sup>
NL	<b>Innovative Dutch company <u>OR</u></b> <b>Joint-venture capital in innovative company <u>OR</u></b> <b>Participative capital fund member of the Dutch Association of Investment Companies <u>OR</u></b> <b>Fund fitting the Dutch Seed Capital Fund Scheme as recognised by the Ministry of Economy</b>			EUR 1.25 million
PL	<b>Company</b> (carry out business activity through new or already existing company in Poland)			<b>N/A</b>
PT	<b>Capital</b> transfer to a Portuguese bank account <u>OR</u>			EUR 1 million
	<b>Immovable property <u>OR</u></b>			EUR 500,000 (or EUR 400,000 in sparsely populated territories – less 100 inhabitants per sq. km) <u>Or</u> EUR 350,000 (construction more than 30 years ago or located in urban recovery areas for refurbishing)

<sup>139</sup> Figure obtained taking into account that the property has to be rented for at least 5 years (12,000 annual rent x 5 years = EUR 60,000) + EUR 250,000 (qualifying investment) + EUR 30,000 (one-time contribution).

<sup>140</sup> Figure obtained taking into account that the property has to be rented for at least 5 years (10,000 annual rent x 5 years = EUR 50,000) + EUR 250,000 (qualifying investment) + EUR 30,000 (one-time contribution).

MS	Type of investment (nature of the investment)		Minimum financial threshold (amount of the investment)
	<b>Research activities</b> conducted by public or private scientific research institutions involved in the national scientific or technology system <u>OR</u>		EUR 350,000 (reduced to EUR 280,000 if that it is made in sparsely populated areas)
	<b>Artistic activities</b> , artistic output or supporting the arts, for reconstruction or refurbishment of national heritage, through local and central authorities, public institutions, public corporate sector, public foundations, private foundations of public interest, networked local authorities, local corporate sector organisations, local associations and public cultural associations <u>OR</u>		EUR 250,000 (reduced to EUR 200,000 provided that it is made in sparsely populated areas)
	Acquisition of <b>units of investment funds or venture capital fund</b> <u>OR</u>		EUR 350,000
	<b>Commercial society</b> (whether new or already existing) with a head office in the national territory, combined with the creation of five permanent working jobs <u>OR</u>		EUR 350,000 + 5 permanent jobs
RO	Business	<b>Temporary residence permit (TRP)</b>	In the 12 months following the issuance of the residence permit: <ul style="list-style-type: none"> <li>■ LLC – EUR 100,000+ 10 jobs</li> <li>■ Joint-stock company – EUR 150,000 + 15 jobs</li> </ul> <p><b>Waiver of requirement to prove sufficient subsistence means if:</b></p> <ul style="list-style-type: none"> <li>■ LLC – EUR 150,000+ 25 jobs</li> <li>■ Joint-stock company – EUR 200,000 + 50 jobs</li> </ul> <p><b>Extension of period of validity of the initial permit (3y instead of 1y):</b> EUR 500,000 <u>or</u> creation of 50 new jobs</p>
		<b>Permanent residence</b> (waiver of conditions of 5y continuous residence and sufficient subsistence means)	EUR 1 million or 100 new jobs
SI	<b>Economic interest of Slovenia</b>		N/A
SK	Business	<b>Temporary residence</b>	N/A
		<b>Permanent residence</b>	<b>Major investment:</b> <ul style="list-style-type: none"> <li>■ Certificate of Major Investments: <ul style="list-style-type: none"> <li>a) the funds necessary for the development of the establishment achieve not less than <b>EUR 100 million</b> of capital investments,</li> </ul> </li> </ul>

MS	Type of investment (nature of the investment)	Minimum financial threshold (amount of the investment)
		b) is economically significant or at least <b>300 new jobs</b> are created by its implementation, and c) the Slovak Government decides that the implementation of the project would be in the <b>public interest</b> , <u>OR</u> ■ applicant was <b>approved to receive regional investment aid</b>
<b>UK</b>	<b>Government bonds</b>	EUR 2,2 million <sup>141</sup> (GBP 2 million)
	<b>Share/loan capital in active and trading UK-registered companies</b>	

A further pecuniary disbursement is the payment of **administrative fees** in the application procedure to obtain a residence permit. Not all Member States charge such fees. An overview of the administrative fees is provided in **Table 7**. On the basis of the amount of the fee, the following levels can be distinguished:

- Member States with a **fee below EUR 100**: HR, IT.
- Most Member States request a fee of **between EUR 100 and EUR 250**: BG, CZ, DE, EE, ES, LT, PL, RO, SK.
- Member States with a fee of **between EUR 250 and EUR 500**: CY and FR.
- Member States with a fee of **between EUR 500 and EUR 1,000**: BE, EL.
- Member States with a fee **above EUR 1,000** (in ascending order): IE, NL, PT, UK, MT, LV.

The amount of the fee depends, in most instances, on the type of permit requested, but in some Member States it depends of the type of investment made (e.g. EL, LV) or the competent authority with which the application is filed (EE) or even the nationality of the applicant (PL).

**Table 7 Administrative fees in investors' residence schemes**

MS	Administrative fees (in EUR)				
	When submitting initial application		Issuance of permit	Renewal	Total
<b>BE</b>	<b>Professional Card</b>	EUR 140 + EUR 90/year for which it is granted (up to	N/A	N/A	<b>EUR 580</b> <sup>142</sup>

<sup>141</sup> Exchange rate as of 21 July 2018.

<sup>142</sup> Considering that the professional card is normally granted for 1 year.

MS	Administrative fees (in EUR)					
	When submitting initial application		Issuance of permit		Renewal	Total
		5 y)				
	<b>D-visa</b>	EUR 350				
<b>BG</b>	<b>Extended residence</b>	6 mo.: EUR 100	(+ EUR 75 per family member)	N/A	EUR 100	
		1 y: EUR 250				EUR 250
	<b>Permanent residence</b>	EUR 250				EUR 250
<b>CY</b>	EUR 500 (per applicant)		N/A	N/A	EUR 500	
<b>CZ</b>	EUR 60		EUR 40	EUR 100	EUR 200	
<b>DE</b>	<b>Temporary residence permit</b>	EUR 100	N/A	N/A	EUR 100	
	<b>Settlement permit</b>	EUR 124			EUR 124	
<b>EE</b>	Request at a <b>diplomatic/consular mission</b>	EUR 180	N/A	N/A	EUR 180	
	Request at the <b>Police and Border Guard Board</b>	EUR 160			EUR 160	
<b>EL</b>	<b>Real estate</b>	EUR 500	EUR 16	N/A	EUR 516	
	<b>Positive impact on national growth and economy</b>					
	<b>Strategic investment</b>	EUR 600	N/A		EUR 600	
<b>ES</b>	<b>Investors' visa</b>	EUR 60	N/A	EUR 75.60	EUR 206	
	<b>Investors' residence authorisation</b>	EUR 70.40				
<b>FR</b>	<b>Long-stay visa</b>	EUR 99	N/A	N/A	EUR 467	
	<b>Talent passport</b>	EUR 368				
<b>HR</b>	EUR 75		N/A	N/A	EUR 75	
<b>HU<sup>143</sup></b>	N/A		N/A	N/A	N/A	
<b>IE</b>	EUR 1,500		EUR 300	N/A	EUR 1,800	
<b>IT</b>	EUR 30.46		EUR 50 + EUR 16 for revenue stamp	N/A	EUR 96.46	
<b>LT</b>	General procedure	EUR 86	N/A	EUR 28	N/A	EUR 114
	Urgent procedure	EUR 172	Urgent procedure	EUR 56	EUR 228	

<sup>143</sup> The applicant had to pay a so-called 'intermediary commission' to the companies authorised to issue the bonds, signifying a net profit for such companies and not for the State. The commission ranged between EUR 45,200 – 58,100 depending on the company used by the applicant to purchase the bond. Nemzet, M., 2018, 'Bond business: Money may still flow to the intermediaries' (*Kötvénybiznisz: még mindig jöhet pénz a közvetítőknek*), available at <https://mno.hu/gazdasag/kotvenybiznisz-meg-mindig-johet-penz-a-kozvetitoknek-2450568>.

MS	Administrative fees (in EUR)					
	When submitting initial application		Issuance of permit	Renewal	Total	
LU	No information available <sup>144</sup>					
LV	Review of the application within 30 days	EUR 150	N/A	EUR 5,000 (if the investment is in real estate, business or subordinate credit liabilities)	<b>EUR 150</b> (+ EUR 5,000 (if the investment is in real estate, business or subordinate credit liabilities))	
	Review of the application within 10 days	EUR 300			<b>EUR 300</b> (+ EUR 5,000 (if the investment is in real estate, business or subordinate credit liabilities))	
	Review of the application within 5 days	EUR 450			<b>EUR 450</b> (+ EUR 5,000 (if the investment is in real estate, business or subordinate credit liabilities))	
MT	EUR 5,500 (of the EUR 30,000 contribution requirement) + EUR 5,000 per dependant		N/A	EUR 27.50	<b>EUR 5,527.50</b> + EUR 5,000 per family member + Approved Agent's fees <sup>145</sup>	
NL	EUR 2,137		N/A	N/A	<b>EUR 2,137</b>	
PL	Visa	National Schengen	N/A	N/A	N/A	<b>Ukraine and Russian citizens: EUR 135</b>
			Ukraine and Russian citizens: EUR 35			
			Other			

<sup>144</sup> This information was not retrieved for Luxembourg as no input was received from the contacted stakeholder (representative of the Ministry of Foreign Affairs, competent authority, 12 October 2018).

<sup>145</sup> These are determined by agreement between the agent and the client (applicant). Information confirmed through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

MS	Administrative fees (in EUR)				
	When submitting initial application		Issuance of permit	Renewal	Total
		nationalities: EUR 65			<b>EUR 165</b>
	TRP		EUR 100		
<b>PT</b>	EUR 517.40 + EUR 80.60 per family member		EUR 5,137.50	EUR 2,568	<b>EUR 8,222.90</b> (no family members)
<b>RO</b>	<b>Visa</b>	EUR 120	N/A	N/A	<b>EUR 175.95</b>
	<b>TRP</b>	EUR 55.95			
<b>SI</b> <sup>146</sup>	<b>N/A</b>		N/A	N/A	<b>N/A</b>
<b>SK</b>	<b>TRP</b>	EUR 232	N/A	N/A	<b>EUR 232</b>
	<b>Permanent residence</b>	EUR 165.50			<b>EUR 165.50</b>
<b>UK</b> <sup>147</sup>	Online/post	EUR 1,815.49 (GBP 1,623) (per applicant)	N/A	EUR 1,815.49 (GBP 1,623)	<b>EUR 3,630.98</b>
	In person: super premium service (up to 4 main applicants and 10 family members)	EUR 11,745.30 (GBP 10,500) + EUR 2,497.83 (GBP 2,233) per family member		N/A	<b>EUR 11,745.30</b> (supposing there are no family members)

<sup>146</sup> No administrative fees apply, as the procedure is launched ex officio by the competent authorities.

<sup>147</sup> Exchange rate as of 21 July 2018.

## *Residence authorisations issued under investors' residence schemes*

In most Member States, third-country nationals (including foreign investors) may apply for residence authorisations from abroad or once they are legally residing in the territory of the Member State. This Section describes the authorisations – irrespective of their names – under which foreign investors may enter, stay and reside in the territory of a Member State, and the rights granted by such authorisations, including the right to family reunification and any authorisations granted to family members.

### Entry visa

In most Member States, an **entry visa** is required to enter the territory (BE, BG, CZ, EL, ES, FR, IE, IT, LU, NL, PL, SI, RO). Italy and Spain have specific entry visas for investors (**investor visa**<sup>148</sup> in Italy, **investors' residence visa**<sup>149</sup> in Spain). For the purposes of this Study, the term 'entry visa' is used for any type of permit or authorisation necessary for the third-country national to access the territory of the Member State concerned.

Regarding the duration of the visa, in most cases, the national reports (e.g. BG, EL, FR, LU, SI) refer only to a 'long-stay' or 'type D' visa, which entitles the holder to stay in a country for more than 90 days; the precise length is determined by national law.<sup>150</sup> Other national reports (HU, PL) call the entry visa a Schengen visa, which is for stays of no longer than 90 days.<sup>151</sup> For the few Member States for which information is available (BE, ES, NL, RO, SI, UK), this period of validity ranges between 90 days (RO, SI) and three years (NL<sup>152</sup>), with one year in Belgium and Spain.

### Entry and stay visa

In France (stays of 12 months or less), Ireland and the UK, the entry visa is the authorisation under which the foreign investor can also **reside** in the territory of the Member State, thus no residence permit is required. In France, for stays of 12 months or less, a **long-stay visa authorising residence (VLS-TS) with the specific comment Talent Passport is issued and no residence permit is required**.<sup>153</sup> In the UK, the authorisation issued is a 'Leave to Enter' (LTE) which grants the foreign investor the right to enter and stay for three years and four months.<sup>154</sup> In Ireland, the Stamp 4 in the applicant's passport grants foreign investors the right to enter and reside for two years.<sup>155</sup> For the purposes of this Study, these cases are assessed under 'residence authorisation'.

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<sup>148</sup> Article 26-bis(2) TUI.

<sup>149</sup> Article 63(1) Law 14/2013.

<sup>150</sup> EU Immigration portal, 'Do I need a long-stay visa?', available at <http://ec.europa.eu/immigration/do-i-need-a-visa/do-i-need-a-long-stay-visa-en>.

<sup>151</sup> DG HOME website, 'The Schengen Visa', available at <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/schengen-visa-en>; EU External Action, 'Visiting Europe', available at [http://eeas.europa.eu/archives/delegations/australia/documents/eu\\_travel/schengen\\_visas\\_en.pdf](http://eeas.europa.eu/archives/delegations/australia/documents/eu_travel/schengen_visas_en.pdf).

<sup>152</sup> In the Netherlands, the visa and residence permit are applied for and granted in the same procedure (single application procedure) in accordance with the Single Permit Directive. Therefore, the duration of the visa will be the same as that of the residence permit: 3 years.

<sup>153</sup> French administrative service website, 'Long-stay visa authorising residence (VL-TS) with the comment "Talent Passport"' (*Visa de long séjour valant titre de séjour (VLVLS-TS) mention passeport talent*), available at <https://www.service-public.fr/particuliers/vosdroits/F39>.

<sup>154</sup> Paragraph 245EC Immigration Rules.

<sup>155</sup> Information gathered through consultation with national stakeholder (Irish Naturalisation and Immigration Service, competent authority, 17 April 2018).



Residence authorisation

**Table 8** below provides an overview of the residence authorisation granted to foreign investors, including the requirement to be physically present in the territory of the Member State; the option to renew the authorisation (including whether there is a limit to the number of times that the renewal can be requested or not), the duration of the new authorisation and the conditions that have to be met to apply for the renewal; and the competent authority issuing the authorisation. These are discussed in more detail following the table.

**Table 8 Overview of the types of residence authorisation granted to investors under investors' residence schemes**

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
BE <sup>156</sup>	Residence card type A	1 year	√	√ (annually)	Same duration as the initial permit (1 year)	Prove that the TCN continues to exercise a self-employed activity	5 years	Municipality of place of residence
BG	Extended residence permit	<ul style="list-style-type: none"> <li>■ 6 months or</li> <li>■ 1 year</li> </ul>	x	√ (without limitation)	Up to 1 year	Initial conditions continue to be met (no need for new investment)	5 years	<ul style="list-style-type: none"> <li>■ Decision-making authority: Migration Directorate</li> <li>■ Consulted authority: State Agency for National Security</li> </ul>
	Permanent residence permit	Unlimited		N/A	N/A	N/A	N/A	
CY	Immigration permit	Unlimited	√	N/A	N/A	N/A	N/A	Civil Registry and Migration Department of the Ministry of Interior

<sup>156</sup> Together with the residence card type A, TCNs are granted a professional card for 3 years to carry out their self-employed activity. However, the permit that entitles the foreigner to reside in Belgium is the residence card, not the professional card.

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
CZ	Residence card (long-term residence permit for investment purpose)	Up to 2 years	x	√ (without limitation)	For period necessary to carry out investment and, in any case, the same as the initial period (max. 2 years)	Continue to fulfil initial conditions (no new investment required, but initial investment must be maintained)	5 years	<ul style="list-style-type: none"> <li>Decision-making authority: Ministry of Interior</li> <li>Authority consulted: opinion of the Ministry of Industry and Trade to verify that investment requirements continue to be fulfilled</li> </ul>
DE	TRP	3 years	√	x	N/A	N/A	After 3 years, apply for a settlement permit (see below)	<ul style="list-style-type: none"> <li>Decision-making authority: local Foreigners Office (FO)</li> <li>Consulted authority: Trade and Business Bodies (TBB) (e.g. chamber of commerce or professional chambers) specialised and technical advice on the business plan and on its financing</li> </ul>
	Settlement permit	Unlimited		N/A	N/A	N/A	N/A	

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
EE	TRP for enterprise	Between 5 and 10 years or less, depending on circumstances	x	√	10 years (or shorter attending to specific circumstances of the case)	Continue to fulfil initial conditions (no new investment required but alternatives are granted <sup>157</sup> )	5 years	Police and Border Guard Board (can involve other experts to evaluate whether or not requirements to issue/maintain/renew permit are fulfilled, e.g. benefits of the investment to Estonian economy)
EL <sup>158</sup>	Residence permit	The right to reside granted under the residence permit is unlimited but the permit has to be renewed every 5 years if the investment is in real estate property and positive impact on national growth and economy 10 years if it is a strategic investment	x	√ (without limitation)	Same duration as the initial permit (5 or 10 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	N/A. The right to reside granted under the residence permit is unlimited.	Directorate for Migration Policy at the Ministry of Migration Policy (but the application can also be filed with the one-stop service of the Alien and Immigration Department at the Decentralised Authority)

<sup>157</sup> See Annex I.

<sup>158</sup> Information gathered through consultation with national stakeholder (Director General for Investments, Enterprise Greece, 23 March 2018).

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
ES	Investors' residence authorisation	<ul style="list-style-type: none"> <li>■ 2 years or</li> <li>■ 6 months if the investment is in real estate and the purchase has not been formalised but a pre-contract guarantee exists</li> </ul>	√	√	5 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	<ul style="list-style-type: none"> <li>■ Decision making authority: General Directorate of Migration (DGM)</li> <li>■ Authority competent to process applications: Unit of Large Enterprises (UGE-CE)</li> </ul>
FR	Talent Passport residence permit	4 years	x	√	Same duration as the initial permit (4 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Prefecture

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
HR	Residence and work permit outside of the annual quota <sup>159</sup>	Up to 1 year	√	√	Up to 5 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	<ul style="list-style-type: none"> <li>Decision-making authority: Ministry of Interior through the police administration or station of place of residence</li> <li>Application can be submitted to diplomatic mission or consular post, or police administration or station of place of residence</li> </ul>
HU <sup>160</sup>	TRP	Up to 5 years	x	√ (without limitation)	Same duration as the initial permit (5 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Immigration and Asylum Office (validates that investment requirement continues to be met by qualifying companies <sup>161</sup> )
	Permanent	Unlimited		N/A	N/A	N/A	N/A	

<sup>159</sup> According to the latest data of the Ministry of the Interior on the status of the annual quota for stay and work permits on 6 April 2018, issued pursuant to the Decision of the Government of the Republic of Croatia (see: Ministry of the Interior, <http://stari.mup.hr/172024.aspx>), Croatia has foreseen 22,000 positions for third-country nationals. Article 76(1) of the Aliens Act lists all the categories of TCNs (including investors) to whom a stay and work permit may be issued out of the (general) annual quota (and, thus, to whom the quota is not applicable).

<sup>160</sup> Hungary operated investors' residence schemes between 1 January 2013 and 31 March 2017. **Permanent residence** was only available between 1 January 2013 and 1 July 2016 (National Residency Bond Programme) after the applicant had held a TRP for 6 months. This requirement was abolished on 1 July 2016, from which time the foreign investor could apply directly for a temporary and permanent residence permit.

<sup>161</sup> Companies authorised by the Hungarian Parliament's Committee for Economic Affairs.

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
IE	Irish Residence Permit	2 years	x	√	<ul style="list-style-type: none"> <li>■ First renewal: 3 years</li> <li>■ Second renewal: 5 years</li> </ul>	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	<ul style="list-style-type: none"> <li>■ Decision-making authority: Minister for Justice and Equality</li> <li>■ Processing of applications; Irish Naturalisation and Immigration Service (INIS)</li> </ul>
IT	Residence permit for investors	2 years	√	√	Up to 3 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Police Headquarter of place of residence
LT	TRP	<ul style="list-style-type: none"> <li>■ Small investors: 2 years</li> <li>■ Medium investors: 3 years</li> </ul>	x	√ (without limitation)	Same duration as the initial permit (2 or 3 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Migration Department (Ministry of Interior)
LU	Investors' residence permit	3 years	√	√	Same duration as the initial permit (3 years)	Continue to fulfil initial conditions (no new investment required but the fulfilment of the investment required is reassessed: the	5 years	Immigration Directorate

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
						positive opinion of the competent Ministry must be gathered again <sup>162</sup> )		
LV	TRP	<ul style="list-style-type: none"> <li>■ 5 years when the investment is in a business, real estate property, State bonds and liabilities of credit institutions</li> <li>■ 3 years when the investment is in an innovative product</li> </ul>	x	√ (without limitation)	Same duration as the initial permit (3 or 5 years)	<ul style="list-style-type: none"> <li>■ Continue to fulfil initial conditions (no new investment required) <u>BUT investors in real estate property, business and credit liabilities</u> must make a <b>one-time payment of EUR 5,000</b> to the State budget</li> <li>■ New proof investors investing in business:</li> </ul>	5 years	Office of Citizenship and Migration Affairs (OCMA)

<sup>162</sup> The Ministry of Economy is competent to assess and issue an opinion on investments in a company, while the Ministry of Finance is competent to assess and issue an opinion on investments in a management structure and on investments consisting in a deposit in a financial institution.



MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
						<p>1. <u>Investors investing at least EUR 50,000:</u>  capital company has paid at least EUR 40,000 in taxes for the previous financial year or at least EUR 3,000 a month for the first incomplete financial year;</p> <p>2. <u>Investors investing at least EUR 100,000:</u>  <u>capital company</u> has paid at least EUR 100,000 in taxes for the previous financial year, or at least EUR 8,300 a month for the first incomplete financial year</p>		

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
MT	Residence Card (permanent residence)	Right of residence is unlimited but the card has a validity of 5 years	x	√	Right of residence is unlimited but Residence Card is renewed every 5 years	N/A	N/A. The right to reside granted is unlimited.	<ul style="list-style-type: none"> <li>■ CA for MRVP: Malta Residence and Visa Agency (MRVA)</li> <li>■ CA for issuance of Residence Card: Identity Malta</li> </ul>
NL	Regular residence permit	3 years	√	√ (only once)	5 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	<ul style="list-style-type: none"> <li>■ Decision-making authority: City hall administration</li> <li>■ Validation of investment still active and meets legal conditions: Netherlands Enterprise Agency (RVO), Financial Intelligence Unit (FIU) and Immigration and Naturalisation Office (IND)</li> </ul>
PL	TRP for conducting a business activity	Minimum 3 months and up to 3 years	x	x	N/A	N/A	10 years	<ul style="list-style-type: none"> <li>■ Decision-making authority: voivode of place of residence</li> <li>■ Processing application: Department of Foreigners' Affairs of the voivode</li> <li>■ Consult consulate, security and border authorities</li> </ul>

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
PT	Investors Residence Permit, IRP	1 year	√	√ (limited to up to 3 times)	2 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	7 years	Immigration and Borders Service
RO	TRP for commercial activities	1 year 3 years if the investment exceeds EUR 500,000 or creates more than 50 jobs	x	√ (without limitation)	Same duration as the initial permit (1 or 3 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	General Inspectorate for Immigration (Ministry of Interior)
	Permanent	Unlimited but the residence card has a duration of 5 years	√	√	Right of residence is unlimited but residence card is renewed for 5 years	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	N/A	
SI	TRP	Up to 5 years	√	√	Same duration as the initial permit (up to 5 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Ministry of Interior

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
SK	Temporary residence for business purposes	Up to 3 years	√	√	Same duration as the initial permit (up to 3 years)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	5 years	Foreign Police Department of the Bureau of Border and Alien Police of the Presidium of the Police Force (within Ministry of Interior) <sup>163</sup>
	Permanent residence in the interest of the Slovak Republic	Unlimited but the residence card has a duration of 5 years	x	√	Two options: 1. Renewal after 4 years of initial permit: permanent residence for new 5 years 2. Renewal after 5 years: long-term residence (indefinite)	Continue to fulfil initial conditions (no new investment required but initial investment must be maintained)	N/A	
UK	Leave to Enter (LTE)	3 years and 4 months	x	√	Same duration as the initial permit (3 years and 4 months)	<u>Applications before 6 Nov. 2014:</u> the investor must: - Have at least GBP 1 million	<ul style="list-style-type: none"> <li>■ 5 years <b>or</b></li> <li>■ 2 years if the TCN invests GBP 10 million, <b>or</b></li> <li>■ 3 years if the amount</li> </ul>	Home Office

<sup>163</sup> In order to carry out checks, the competent authority is authorised to enter the business premises, workplace or study premises and any accommodation facilities; however, this does not apply if the inviolability of such premises is guaranteed by a special regulation (for instance at a university campus).

MS	Type of authorisation	Duration	Physical presence required	Renewal			Period after which it is possible to apply for permanent residence	Competent authority
				Possibility to renew	Duration of renewal	Conditions		
						<p>under his/her control<sup>164</sup></p> <ul style="list-style-type: none"> <li>- Of which at least GBP 750,000 (75%) invested in UK bonds within 3 months of renewal</li> </ul> <p><u>Applications on or after 6 Nov. 2014: the investor must:</u></p> <ul style="list-style-type: none"> <li>- Have at least GBP 2 million under their control<sup>165</sup> invested in UK government bonds, share capital or loan capital</li> <li>- Invested within 3 months of renewal</li> </ul>	invested is GBP 5 million	

<sup>164</sup> (1) Own money of the investor or their partner's money or (2) money loaned to the investor by a UK regulated financial institution as long as the investor has personal assets with a value of at least GBP 2 million. The two sources of funds cannot be mixed. UK Government website, 'Visas and immigration. Work visas' available at <https://www.gov.uk/tier-1-investor/extend-your-visa>.

<sup>165</sup> Own money or partners' money. UK Government website, 'Visas and immigration. Work visas' available at <https://www.gov.uk/tier-1-investor/extend-your-visa>.

√ **Yes** (physical presence required (11 MS), possibility to renew (21 MS))  
X **No** (physical presence not required (13 MS), no possibility to renew (2 MS))  
N/A **Not applicable**

In most Member States, foreign investors are granted a **temporary residence permit (TRP)**, i.e. a permit that authorises the investor to stay and live in the Member State for a limited amount of time. Different terms are used in the Member States to refer to the TRP, as indicated in **Table 8** above. For the purposes of this Section, the term TRP will be used to represent all of the different terms, to ensure consistency and coherence. In Bulgaria and Romania, for example, the terms ‘extended residence permit’ or ‘extension of the right of residence’ are used and refer to the fact that the residence right granted upon issuance of the entry visa is extended with the residence permit. Slovakian law only refers to temporary residence or permanent residence without using the term ‘permit’.<sup>166</sup>

The **period of validity** of the TRP ranges from six months to ten years:

- Six months: BG, ES (when the investment is made in real estate but the purchase is not formalised, i.e. when there is only a pre-contract with a guarantee that the purchase will take place)
- One year: HR, BE, BG, PT, HR, RO
- Two years: CZ (up to 2 years) ES, IE, IT, LT (small investors)
- Three years: DE, LT (medium investors), LU, NL and RO (if investment exceeds EUR 500,000 or creates more than 50 new jobs); and up to 3 years PL, SK and UK (leave to enter)
- Four years: FR
- Five years: EE,<sup>167</sup> EL (investment in real estate or positive impact in national growth and economy), MT, and up to 5 years (HU, SI)
- Ten years: EL (strategic investment).

Six Member States (BG, EL, ES, LT, LV and RO) have different validity periods for the residence permits, depending on the type of investment (EL, ES, LV, RO) or the type of investor (LT). In Bulgaria, the duration of the permit depends on the term of the lease, insurance, or other conditions that ensure that applicants meet the requirements for their stay in the country.

In some Member States (BG, CY, HU, MT, RO and SK), investors can apply **directly** for a **permanent residence permit**, which grants the right of residence for an unlimited period of time. In Malta, Romania and Slovakia, although the right of residence is unlimited, foreign investors must apply for a permanent residence permit, which has to be renewed every five years.<sup>168</sup>

In most Member States, permanent residence is granted after a period of residence of five years (ES, HR, IE, LU, LV, UK). This is a consequence of the transposition into national legislation of Directive 2003/109/EC (Long-Term Residence Directive)<sup>169</sup> which provides that TCNs are granted long-term resident status after they have resided legally and continuously within the territory of the Member State concerned for five years.<sup>170</sup> In some Member States, however, this period of residence is shorter as Member States may apply more favourable provisions under Article 13 of the Directive. For example, in

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<sup>166</sup> Articles 22 and 43(1)(e) (permanent) of Act No. 404/2011 Coll.

<sup>167</sup> The Estonian TRP for enterprise may be granted for 5 years and extended for up to 10 years; however, the permit may be issued for shorter periods taking into account evidence on the circumstances in which the issuance or extension of a residence permit is based or other relevant circumstances and whether there are any changes in any such circumstances.

<sup>168</sup> In Slovakia, the legislation draws a distinction between permanent residence and long-term residence. While the former grants the holder of the permit the right to reside for 5 years, the former grants that right for an indefinite period. See [Annex I](#), Executive Summary Slovakia.

<sup>169</sup> Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, available at <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0109>. United Kingdom and Ireland did not participate in the adoption of the Directive and are, thus, not bound by it (recital 25).

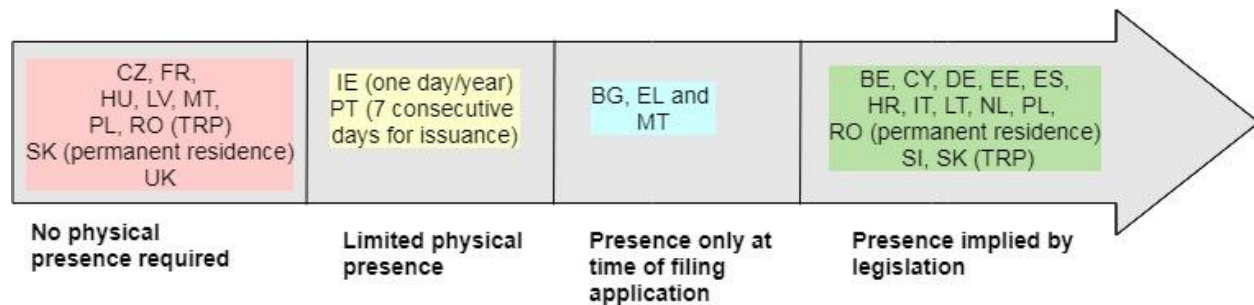
<sup>170</sup> Article 4(1) of Directive 2003/109/EC. Article 4 of the Directive also establishes which periods of residence and absence are considered to count the five years of required residence.



Germany, the issuance of the ‘permanent settlement permit’<sup>171</sup> is subject to a prior three-year residence, the foreigner having successfully carried out the planned activity and having adequate income to ensure the subsistence of the foreigner and his/her family members. In the UK, the five-year prior residence period is reduced to two years if the TCN invests GBP 10 million, or three years if the amount invested is GBP 5 million. In other Member States, the period required is longer. For example, in Portugal permanent residence can be requested after three renewals of the initial TRP (i.e. after a total of seven years of residence – one year of initial residence and three renewal periods of 2 years).

**Figure 1** shows whether or not the physical presence of the applicant is required (when filing the application for residence and after the residence permit has been issued, during the validity of the permit).<sup>172</sup>

**Figure 1 Overview of physical presence requirement in investors' residence schemes**



In a number of Member States, the **physical presence** of the investor is not required once the residence permit has been issued (CZ, FR; HU, LV, MT, PL, RO (TRP), SK (permanent residence), UK). Other Member States have legal requirements implying that the TCN would need to be physically present, such as a requirement to **have accommodation** (BG, EE, ES, IT, LU, PL, SK,) or subjecting the residence permit to **withdrawal in case of prolonged absences** (BE,<sup>173</sup> CY,<sup>174</sup> DE,<sup>175</sup> ES,<sup>176</sup> HR,<sup>177</sup> IT,<sup>178</sup> LU,<sup>179</sup>

<sup>171</sup> Section 21(4) Residence Act.

<sup>172</sup> The category ‘no physical presence required’ covers cases where the legislation is silent about the physical presence of the foreign investor (FR, LV, MT, PL, RO (TRP)), cases where the legislation explicitly does not require physical presence (HU), as well as those cases in which it can be implied from the legislation that such presence is not required (e.g. in the CZ, neither for the application nor for the renewal of the TRP does the legislation require that the TCN presents a document confirming the s/he has secured an accommodation; this is interpreted as not requiring that the TCN be physically present in the CZ; in the UK and SK (permanent residence) the TCN has to notify the authorities if the period of absence exceeds a certain period (180 days): from this requirement it can be deduced that the physical presence is not required under the indicated period).

<sup>173</sup> The TCN can leave Belgium for more than three months but less than one year, after registration at the municipality of the place of residence and receiving the Annex 18 certificate.

<sup>174</sup> The foreigner cannot be absent from the territory for more than 2 years.

<sup>175</sup> The residence title expires when the TCN has left the territory for over six months or has left the territory for a reason not of a temporary nature. The competent authority may grant a period longer than six months to leave the territory if the TCN intends to leave the territory for reasons of a temporary nature and he is in possession of a permanent settlement permit, or if his stay outside of the territory serves national interests. The permanent settlement permit of a TCN who has lawfully resided in the German territory for at least 15 years will not expire in the case of a stay abroad longer than six months or in the case of a stay abroad of a non-temporary nature, if the aforementioned person’s subsistence is secure and there is no public interest in expelling that person.

<sup>176</sup> In Spain, it is a requirement that the foreign investor not be absent from the Spanish territory for more than 6 months a year. This creates a potential loophole for investors who invest in real estate, when the authorisation is just issued for six months if the purchase has not been formalised at the time of filing the application but a pre-contract exists. In this case, the renewal can take place without the investor physically being in Spain.

NL,<sup>180</sup> RO (permanent residence<sup>181</sup>), SK (TRP<sup>182</sup>) or having to **register with the corresponding municipal register** (EE,<sup>183</sup> LU, NL).

In Ireland<sup>184</sup> and Portugal,<sup>185</sup> the required physical presence of the investor is very limited in time. In Bulgaria, Greece and Malta,<sup>186</sup> it is only required when submitting the application. In Lithuania and Slovenia, although physical presence is not expressly required by the legislation, there is a preference for those investors who intend to effectively reside in these countries. For example, in Slovenia, the suspicion that the person will not reside in Slovenia on the basis of the residence permit is one of the reasons for not granting a permit.<sup>187</sup> In Lithuania, the physical presence of the investor is not formally required for the duration of the residence permit, but the policy preference is to attract investors who are actively engaged in the business they invest/own, thus there seems to be a positive bias towards resident investors.<sup>188</sup>

The **renewal of the residence permit** (temporary or permanent when the permit has been issued for a fixed duration<sup>189</sup>) is possible in all Member States, except for Germany<sup>190</sup> and Poland<sup>191</sup>. The renewal of the residence permit is not necessary in those Member States where the permit is for **indefinite permanent residence** (BG, CY, DE settlement permit, HU and MT). However, in some Member States, although the right of residence is granted for an indefinite period of time, the authorisation validating the permanent residence must be renewed every five years (MT, RO, SK).

In most Member States the residence permit is renewed for the **same duration as the initial permit** and requires the **initial conditions under which the first permit was issued to continue to be met at the**

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<sup>177</sup> One of the reasons for withdrawing the permit is that the TCN has been abroad for more than 30 days. Exceptionally, a TCN who, for a justified reason, leaves Croatia for up to 90 days, will not have his/her temporary stay suspended if he/she has previously notified the competent police authority or police station of her/his departure. If, after leaving Croatia, extraordinary circumstances arise, a TCN must notify Croatia's diplomatic mission or consular office within 30 days of the occurrence of these circumstances.

<sup>178</sup> The applicant cannot abandon the Italian territory for a period longer than half of the period of validity of the residence permit.

<sup>179</sup> Requirement to be physically present in the territory of Luxembourg at least 6 months per year (information gathered through consultation with national stakeholder (representative of Ministry of Foreign Affairs, competent authority, 12 October 2018).

<sup>180</sup> For at least 4 months in every 12-month period.

<sup>181</sup> Not have been absent for more than 6 months at a time or 10 months in total. Once granted permanent residence: not be granted permanent residence in another country, must not be absent from the Romanian territory for more than 12 consecutive months, unless during this time he/she was a temporary resident in another EU Member State and must not be absent from Romania for more than six consecutive years, regardless of whether or not, during this time, he/she may have been a temporary resident in another EU Member State.

<sup>182</sup> As of 1 May 2018, foreigners holding a TRP have the obligation to stay in the territory of the Slovak Republic for more than half of the time period granted for a temporary stay in one calendar year. Failure to do so may result in a withdrawal of the residence permit. For permanent residence, the holder has the obligation to notify competent authority in writing in those cases where he/she will stay away from the territory of the Slovak Republic continuously for more than 180 days. If the TCN fails to inform the competent authority, a fine of up to EUR 300 may be imposed.

<sup>183</sup> Except for major investors and their family members.

<sup>184</sup> Foreign investors must spend at least one day in Ireland every year and application (initial or renewal) has to be submitted in person.

<sup>185</sup> 7 consecutive days for the issuance of the initial TRP and 14 for the renewal (whether consecutive or separate).

<sup>186</sup> To register their biometric data.

<sup>187</sup> Article 55(s)(1) of the Aliens Act.

<sup>188</sup> In Lithuania, only an active business presence for at least 6 months is required. The information on the preference for residence investors was gathered through consultation with a national stakeholder (Migration Department; competent authority on migration issues; 28 February 2018).

<sup>189</sup> In Slovakia and Romania, the permanent residence permit is issued for 5 years.

<sup>190</sup> In Germany, a TCN cannot apply for a renewal of the TRP but instead applies for a permanent residence permit – settlement permit.

<sup>191</sup> Where the foreign investor can simply apply for a new TRP.

**time of applying for the renewal** of the authorisation (BE, BG (extended residence permit), CZ,<sup>192</sup> EE,<sup>193</sup> EL, FR,<sup>194</sup> HU(TRP), LT, LU, LV, MT, RO, SI, SK<sup>195</sup> and the UK). No new investment is required, except in Romania, where the investment requirement is increased upon renewal for applicants holding a TRP:

- Associates (LLC) must make an investment of EUR 50,000 and create 10 jobs.
- Shareholders (joint-stock company) must make an investment of EUR 70,000 and create 15 jobs.

Latvia requires investors in real estate property, business and credit liabilities to make a **one-time payment of EUR 5,000** to the State budget when applying to renew their TRP. In addition, investors in business must also submit new evidence:

- Investors investing at least EUR 50,000: evidence that the capital company has paid at least EUR 40,000 in taxes for the previous financial year or at least EUR 3,000 a month for the first incomplete financial year.
- Investors investing at least EUR 100,000: evidence that the capital company has paid at least EUR 100,000 in taxes for the previous financial year, or at least EUR 8,300 a month for the first incomplete financial year.

In Estonia, in the **general investor scheme, the requirement to maintain the EUR 65,000 investment** can be waived if at least one of the following conditions is met:<sup>196</sup>

- 1) The **sales revenue** of a company is at least EUR 200,000 per year, or
- 2) The monthly **social tax** paid in Estonia for those persons employed by the company is at least equal to the monthly social tax paid in Estonia for remuneration, equalling fivefold Estonian annual average gross wages.

In Luxembourg, the foreign investor must again gather the positive opinion of the corresponding Ministry<sup>197</sup> when applying for the renewal of the permit. Therefore, even if s/he maintains the investment level (and work positions where required),<sup>198</sup> if the competent Ministry does not grant a positive assessment on the investment, the renewal will be denied.

In other Member States, the renewed residence permit is granted for a **longer period** than that of the original permit (ES,<sup>199</sup> HR,<sup>200</sup> IE,<sup>201</sup> IT,<sup>202</sup> NL<sup>203</sup>, PT<sup>204</sup>), provided that the initial requirements continue to be fulfilled.

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<sup>192</sup> For the period necessary to carry out the investment and, in any case, for the same duration as the initial permit (2 years).

<sup>193</sup> The renewed permit can be issued for a shorter period, depending on the specific conditions of the case.

<sup>194</sup> After 5 years the foreign investor may apply for a card to reside and work, valid for 10 years.

<sup>195</sup> After 5 years of holding a renewed TRP, foreign investors may apply for long-term residence (indefinite). For the renewal of the permanent residence permit (granted for 5 years), the foreign investor may decide to (a) apply for long-term residence (indefinite) after 5 years of holding permanent residence; or (b) apply, after 4 years of holding permanent residence, for another 5-year permanent residence.

<sup>196</sup> Articles 194 (1), (2), of the Aliens Act.

<sup>197</sup> The Ministry of Economy is competent to assess and issue an opinion on investments in a company, while the Ministry of Finance is competent to assess and issue an opinion on investments in a management structure and on investments consisting in a deposit in a financial institution.

<sup>198</sup> See above Table 6.

<sup>199</sup> The renewed permit is valid for 5 years instead of the initial 2 years for which the TRP was granted.

<sup>200</sup> For up to 5 years instead of the initial one year for which the TRP was granted.

<sup>201</sup> For 3 years instead of the initial 2 years for which the TRP was granted. After the permit has been renewed once, it can be renewed again and the duration of the new permit will be for 5 years.

<sup>202</sup> For up to 3 years instead of the initial 2 years for which the permit was granted.

<sup>203</sup> For 5 years instead of the 3 years for which the TRP was initially granted. After the first renewal, the foreign investor may apply for a permanent residence permit or for naturalisation.

In a number of Member States, the legislation expressly indicates that there is no limitation to the **number of times that the renewal can be requested** (BE, BG, CZ, EL, HR, LT, LV, RO (TRP)). By contrast, the Netherlands allows only one renewal, while Portugal sets a limit of three renewals.

### Residence of family members

In all Member States, family members of foreign investors can also apply for a residence permit. The family members include spouses (or legal partners) and minor children.

In a number of Member States, other relatives may also apply for a residence permit on the basis of the permit granted to the investor:

- Ascendants: CZ (if they are over 65), CY (parents and parents in-law),<sup>205</sup> EE (parents and grandparents only if they need care and the sponsor has a long-term residence permit), EL (when the investment is in real estate, all direct ascendants; and when investment has a positive impact on national growth and economy and strategic investment, the ascendants included are those within the first degree consanguinity), ES (economically dependent), HU (parents), IT (to third degree consanguinity, dependent and unable to work according to Italian law), LU (if they are dependant), MT (parent or grandparent not economically active and dependant), PT (first degree consanguinity), RO (parents) and SK (only dependent parents for TRP, no permanent residence).
- Persons under the guardianship of the investor (e.g. adults with disabilities dependant on the investor): EE, IT, LV.
- Unmarried adult children dependant on the investor: BG, PT, RO, SK (health reasons), BE (with disabilities), EE (for health or disability reasons), ES, IE, LU (health reasons), MT (not economically active and certified disabilities).
- Unmarried adult children who are not dependant: CY<sup>206</sup>
- Other relatives: CY (unmarried children aged between 18 and 25, who prove that they are students in an institution of tertiary education abroad with at least six months of remaining study period from the date of the submission of the application and, that they are financially dependent on the applicant),<sup>207</sup> DE (dependants),<sup>208</sup> HR (persons of family unit), PT (siblings), SI (the competent authority may decide to include other relatives at its discretion).

In most cases, family members are issued the **same permit as the investor** and are subject to the same procedure (BG (only extended residence permit), DE (only temporary residence), CZ, EE, EL, FR, HU, IE, LT, LV, MT, PL, UK). In some Member States, a **different kind of permit** is issued (CY, EE (spouse after 3 years), EL, ES (specific TRP), HR (temporary stay), IT (residence permit for family reasons), LU (residence permit for family member), SI (TRP), RO (long-stay visa for family reunification on the basis of which they will be issued a temporary residence permit), and SK (temporary or permanent)).

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<sup>204</sup> For 2 years instead of the initial one year for which the TRP was granted.

<sup>205</sup> Immigration permit subject to EUR 500 fee and proof of additional annual income of EUR 8,000 for every such dependant. Spouses, children and parents may not be included in their permit.

<sup>206</sup> Provided that the market value of the acquired real estate attributed to each such child is at least EUR 300,000 (excluding VAT). The added value of this policy is the limited possibility to obtain multiple immigration permits with only one investment. If children who are not financially dependent on their parents wish to apply for the immigration permit, they, too, must become property owners in Cyprus.

<sup>207</sup> Separate immigration permit subject to fee: EUR 500 and parents must prove additional annual income of EUR 5,000 per child. The permit remains valid even if the holders have exceeded the age of 25 and even if they do not remain unmarried and/or students and/or financially dependent on their parents. It is noted that their future spouses or underage children cannot be included as dependent persons on this permit.

<sup>208</sup> No definition for dependants.

All Member States require the investor to provide appropriate documentation to **prove the family link** (birth, marriage certificate, documentation proving disabilities, health condition of the dependant family member, or economic dependence). They also require that the family members do **not become a burden on their social assistance system** by requiring that the applicant has sufficient means of subsistence to cover his/her needs and those of his/her family members.

In some Member States, the permit of the investor and the family member may be requested at the same time (EE, FR, PL), while in others it is necessary that the investor has first been issued a permit and has resided in the territory of the Member State for a certain period (EL: 2 years when the investment is a strategic investment; PL: 2 years; SI: 2 years).

Only some Member States specify the **additional administrative fee** to be paid for family members applying together with the investor (BG, CY, MT and PT). In other Member States it is assumed that the fee is not affected by the applicant's family member status, but, rather, the same fee applies as that incurred by the investor (see **Table 7**). In Cyprus, the requirement for the investor to meet a certain annual income threshold is increased in light of an application for the reunification of family members.<sup>209</sup>

Some national reports specifically note that the **validity of the family member permit** is the same as that of the investor (BG, DE, EL, FR, IT, LV, PL, UK).

If the investors' permit is withdrawn, the family members' permit will **also be withdrawn** in most Member States (this is specifically noted in the BG, DE, LT, LV national reports). However, in certain cases, the spouse's permit is not withdrawn if they are separated or divorced. Similarly, family members' permits are not withdrawn when the investor dies (CY, MT, SI).

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<sup>209</sup> Separate immigration permit subject to fee: EUR 500 and parents must prove additional annual income of EUR 5,000 per child. The permit remains valid even if the holders have exceeded the age of 25 and even if they do not remain unmarried and/or students and/or financially dependent on their parents. It is noted that their future spouses or underage children cannot be included as dependent persons on this permit.

Rights granted to foreign investors

**Table 9** provides an overview of the rights granted to beneficiaries of investors' residence schemes.

**Table 9 Overview of rights granted to beneficiaries of investors' residence schemes**

MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
BE	√ (only self-employed)	N/A (self-employed)	√	√	√	√	√		Non-discrimination
BG	√ (direct access to the labour market; actively take part in their business venture; no indication of whether this is employed and/or self-employed)	√	√	√	√	√	NO		All rights granted to Bulgarian citizens with the exception of the rights and obligations for which Bulgarian citizenship is required <sup>212</sup>

<sup>210</sup> Employed/self-employed and access to labour market. For MS for which only a √ is indicated, this means that the national report does not indicate whether the investor can work as employed, self-employed or both.

<sup>211</sup> This includes access to a range of services and benefits, including social security/healthcare services and benefits, access to goods and services, social housing, etc.

<sup>212</sup> For instance, Article 32 of the Bulgarian Constitution regulating the right to privacy only refers to citizens; Article 35(2) reserves the right to return to the country only for citizens; Article 36 provides that the study and use of the Bulgarian language shall be a right and an obligation of every Bulgarian citizen; Article 41(2) reserves for citizens the right to obtain information from State bodies and agencies on any matter of legitimate interest to them which is not a State or official secret and does not affect the rights of others; the right to elect State and local authorities and vote in referenda is also reserved for citizens under Article 42, etc.

MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
CY	NO <sup>213</sup>						NO		No other rights than to enter, re-enter and stay
CZ	√	√	√	√	√	√ (family members)	√		
DE	√ (only self-employed)	N/A (self-employed)	√ (on basis of work) <sup>214</sup>	√			√		All except for the fundamental rights that the Basic Law <sup>215</sup> reserves for Germans <sup>216</sup>
EE	√ (right to work; no indication of whether this is employed and/or self-employed)		√ (except for subsistence benefits, health insurance <sup>217</sup> )			√ (family members)	√		May participate in adaptation programme

<sup>213</sup> But can hold shares in company registered in Cyprus. and the income from the dividends of such a company are not an impediment for the purposes of obtaining an immigration permit. They are not allowed to be appointed Directors or to be active and practically work at the company.

<sup>214</sup> A TCN cannot apply for a TRP or settlement permit if s/he relies on social security or social assistance for their income.

<sup>215</sup> Basic Law.

<sup>216</sup> Dietz, A., 2017, 'Foreigners and the right of asylum' (*Ausländer- und Asylrecht*), 2<sup>nd</sup> edition, Nomos, Baden-Baden, pp. 31-32.

<sup>217</sup> At application phase they must have health insurance; once they start working in Estonia the national health insurance broadens to include foreign investors as well.

MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
EL	Depending on type of investment		NO (must hold health insurance to apply)			√	√		<ul style="list-style-type: none"> <li>■ <b>Avoidance of any form of discrimination,</b> under Greek Constitution</li> <li>■ <b>Respect of fundamental rights and protection of cultural peculiarity.</b></li> </ul>
ES	√	√	√	√	√	√	√	Subject to same tax regime as Spanish citizens	<ul style="list-style-type: none"> <li>■ Right to obtain necessary documentation</li> <li>■ Participation in municipal elections</li> <li>■ Freedom of assembly and demonstration</li> </ul>
FR	√ (both)	√	√	√	√		√	√	<ul style="list-style-type: none"> <li>■ Non-discrimination</li> <li>■ Integration measures</li> </ul>
HR	√ (both)	√	√	√	√	√	NO	Right to tax benefits in same terms as Croatian citizens	
HU	√ (right to apply for a work permit)					√	√		NO equal treatment with Hungarian nationals



MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
IE	√		√			√	NO	√ (only educational expense)	
IT	√ (both)	√	√		√	√	√	√ (new resident)	Non-discrimination
LT	√		√			√	√		Non-discrimination
LU	√ (both)	√	√	√	√	√	√		
LV	√ <sup>218</sup> (both)	√	√	√	√	√	√		Equal treatment fully applicable
MT <sup>219</sup>	√ (both)						√ <sup>220</sup>	√	
NL	√ (both)	√	√	√	√	√	√		
PL	√ (both)		√ (healthcare conducting business activity)				√		<ul style="list-style-type: none"> <li>■ Repeatedly cross the border without a visa</li> <li>■ Equal before the law</li> </ul>

<sup>218</sup> The immigrant investor who has purchased real estate, invested in business, State securities or subordinate obligations of a credit institutions is entitled to perform commercial activity (also as self-employed) or to be employed **without restrictions**. For investors in start-ups, their rights to commercial activity or to be employed are **limited** to the employment or participation in the company developing the innovative product. Whether or not the activity of the investor is limited (depending on the type of investment) is specified on their residence permit.

<sup>219</sup> In Malta, the foreign investor will be entitled to those rights if s/he holds a work permit.

<sup>220</sup> While the Identity Malta website claims that the certificate also allows the beneficiary to move freely around the countries in the Schengen Area without a visa, this information is misleading, as movement is limited by the Convention implementing the Schengen Agreement to 90 days in any 180-day period and subject to conditions.

MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
PT	√ (both)	√	√	√	√	√	√	√	Access to law and courts
RO	√ <sup>221</sup>	√	√	√	√	√	NO		<ul style="list-style-type: none"> <li>■ Equal treatment</li> <li>■ Benefit from integration services</li> </ul>
SI	NO		Only urgent healthcare and social financial assistance <sup>222</sup>				√		All basic human rights and fundamental freedoms unless limited under Constitution or laws <sup>223</sup>
SK	√ (both)		√ <sup>224</sup>				√	√	Permanent residents: all fundamental rights <sup>225</sup>

<sup>221</sup> Temporary residents if employed; permanent residents always. No provisions prohibiting active involvement of the foreigner in the business in which s/he has invested. Same tax incentives for foreign and Romanian investors (principle of neutrality of the fiscal policy).

<sup>222</sup> TCNs with only a temporary residence permit, however, do not have access to public housing, unemployment benefits, social financial assistance in the case of poverty, or emergency financial assistance.

<sup>223</sup> This limitation by the Constitution or laws is frequent. According to the Parental Protection and Family Benefits Act, the right to **child benefit** is recognised for one of the parents, for a child who has a registered residence in Slovenia. Another right which is also recognised is the right of minors of up to 15 years of age to **elementary education**. Above that age, aliens who do not have a permanent residence right in Slovenia have to pay tuition fees if they enrol at university, unless there is a bilateral agreement between Slovenia and the country of nationality of the TCN that provides otherwise (i.e., the reciprocity principle).

<sup>224</sup> Right to healthcare for permanent residents or temporary residents who are employed.

<sup>225</sup> These include the right to non-discrimination, which applies in the areas of: work, education, healthcare, association and assembly, due process, participation in society, and standard of living (among others). TCNs with a permanent residence on the territory of the Slovak Republic have the right to vote and be elected in the self-administration bodies of municipalities and self-administration bodies of superior territorial units.

MS	Rights and benefits								
	Work <sup>210</sup>	Working conditions (including pay, dismissal, health and safety at work place)	Access to social and economic services and benefits <sup>211</sup>	Freedom of association/affiliation	Recognition of diplomas, professional qualifications	Education and vocational training	Travel Schengen 90 days in any 180-day period, subject to some conditions	Special tax regime	Other
UK	√ <sup>226</sup> (both)	√	√ (access to National Health Service) <sup>227</sup>	√		√	NO		

<sup>226</sup> Not as professional sportspersons or coaches, doctors or dentists in training, unless they have obtained a primary degree in medicine or dentistry at bachelor's level or higher from a UK institution that is a UK-recognised or listed body.

<sup>227</sup> Applicants are required to pay a healthcare surcharge as a condition for entry, which gives them access to the National Health Service (NHS).

Article 12(1) of the Single Permit Directive<sup>228</sup> establishes the **right to equal treatment** of TCN workers, encompassing: working conditions (pay, dismissal, health and safety at work place), freedom of association and affiliation and membership of an organisation representing workers or employees, education and vocational training, recognition of diplomas, branches of social security, access to goods and services, and access to the advice services of employment offices. Article 12(1)(f) refers to tax benefits, which are analysed separately (see ‘[tax benefits](#)’ below). Since foreign investors may have the right to work, the application of the rights recognised in Article 12(1) of the Single Permit Directive may extend to them. The national reports examined whether this was the case or not.

Some national reports (BE, EL, LT, PL) indicate that the right to non-discrimination and equal treatment of foreign investors (and all TCNs) is ensured either by the general provisions of the **Constitution** and/or specific equal treatment legislation. The Hungarian and German reports indicate that TCNs do not enjoy the same treatment as citizens of those Member States. Likewise, the Slovenian report highlights that TCNs (thus including foreign investors) enjoy all basic human rights and fundamental freedoms except where those are limited under the Constitution or the laws. However, such limitations are frequent.<sup>229</sup> Similarly, in Bulgaria, TCNs do not enjoy those rights that are constitutionally reserved for Bulgarian citizens.

On the **right to work**, foreign investors do not enjoy that right in Greece (when the investment is in real estate), Cyprus or Slovenia.<sup>230</sup> In the Czech Republic, Hungary and Malta, a **work permit** is necessary, while such a permit is not required in five Member States (BG, EE, ES, IE, NL). The national reports of the other Member States only indicate whether or not foreign investors have the right to work as employed and self-employed (EL (when the investment is positive for national growth or a strategic investment),<sup>231</sup> FR (within the activities of the investment), LT (participation in the business), LU, LV, PL (participation in the business), PT (active in the business), SK (active in business), UK). In Germany and Belgium, foreign investors can only be self-employed. In Croatia, foreign investors can be employed or self-employed.

**Access to social and employment services and benefits** is normally linked to the fact that the foreign investor works. It is therefore assumed that in all those Member States where the foreign investor can work (see above), they will have access to the ensuing rights in respect of working conditions and welfare (e.g. healthcare rights, pension rights, State aid, public housing, etc.). All Member States (except for the UK, where the applicant has to pay a surcharge which ensures his/her access to the National Health System<sup>232</sup>) require that, at the time of application, the TCN holds a valid health insurance which covers medical expenses for the duration of the stay. All Member States also require that the applicant has sufficient means of subsistence to cover the living expenses of the applicant and his/her family members. These ensure that the applicant and his/her family do not become a burden on the Member State to which they are migrating.

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<sup>228</sup> Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32011L0098>.

<sup>229</sup> According to the Parental Protection and Family Benefits Act, the right to **child benefit** is recognised for one of the parents, for a child who has a registered residence in Slovenia. Another right which is also recognised is the right of minors of up to 15 years of age to **elementary education**. Above that age, aliens who do not have a permanent residence right in Slovenia have to pay tuition fees if they enrol at university, unless there is a bilateral agreement between Slovenia and the nationality country of the TCN that provides otherwise (i.e., the reciprocity principle).

<sup>230</sup> Foreigners will only be employed if there is no suitable candidate registered in the unemployment register.

<sup>231</sup> The holders of a residence permit have access to the exercise of investment activity (as legal representative, president, board member or chief executive officer), while the executives of the investment have access to dependent employment for the needs of the investment.

<sup>232</sup> For further information, see the government webpage, available at <https://www.gov.uk/healthcare-immigration-application>.

The **right to education and vocational training** is recognised in all Member States where Article 12(1) of the Single Permit Directive applies (see above).

As to the **right to travel in the Schengen area**, this right applies in all Member States within the Schengen area (thus not in BG, CY, HR, RO, IE and UK).<sup>233</sup> TCNs that hold residence permits issued by a Schengen Member State are entitled to travel up to 90 days in any 180-day period to the other Schengen States without a visa, provided that the residence permit has been issued in the uniform format in accordance with Regulation 1030/2002 or it has been notified to the Commission and published; if the residence permit is not in a uniform format or it has not been notified, a visa is required.

#### Family members' rights

In most Member States, family members are granted the same rights as the investor (BG, CY, CZ, DE, EE, EL, ES, FR, HU, IE, LT, LV,<sup>234</sup> MT, NL, PL, PT, RO, SI, SK, UK).

However, there are a number of Member States which draw a distinction between the rights granted to the investor and those granted to family members. For the **right to work**, Belgium does not require a professional work card for a spouse who engages in self-employed activity. In Malta, the investor is entitled to work but dependants other than the spouse are not allowed to take up employment, as they would no longer benefit from the MRVP status. By contrast, in Latvia, family members have full access to the labour market and full rights to participate in business activities (including as self-employed).

The Italian legislation specifies the rights granted to family members: access to welfare services, schools and professional training, registration in employment lists, and the performance of subordinate or autonomous employment positions. Similarly, the Croatian legislation specifies that family members are granted the right to education, professional development, work and self-employment. Likewise, the Luxembourgish legislation establishes that family members have the right to education, vocational and professional training, as well as the right to employment or self-employed work.<sup>235</sup>

In some Member States, TCNs may enrol in an **integration course**, usually consisting of free-of-charge language and general culture classes (EE, IT, LT, PL, RO, SI (provided that these family members have a temporary residence permit issued for the purpose of family reunification in Slovenia)).

#### Tax benefits

Special tax benefits were identified in Ireland (only for education expenses), France, Italy, Malta, Portugal and Slovakia. The Romanian scheme originally contained a series of **fiscal facilities** for foreign investors,<sup>236</sup> which have been repealed over time; the only such facility still in place refers to the right to a full tax deduction for the **cost of advertising and publicity**.<sup>237</sup>

France's 2017 Finance Act<sup>238</sup> contains provisions to enhance the specific tax regime for foreign workers and investors. The tax incentives granted cover professional income tax (inpatriation bonus

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<sup>233</sup> DG HOME website, 'Schengen Area', available at <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen>; 'Visa policy' available at <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen>.

<sup>234</sup> Only for Article 12 Single Permit Directive.

<sup>235</sup> Article 74(2) Immigration Law.

<sup>236</sup> Exemptions from customs duties for imported goods that constitute investment in kind; exemption from customs duties for imported equipment that constitutes depreciable assets; when making a new investment, the possibility to benefit from one of two tax incentives – either a deduction of depreciation expenses from taxable income, or a deduction of 20% of the price for equipment that constitutes depreciable assets from the taxable income; recovery of annual loss.

<sup>237</sup> Article 13(d), OUG 92/1997.

<sup>238</sup> Law No. 2016-1917 on the finances for 2017.

exempted from tax), passive income (50 per cent income tax exemption) and French net wealth tax (exemptions or reductions from net wealth tax).<sup>239</sup>

In Italy, investors may benefit from the tax regime applicable to new residents holding substantial sources of income abroad, substituting that system for regular taxation on their entire income generated outside Italian territory by paying a lump sum of EUR 100,000 annually. The new regime is applicable, upon request, to anybody who is willing to move their tax residence to Italy, but only if they have not been resident in Italy for at least nine of the last ten years.<sup>240</sup>

Likewise, in Portugal, investors and their family members may qualify for the special tax regime applicable to ‘non-regular residents’ for a period of 10 consecutive years from the year of their registration as a resident in Portuguese territory.<sup>241</sup> As such, they may accrue several tax benefits, such as an exemption from taxation for foreign source income and taxation at a reduced rate of 20 per cent for dependent and independent labour income resulting from activities considered to be of ‘high added value’, such as activities of a scientific, artistic or technical nature, or through intellectual or industrial property, investment income, rental income, capital gains income or other increases in equity).<sup>242</sup>

In Malta, **MRVP beneficiaries** may benefit from special tax regimes. Taxation of MRVP beneficiaries depends on whether the individual is resident in Malta for income tax purposes. Under the Income Tax Act (Article 4), an individual is not tax resident in the country if he or she spends less than 183 days in Malta.<sup>243</sup> They are, however, deemed to be resident for tax purposes if their spouse is ordinarily resident and domiciled in Malta.

If deemed resident, the individual will be subject to tax on income and capital gains arising in Malta and on foreign income remitted to Malta. Progressive tax rates of 0 – 35 per cent apply for income over EUR 60,000 and individuals may claim relief to avoid double taxation. If the MRVP beneficiary is not tax resident in Malta, they are subject to a tax on capital gains arising in Malta at a flat rate of 35 per cent.<sup>244</sup> Capital gains under Article 5 of the Income Tax Act include gains or profits arising from: (1) any transfer of the ownership or use of real estate; (2) the sale of any right over any securities, business, goodwill, business permits, copyright, patents, trademarks and trade names and any other intellectual property; 3) a transfer of the beneficial interest in a trust.<sup>245</sup> Any foreign income remitted to Malta is taxed at a flat rate of 15%.

In addition to the MRVP, the Maltese report covers the provisions of Legal Notice 167 of 2013, the Global Residence Programme Rules (LN 167/2013).<sup>246</sup> LN 167/2013 was adopted under Malta’s Income Tax Act. It introduced the **Global Residence Programme (GRP)** that results in a **special tax status** for TCN beneficiaries. The GRP **does not in itself grant residence rights** to its beneficiaries, even though the programme’s official title contains the word ‘residence’, which is misleading.

Beneficiaries of the GRP can apply for a residence certificate under the MRVP if they satisfy the additional eligibility requirements of LN 288/2015.<sup>247</sup> Alternatively, beneficiaries of the GRP may

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<sup>239</sup> French resident households with assets in France and overseas with a net value above EUR 1,300,000 are subject to net wealth tax.

<sup>240</sup> Ministry of Economic Development, ‘Investor visa for Italy’, available at <https://investorvisa.mise.gov.it/index.php/en/home-en/special-tax-regime-for-new-residents>.

<sup>241</sup> Non-regular residents are taxable persons who have not been resident in Portuguese territory in any of the previous five years.

<sup>242</sup> Regulation (Portaria) 12/2010. This Regulation approves the table of activities with high added value.

<sup>243</sup> Income Tax Act.

<sup>244</sup> Advisory Corporate Tax, Residence Programmes in Malta: A comparative analysis: [http://act.com.mt/media/images/active/downloads/Comparative%20Analysis\\_inc.%20MRVP\\_Final.pdf](http://act.com.mt/media/images/active/downloads/Comparative%20Analysis_inc.%20MRVP_Final.pdf).

<sup>245</sup> Income Tax Act.

<sup>246</sup> LN 167/2013.

<sup>247</sup> Regulation 6(1) of LN 288/2015.

apply for a uniform residence permit under Regulation 12 of the Immigration Regulations<sup>248</sup> - subsidiary legislation issued under the Immigration Act.

GRP beneficiaries have the right to pay tax at the rate of 15 per cent (Article 56(23) of the Income Tax Act) on any income arising outside Malta in the year immediately preceding the year of assessment, which is received in Malta (including income arising outside Malta and received in Malta during the whole of the year in which the special tax status was granted). If the income cannot be charged at that rate, it will be charged as separate income at the rate of 35 cents on every euro.<sup>249</sup> In any case, the **minimum amount of tax payable** under GRP rules in respect of the income arising outside Malta must be EUR 15,000 for any year of assessment. This minimum amount is payable in full in both the year when the special tax status was granted and in the year when the individual ceases to possess the special tax status.<sup>250</sup> The return does not need to be submitted in the year in which the special tax status is granted.

In Slovakia, only permanent residents who qualify as major investors may benefit from investment aids. Financial aid is primarily given to investors in industrial production, technology centres or business services centres,<sup>251</sup> in the form of tax relief or subsidies for the purchase of tangible assets.<sup>252</sup>

Under Ireland's Immigrant Investor Programme (IIP), an investor may avail of a discount on their investment for educational expenses to which they intend to commit in Ireland. The following conditions apply:

- Investors may discount their approved investment with eligible education expenses that they commit to incur within the first five years after their permission has been granted.
- The education expenses must be for an Irish University or Institute of Technology.
- The expenses must be for an investor and/or family member who has been accepted on an academic programme in one of the above education institutions (i.e. they must have a letter of confirmation from the tertiary education institute or university that the investor and/or family member will commence a course at the beginning of the next academic year).
- The maximum discount allowable is EUR 50,000, bringing the investment down to EUR 950,000.
- Retrospective education expenses cannot be included.<sup>253</sup>

Ireland taxes non-habitual residents only for their Ireland-based income. It has a corporate tax rate of 12.5 per cent.<sup>254</sup>

## *Checks*

Checks on the applicant's background (security checks) and the origin of the funds used to make the investment are carried out in all Member States.<sup>255</sup> As explained in Section II ('Checks'), security checks cover all verification procedures (from checking the criminal records to personal interviews with the applicant or consultation with the competent authorities) on the background of applicants to determine whether they pose a threat to national security and safety, public order, public health and the international relations of the State concerned. For the checks on the origin of funds, although the Anti-

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<sup>248</sup> LN 205/2004.

<sup>249</sup> Rule 5(2) of LN 167/2013.

<sup>250</sup> Rule 5(1) of LN 167/2013.

<sup>251</sup> Article 2(1) of Act No. 57/2018 Coll.

<sup>252</sup> Article 2(1)(a) of Act No. 561/2007 Coll.

<sup>253</sup> Information obtained through consultation with national stakeholder (Irish Naturalisation and Immigration Service, competent authority, 17 April 2018); O'Grady Solicitors, 'Irish Investor and Entrepreneur Immigration Schemes', undated, p. 3, available at <http://ogradysolicitors.ie/uploads/files/articles/Irish%20Investor%20and%20Entrepreneur%20Immigration%20Schemes.pdf>.

<sup>254</sup> Džankić, J., 2018, 'Immigrant investor programmes in the European Union (EU)', *Journal of Contemporary European Studies*, pp.75-76, available at <http://www.tandfonline.com/eprint/RCamn4KukKTzWBIGqjF4/full>.

<sup>255</sup> With the exceptions cited below in respect of checks on the origin of funds.



Money Laundering Directive does not compel or encourage obliged entities to inform the competent authorities on business transactions (i.e. this obligation only exists regarding suspicious transactions), such cooperation exists in practice (see below ‘*Checks on the origin of funds*’).

#### Security checks on applicants

**Security checks on the applicant’s background** (checks on criminal records and the accuracy of the documents provided by the applicant, for example, on identification or ‘good character’) are carried out in all Member States. Regarding the validation of the information on the applicant’s background, all Member States consult the SIS, subject to the following restrictions and exceptions:<sup>256</sup>

- **Romania and Croatia**, are not yet part of the Schengen area and, thus, some restrictions remain regarding their use of Schengen-wide SIS alerts for the purposes of refusing entry into or stay in the Schengen area.
- The **UK**, which, despite operating the SIS, chose not to join the Schengen area, thus it cannot issue or access Schengen-wide alerts for refusing entry or stay into the Schengen area.
- **Ireland and Cyprus**, are not yet connected to the SIS. Ireland is carrying out preparatory activities to connect to the SIS, but, like the UK, it will not be able to issue or access Schengen-wide alerts for refusing entry or stay. Due to the border issues, Cyprus has not yet been submitted to the evaluation allowing it to join the Schengen area and as such is not yet connected to the SIS.

Although Romania does not carry out checks on the basis of the information in the SIS, the Romanian National System for Foreigners’ Records contains the records kept by the General Inspectorate for Immigration with the personal data and other information discovered in the course of its activity. It is composed of three electronic sub-systems: the Informatic System for the Management of Foreigners (*Sistemul informatic de management al străinilor*), the Online Information System (*Sistemul informatic visa on-line*), and a sub-component of the National Visa System (*Sistemului național de informații privind vizele*), limited to the information entered by the Ministry of the Interior and the Asylum Evidence System (*Sistemul de evidență a azilului*).<sup>257</sup> Applications for a long-stay visa are checked against records in the National Alert Information System (*Sistemul informatic național de semnalări*) and the Integrated Information System on Issues of Migration, Asylum and Visas (*Sistemul informatic integrat pentru managementul migrației și azilului*). In Bulgaria, the State Agency for National Security has its own classified database.<sup>258</sup>

Security checks are also carried out in view of the information in the EUROPOL and INTERPOL databases in most Member States, except for Croatia, Germany (only not INTERPOL), Hungary, Ireland, Romania and the UK. However, as explained in Section I, retrieving information on how security checks are carried out proved challenging and, thus, no information in this regard was obtained in some Member States (BE, BG, IT, LT, LV, SI, SK) or was not clear from the legislation (EL and PT).

#### Checks on the origin of the funds

**Checks on the origin of the funds** invested are carried out in all Member States where an investment takes the form of an economic disbursement. In those Member States where the investment is not in the form of an economic disbursement (BE, DE, ES (business project), PL, SI, and SK (TRP)), such checks do not apply.

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<sup>256</sup> DG HOME website, ‘Schengen Information System’, available at [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system_en).

<sup>257</sup> Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

<sup>258</sup> Information gathered through consultation with national stakeholder (representative of the Migration Directorate, competent authority, 7 March 2018).



Anti-money laundering legislation (Directive (EU) 2015/849<sup>259</sup> as transposed into the national legal framework), requires obliged entities (Article 2 of the Directive) to carry out checks on the source of funds (Articles 10-14 of the Directive).

Checks on the origin of funds include validating all documents relating to the monies used to make the investment. These will commonly include bank transfer receipts, financial statements or similar documents containing financial information on the applicant or the applicant's company, tax return reports, purchase or lease contracts or extracts from the land or property registries (when the investment is in immovable property), copies of the agreements with the credit or financial institution (e.g. copy of the agreement setting up a trust fund or an investment fund).

#### Time in the procedure at which checks are carried out

Regarding the **timing of the checks**, these are carried out normally after the application for residence has been submitted. In some Member States where the foreign investor must first apply for an [entry visa](#), these checks are carried out both at the time of applying for a visa and then when applying for the TRP, or only once. For example, in Spain, the consulate or diplomatic mission responsible for issuing the investors' residence **visa** carries out security checks on the applicant's background in cooperation with the Spanish police, while checks on the origin of funds are carried out by the consulate or diplomatic mission's Economic and Commercial Office (*Oficina Económica y Comercial*).<sup>260</sup> Such checks are again carried out by the UGE-CE when processing the application for an investors' residence authorisation.<sup>261</sup> Although the UGE-CE may draw on the conclusions reached by the consulate, it still carries out its own comprehensive checks in cooperation with the authorities competent for security (Spanish police) and for anti-money laundering (see above 'checks on the origin of funds'). Meanwhile, in Italy, checks are only carried out when applying for the investors' visa.<sup>262</sup>

#### Competent authorities and other bodies involved in the checks

In general, to carry out these checks, the **competent authorities** (see below [Section III.2](#)) will rely on other authorities with expertise on the specific checks to be carried out. For **security checks on the applicant's background**, the consulted authorities will normally be those competent for State security (such as police forces and intelligence services (e.g. BE, BG, CY, EE, ES, HR, HU, PL, PT, SK)) and for health and employment policies (to check that the applicant complies with health and, where applicable, employment requirements), as well as those competent to report on the civil status of the applicant. The authorities verifying and validating the source of funds used for the investment are usually those involved in financial transactions (e.g. Financial Intelligence Units,<sup>263</sup> banks, credit institutions, legal professionals such as lawyers and notaries, brokers and real estate agents), whether public or private, including independent professionals. For example, in the UK, there are 27 bodies appointed by the Treasury to supervise the implementation of the anti-money laundering legislation, ranging from statutory regulators to professional bodies.<sup>264</sup> These 27 supervisors were appointed after

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<sup>259</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), available at <https://eur-lex.europa.eu/legal-content/En/TXT/?uri=CELEX%3A32015L0849>.

<sup>260</sup> Articles 63 and 75 Law 14/2013.

<sup>261</sup> Articles 66 and 76 Law 14/2013.

<sup>262</sup> Operative Guidelines.

<sup>263</sup> Competent authorities at Member State level to monitor and ensure the enforcement of anti-money laundering legislation.

<sup>264</sup> List of supervisors: Association of Accounting Technicians (AAT); Association of Chartered Certified Accountants (ACCA); Association of International Accountants (AIA); Association of Taxation Technicians (ATT); Chartered Institute of Management Accountants (CIMA); Chartered Institute of Legal Executives (CILEX); Chartered Institute of Taxation (CIOT); Council for Licensed Conveyancers (CLC); Department of Enterprise, Trade, and Investment Northern Ireland (DETNI); Faculty of Advocates (Scottish bar association) (FoA); Faculty Office of the Archbishop of Canterbury (AoC); Financial Conduct Authority (FCA); Gambling Commission (GC); General Council of the Bar (England and Wales) (GCBEW); General Council of the Bar of Northern Ireland (GCBNI); HM Revenue & Customs (HMRC); Insolvency

an amendment to the legislation in September 2015. Prior to such amendment, the Home Office relied on the checks carried out by banks who, at the same time, relied on the fact that the investor had a 'Leave to Enter' as evidence that the individual was suitable to open an account.<sup>265</sup>

### *Ex-post checks*

All Member States' legislation (except for Germany,<sup>266</sup> Cyprus and Hungary) provides for **ex-post checks** to verify that the conditions under which the initial permit was granted continue to exist during the validity of the residence permit in question and when applications for renewal are submitted.

**Cases of abuse or misuse** of the investors' residence schemes have been reported in Belgium, Latvia and Portugal. In Portugal, the cases relate to the abuse of the system by both the competent authorities and the beneficiaries of the scheme (foreign investors). Regarding the former, criminal proceedings were initiated in 2014 against the competent authorities and are still pending, regarding alleged corruption involving the higher levels of SEF's officials and the Minister of Home Affairs (a total of 21 defendants), on the ground of illegally facilitating the granting of IRPs to some foreign citizens.<sup>267</sup> Other allegations of corruption regarding illicit activities of the beneficiaries of the scheme were also reported in the media,<sup>268</sup> but no court proceedings have yet been launched in this regard.

The cases in Belgium and Latvia relate to the abuse of the scheme by the beneficiaries. In Belgium, the cases concern unreported work (e.g. [Council of Alien Law Litigation judgment no. 198 186 of 18 January 2018](#)) or marriages of convenience (e.g. [Council of Alien Law Litigation judgment no. 191 800 of 11 September 2017](#)). In Latvia, between 2015 and 2018, at least three criminal investigations of TCNs engaged in the foreign investors' programme were carried out.<sup>269</sup> In one case, the investor fraudulently borrowed money from a bank abroad and invested it in property in Latvia. In another case, the seller of the property declared its value to be beyond the necessary threshold for a Golden Visa, when half of the 'investment' had been refunded to the buyer.<sup>270</sup>

In the UK, concerns about money laundering and abuse of the investor Tier 1 scheme were expressed in the media and reported by Transparency International,<sup>271</sup> particularly between 2008 and 2015, i.e. before more stringent checks were introduced (including the 2015 requirement to open a UK bank account).

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Practitioners Association (IPA); Insolvency Service (SoS); Institute of Certified Bookkeepers (ICB); Institute of Chartered Accountants in England and Wales (ICAEW); Institute of Chartered Accountants in Ireland (ICAI); Institute of Chartered Accountants of Scotland (ICAS); Institute of Financial Accountants (IFA); International Association of Book-keepers (IAB); Law Society of England and Wales (LSEW); Law Society of Northern Ireland (LSNI); and the Law Society of Scotland (LSS).

<sup>265</sup> Transparency International, April 2016, 'Paradise lost: ending the UK's role as a safe haven for corrupt individuals, their allies and assets', p. 10, available at <https://www.transparency.org.uk/publications/paradise-lost/#.W6yh2vkzaUI>. Richmond Chambers, 'Prime Minister announces review of the Tier 1 Investor Visa category', 27 March 2018, available at <https://immigrationbarrister.co.uk/prime-minister-announces-review-of-the-tier-1-investor-visa-category>.

<sup>266</sup> Only when decision is appealed.

<sup>267</sup> Attorney-General Office's communication of 17 November 2015, available at [http://www.ministeriopublico.pt/sites/default/files/documentos/pdf/nota\\_comunicacao\\_social\\_vistos\\_gold-acusacao.pdf](http://www.ministeriopublico.pt/sites/default/files/documentos/pdf/nota_comunicacao_social_vistos_gold-acusacao.pdf).

<sup>268</sup> The Guardian, 'Corrupt Brazilian tycoon among applicants for Portugal's golden visas', 18 September 2017, available at <https://www.theguardian.com/world/2017/sep/18/portugal-golden-visas-corrupt-brazilian-tycoon-among-applicants>.

<sup>269</sup> Organised Crime and Corruption Reporting Project (OCCRP), 'Latvia's Once-Golden Visas Lose their Shine — But Why?', 5 March 2018, available at <https://www.occrp.org/en/goldforvisas/latvias-once-golden-visas-lose-their-shine-but-why>.

<sup>270</sup> OCCRP, 'Latvia's Once-Golden Visas Lose their Shine — But Why?', 5 March 2018.

<sup>271</sup> Transparency International UK, 2015, 'Gold rush: Investment visas and corrupt capital flows into the UK', p. 8, available at <https://transparency.eu/wp-content/uploads/2018/02/Golden-Visas-TI-UK-Gold-Rush.pdf>, accessed in April 2018.

## 2. PROCEDURE

### *Competent authorities*

In a number of Member States, the competent authorities for investors' residence permits are part of the **Ministry of Interior** (BG, CZ, CY, EL, HU, LV, PT, SI and UK), regardless of their specific denomination (e.g. BG Migration Directorate; HU Immigration and Asylum Office; LV Office of Citizenship and Migration Affairs, OCMA; PT Immigration and Borders Service SEF). In some Member States, the competent authorities are part of **the police force**, although still within the Ministry of Interior (EE, FR, HR, IT, SK). In some Member States the competent authority is a local (DE, PL) or federal (BE) representative of the Ministry of Interior.

However, in some Member States, the competent authorities depend on another Ministry (EL: Enterprise Greece as part of the Ministry of Economy; ES: Ministry of Employment and Social Affairs; IE: Ministry of Justice and Equality; LU: Ministry of Foreign and European Affairs, NL: Ministry of Security and Justice).

In most Member States, competent authorities contact other public - or even private - authorities, in the context of verification checks, including to assess the source of funds used to fulfil the investment requirement (CZ, EE, ES, FR, IE, LU, NL, PL, SI, SK, UK) (see '[checks](#)' above).

**Non-public bodies** are not involved in the proceedings, except in Cyprus, Hungary and Malta. In Malta, applications for residence must be presented by approved agents or accredited persons<sup>272</sup> (see Section II on [competent authorities](#) involved in the Maltese investors' citizenship scheme (IIP)).

In Cyprus, foreign investors have the option to present the application for residence through an authorised representative. These non-public agents (e.g. developers' companies, law firms or accountancy firms) act as facilitators, promoting their clients' interests and providing services to prepare the application for the residence permit. The role of the agents or authorised representatives is restricted to the submission of the application and to the provision of consultancy services to the applicants and their family members.

In Hungary, under the National Residency Bond Programme, non-public bodies were also involved, as only businesses authorised by the Hungarian Parliament's Economy Committee<sup>273</sup> could issue the residency bonds, and the applicants had to purchase these bonds to obtain temporary residency by investment.<sup>274</sup>

### *Monitoring mechanisms and/or reporting obligations*

Different monitoring mechanisms were identified across the Member States operating investors' residence schemes.

Some Member States have **specific monitoring mechanisms**. For example, in Ireland, the Evaluation Committee (made up of senior managers in relevant government departments and State agencies

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<sup>272</sup> Regulation 12(1) of LN 288/2015.

<sup>273</sup> The companies that received authorisation were located in the following countries: Grand Cayman (Hungary State Special Debt Fund), Malta (Discus Holdings Ltd.), Cyprus (Migrat Immigration Asia Ltd., Innozone Holdings Limited), Hungary (Arton Capital Hungary), Russia (VolDan Investments Limited), Liechtenstein (S & Z Program Limited), and Singapore (Euro-Asia Investment Management Pte Ltd.).

<sup>274</sup> Article 28(5) of Act on the Admission and Right of Residence of Third-Country Nationals.

involved in Enterprise and Development<sup>275</sup>) convenes at least four times per year, to assess applications for residency under the IIP, and provides considerations and recommendations to the Minister for Justice and Equality on the approval or rejection of applications.<sup>276</sup> A similar Committee exists in Italy, comprising members of different ministries and other public bodies,<sup>277</sup> and in Portugal, where there is a follow-up group<sup>278</sup> to monitor the statistical evolution of the IRP and to present reports with the ‘status quo’ and appropriate recommendations.

The legislation of other Member States (ES, HU, LV) foresees a specific **reporting obligation** to oversee investors’ residence schemes. For instance, in Spain, Law 14/2013<sup>279</sup> includes an **obligation to prepare an annual report** on the **implementation of the rules on the visas and authorisations** granted to the individuals included in Article 61 of the same law (i.e. **investors**, entrepreneurs, highly qualified professionals, researchers and intra-corporate transferees). The report must be **prepared by the MESS**, further to the joint request of the Ministries of Foreign Affairs, Interior Affairs and Economy. This report will be **submitted to the Council of Ministers**. Following the evaluation in the report, the said Council can approve Instructions to establish an entry and stay procedure for **national interest economic reasons** in cases which are not already established by the Law.<sup>280</sup> To date no such Instructions have been approved. At present, only one report is publicly available: the first report drafted after the entry into force of Law 14/2013, which was issued in 2015 (the 2015 Report).<sup>281</sup> In some Member States this obligation is limited only to reporting on statistical data on applications (BG, PL and RO).

In other Member States (CY, DE, HR, IT, MT, NL, SK) there is a **general monitoring mechanism** (e.g. obligation of the Parliament to monitor the activities of public authorities or review of decisions or activities of the competent authorities by their hierarchically superior) or the competent authority has a **reporting obligation** to inform on all the activities they carry out which could indirectly result in covering investors’ residence schemes (BE,<sup>282</sup> EE, LT).

**No monitoring mechanism or reporting obligations** were identified in five Member States (CZ, EL, FR, IE, LU, SI).

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<sup>275</sup> Information gathered through consultation with national stakeholder (Irish Naturalisation and Immigration Service, competent authority, 17 April 2018). Examples of public bodies of which the members of the Evaluation Committee are also members of: the Department of Foreign Affairs and Trade, the Department of Finance, INIS, Enterprise Ireland, the Industrial Development Authority and the Department of Business, Enterprise and Innovation.

<sup>276</sup> INIS IIP Guidelines.

<sup>277</sup> The Director General for Industrial Policy, Competitiveness and Small and Medium Enterprises representing the Ministry of Economic Development and acting as the chairman of the Committee; a representative of the Ministry of the Interior; a representative of the Ministry of Foreign Affairs and International Cooperation; a representative of the Financial Intelligence Unit for Italy; a representative of the Italian Economic Police, Special Currency Police Unit; a representative of the Italian Revenue Agency; a representative of the Italian Trade Agency; If the approval application relates to philanthropic donations, the Committee also includes, as full members: a representative of the Ministry of Cultural Heritage and Activities and Tourism, if the donation relates to culture or recovery of cultural or landscape heritage; and a representative of the Ministry of Education, Universities and Research, if the sector concerned relates to education and scientific research.

<sup>278</sup> Consisting of the national Director of SEF, the Director-General for Consular Affairs and Portuguese Communities, the President of Agency for Investment and Foreign Trade of Portugal, a representative of the member of the Government responsible for culture and a representative of the member of the Government responsible for the areas of education and science.

<sup>279</sup> Eleventh Final Provision Law 14/2013.

<sup>280</sup> Eleventh Final Provision Law 14/2013

<sup>281</sup> MESS, ‘Report on the implementation on the Section on International Mobility of Law 14/2013 of 27 September on the support to entrepreneurs and their internationalisation’ (*Informe sobre la aplicación de la Sección de Movilidad Internacional de la Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización*), April 2015, available at [http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14\\_2013/documentacion/Informe\\_anual\\_de\\_la\\_Seccion\\_de\\_Movilidad\\_de\\_la\\_ley\\_14\\_2013.pdf](http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf) (2015 MESS Report).

<sup>282</sup> The Belgian Federal Migration Centre, Myria: an independent public body that examines and follows the evolution of migration movements, focusing on their nature and characteristics. It provides public authorities, civil society, and wider society with accurate information on migration movements (both inward and outward) and residence of foreign nationals. Its role is to publish demographics and studies on specific issues.

### *Applications: formal requirements*

In most Member States the application must be submitted **in person** by the applicant (BG, CY, CZ, EE, FR, HR, LT, LV, NL, PL, RO, SK), with only a number of Member States (ES, IE, PT)<sup>283</sup> allowing for the submission of the application (and supporting documents) **electronically**. In Spain, the competent authority set up a platform<sup>284</sup> through which foreign investors may, inter alia, apply for a residence permit and apply for its renewal. The application may also be submitted by a **third party** in some Member States (CY, ES, LT, MT, SK).

A number of Member States require that the applicant appear before the competent authorities for an **interview** (CY, DE,<sup>285</sup> LT, SK).

### *Duration of the procedure*<sup>286</sup>

The duration of the procedure varies between Member States, ranging from less than 30 days to 90 days:

- Member States in which the legislation requires that the procedure lasts **less than 30 days** from the submission of the application (BG (extended residence permit, 14 days; ES, 20 days; UK, 21 days).
- Member States in which the legislation requires that the procedure lasts up to **30 days** from the submission of the application (CZ, HU, LV, PL, RO (TRP)).
- Member States in which the legislation requires that the procedure lasts **60 days** from the submission of the application (BG (permanent residence permit), CY, EE, EL, IT, LT).
- Member States in which the legislation requires that the procedure lasts **90 days** from the submission of the application (NL, PT, SK<sup>287</sup>).
- Member States in which the procedure lasts more than **90 days** from the submission of the application (DE,<sup>288</sup> IE,<sup>289</sup> MT, RO (permanent residence permit)<sup>290</sup>).
- Member States for which the information is not available (BE, FR, HR, SI).

### *Refusal of the applications*

In all Member States, not meeting the legal requirements to qualify for the investors' residence schemes is a reason to refuse the applications, including, inter alia, not meeting the investment requirement and not passing the security (e.g. the applicant poses a threat to public order or State security) and due diligence checks.

**Specific grounds for refusal** relating to the source of the money invested were introduced in the UK in 2015 to address money laundering concerns. Under Paragraph 245EE(a) Immigration Rules, the immigration authority must not have reasonable grounds to believe that: the applicant is not in control

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<sup>283</sup> In Ireland, it is a requirement that the application be sent both via email and presented personally. In Portugal, the applicant can opt to apply online or personally.

<sup>284</sup> MESS website, Electronic Office of the General Directorate of Migrations, Applications on International Mobility (authorisations regulated by Law 14/2013), available at <https://expinterweb.empleo.gob.es/ley11/inicio/showTramites.action?procedimientoSel=200&proc=5>.

<sup>285</sup> At the discretion of the competent authority.

<sup>286</sup> This information was not retrieved for Luxembourg as no input was received from the contacted stakeholder (representative of the Ministry of Foreign Affairs, competent authority, 12 October 2018).

<sup>287</sup> In Slovakia, it can be reduced to 30 days: (1) in the case of **temporary residence for business purposes**, where the applicant intends to carry out an innovative project; (2) in the case of **permanent residence in the interests of the Slovak Republic**, if the TCN represents or works for a foreign investor in the Slovak Republic (a national of an OECD Member State), a TCN represents or works for a major foreign investor in the Slovak Republic, or a TCN represents or works for a so-called 'strategic service centre', but this type of residence is outside the scope of this Study.

<sup>288</sup> Not legally established. In practice, several months.

<sup>289</sup> Not legally established. In practice, between three and four months.

<sup>290</sup> Six months.



of, and at liberty to invest, the money in their application; that any of the money specified in the application has been acquired by means of conduct which is unlawful in the UK; and, where the money specified in the application has been made available by another party, the character, conduct or associations of that party are such that approval of the application would not be conducive to the public good.

General immigration grounds for refusal, such as. irregular stay in the Member State concerned due to lack of a valid permit or expiration of the permit or stay in the Member State concerned is deemed undesirable,<sup>291</sup> risk to public health, security and order, and fraud also apply in Member States, under general immigration rules.

### *Legal remedies*

In most Member States, the competent authority's decision can be **appealed**. Typically, the appeal is filed as an administrative complaint, either with the same authority that issued the decision (EE, ES, HU, NL, PL, RO, SK) and/or with their hierarchical superior (BE, BG, CZ, DE, ES, HR, LV, SI, SK). In some cases, the appeal can also be filed directly with the administrative courts.

The applicant may resort to the **judiciary**, typically the administrative courts (CY, DE, EE, EL, FR, ES, LT, LU, LV, NL, PL, PT, RO, SI, UK). In some Member States **no appeal** is possible (IE, MT).

### *Cap and information on successful applicants*

Only Estonia sets a limit on the number of residence permits that can be issued under its investors' scheme (0.1 per cent of the permanent population – around 1,300 inhabitants per year). Poland will enforce a limit as of January 2019.

Statistical data on the number of successful applications is presented in [Section V](#).

There is no legal obligation to disclose the names of successful applicants in any of the Member States nor are there any specific measures to ensure transparency of the decisions awarding residence under the schemes. In Lithuania, the Migration Department recently released anonymised data for *all* successful TRP applicants, covering December 2017 to March 2018, listed by the TRP number and indicating the migration office that issued it.<sup>292</sup> In Croatia<sup>293</sup> and Poland<sup>294</sup> the competent authorities keep records of information about applications, relevant documents and decisions taken with regards to TRP applications. Arguably, the identity of successful applicants could enter the public domain (through, for example a request for access to information). However, it could be assumed that the identity of successful applicants is safeguarded by the legislation on the protection of personal data.

## **3. LEGAL AND POLICY CHANGES**

Amendments to investors' residence schemes are envisaged in some Member States. Estonia, for example, intends **to update the regulation of the major investors' scheme** to make it **competitive** and to **harmonise the investment requirements** set in the Aliens Act for different investors.

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<sup>291</sup> Such list exists in four Member States (BG, CZ, EL and PL).

<sup>292</sup> Migration Department website, News: 'Decisions on Temporary Residence Permit of the Republic of Lithuania', available at <http://www.migracija.lt/index.php?1373576451>.

<sup>293</sup> Articles 204(1) and 205 (1) and (2) of the Aliens Act.

<sup>294</sup> Article 429 of the Act on Aliens.

Employers represented by the Estonian Chamber of Commerce have called for modifications to the investors' residence scheme, as it has not been very successful in attracting investors.<sup>295</sup>

In Lithuania, since migration policy has been focused on security,<sup>296</sup> the Lithuanian government is now processing a proposal to reorganise its migration administration system.<sup>297</sup> This change would be in place before September 2020,<sup>298</sup> leaving one central office (the Migration Department) and ten regional offices, to be in place by January 2019,<sup>299</sup> with the remit to ensure transparency and accountability.<sup>300</sup> It should also ensure that the quality of service provided to TRP applicants improves, reducing extremely long queues (four-five hours) and procedural inefficiency.<sup>301</sup> This should also help to implement some of the recommendations by the National Audit Office,<sup>302</sup> which called for a more coordinated approach to Lithuania's immigration policy, better data quality and a reduction in the burdensome bureaucracy experienced by TRP applicants.

In the UK, the Tier 1 (investors) visa is also under review to achieve better due diligence on the source of the money and increased efforts to tackle transnational criminals through a more coordinated government response.<sup>303</sup>

In Portugal, despite criticism following the 2014 corruption scandal, there is a strong will from the authorities to continue the scheme, while monitoring it through the publication of up to date statistics and the development of a procedural manual to be carefully followed.

In other Member States, no developments are foreseen. In Bulgaria, for example, the Migration Directorate considers the legal framework to be clear and complete from a legal perspective, thus no further amendments to the Foreign Nationals Act are currently being considered.<sup>304</sup>

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<sup>295</sup> Estonian Chamber of Commerce, 'The intention of drafting the Bill on Amendments to the Aliens Act and Other Acts' (*Välismaalaste seaduse ning teiste seaduste muutmise seaduse eelnõu väljatöötamise kavatsus*), 28. February 2018, available at <https://www.koda.ee/sites/default/files/content-type/content/2018-03/V%C3%A4lismaalaste%20seaduse%20muudatuste%20v%C3%A4l%20j%C3%B6t%C3%B6tamise%20kavatsus.pdf>.

<sup>296</sup> Information gathered through consultation with national stakeholder (Migration Department; competent authority on migration issues; 28 February 2018).

<sup>297</sup> MIGRIS based on the Finnish model.

<sup>298</sup> Information gathered through consultation with national stakeholder (Migration Department; competent authority on migration issues; 28 February 2018). See also Migration Department - News 'Improvement of Migration Services Quality - Lithuanian Migration Information System (*Migracijos Paslaugų Kokybei Gerinti – Lietuvos Migracijos Informacinė Sistema*)', available at <http://www.migracija.lt/index.php?680995707>.

<sup>299</sup> Ministry of the Interior, Proposal for Restructuring and Consolidation of Migration Functions (*Siūloma migracijos funkcijų pertvarka ir konsolidavimas*), available at <https://vrm.lrv.lt/lt/naujienos/siuloma-migracijos-funkciju-pertvarka-ir-konsolidavimas>.

<sup>300</sup> Pabiržis, D., March 2018, for vz.lt, 'The Government supports the reform of the migration system' (*Vyriausybė pritaria migracijos sistemos reformai*), available at <https://www.vz.lt/verslo-aplinka/2018/03/21/vyriausybe-pritaria-migracijos-sistemos-reformai>.

<sup>301</sup> Ibid.

<sup>302</sup> National Audit Office of Lithuania, 'Preliminary Findings: Administration of Immigration Processes' (*Išankstinio Tyrimo Ataskaita: Migracijos Procesų Valdymas*).

<sup>303</sup> See transcript of Parliament debates, 19 March 2018, Volume 638, available at <https://hansard.parliament.uk/commons/2018-03-19/debates/DF041D5B-2B02-4CBA-A173-6A04D2475476/MoneyLaundering>. Transparency International website, available at <http://www.transparency.org.uk/the-new-anti-money-laundering-action-plan-good-if-it-works/#.Wv739Gfr2Ag>, accessed April 2018.

<sup>304</sup> Information gathered through consultation with national stakeholder (Migration Directorate, competent authority, 15 May 2018).

## IV. INTERRELATIONSHIP BETWEEN INVESTORS' SCHEMES AND NATURALISATION

### 1. INVESTORS' CITIZENSHIP SCHEMES AND OTHER FORMS OF NATURALISATION

As explained in [Section I](#), there is a plethora of naturalisation mechanisms that a State can apply to admit foreigners to become its citizens. Those relevant to the acquisition of citizenship in exchange for investment include legal provisions for the discretionary naturalisation on the grounds of national interest or discretionary facilitated naturalisation on the grounds of national interest. In these two cases, States have the prerogative to: a) equalise investment to be 'national interest' or 'exceptional contribution'; and b) fully waive all or alleviate some of the conditions in view of the investment made in the country. These naturalisation mechanisms remain based on the State's discretion and are normally contained in a single legal provision, which gives authorities the prerogative to decide on whether to articulate 'national interest' in terms of sports, art, economy, or exceptional services. Only four Member States define this national interest specifically as 'economic', but in principle all such discretionary provisions could be used to naturalise investors.

Specific investor citizenship schemes are broadly based on the discretionary powers of the State. They are programmes specifying which naturalisation criteria apply in view of the investment made in the country in question. As such, even though rooted in the State's prerogative on deciding who its citizens are, these programmes leave States a low margin of discretion in deciding on an ad hoc basis on what kind of investment constitutes national interest.

This difference becomes clearer if naturalisation criteria used by Bulgaria, Cyprus and Malta (**Table 10**) are compared in cases of: a) ordinary (residence-based) naturalisation; b) discretionary naturalisation on the grounds of national interest; and c) investor citizenship schemes.



**Table 10 Overview of applicable criteria to obtain citizenship through ordinary naturalisation, discretionary naturalisation and investors' citizenship schemes (BG, CY and MT)**

MS		Applicable criteria to obtain citizenship						Other
		Residence <sup>305</sup>	Clean criminal record	Sufficient means of subsistence	Language and civic knowledge	Renunciation of prior citizenship	Oath of allegiance	
BG <sup>306</sup>	Ordinary naturalisation	√ (effective residence for 5 years)	√	√	√	√	√	Certificate of no acute diseases or mental illness
	Discretionary naturalisation		√*					As above
	Investors' citizenship scheme	√** (formal: only holding a residence permit)	√	√				Investment
CY	Ordinary naturalisation	√ (effective residence of 5 years within a period of 7 years immediately before the application)	√				√	Adult of full capacity <sup>307</sup>
	Discretionary naturalisation		√*					
	Investors' citizenship scheme	√** (formal residence: only holding a residence permit)	√	√			√	Investment

<sup>305</sup> As explained in Section I of this Study, residence can be effective (entailing the physical presence of the TCN for the whole or a significant duration of the required period of residence) or formal (not requiring such physical presence, but only carrying out an administrative act or holding the corresponding residence permit).

<sup>306</sup> Discretionary **facilitated** naturalisation also exists in Bulgaria whereby citizenship is granted if the following requirements are met: 1 year of residence, clean criminal record and certificate that the applicant does not suffer from acute diseases or mental illness.

<sup>307</sup> A person who has reached the age of eighteen years on his birthday, and with full (legal) capacity, if he does not suffer from a mental disorder of such type and degree that makes him unable to personally administer his affairs.

		Applicable criteria to obtain citizenship						
MS		Residence <sup>305</sup>	Clean criminal record	Sufficient means of subsistence	Language and civic knowledge	Renunciation of prior citizenship	Oath of allegiance	Other
MT	Ordinary naturalisation	√ (effective residence of 5 years within a period of 7 years immediately before the application)	√		√ <sup>308</sup>		√	
	Discretionary naturalisation							
	Investors' citizenship scheme	√ <sup>**</sup> (formal residence: only holding a residence permit)	√	√			√	Investment

√\* Member States in which the competent authorities may decide to carry out security checks in discretionary naturalisation.

√\*\* Member States in which residence is reduced: in all three Member States it is only required that the applicant holds a residence permit for a limited period (BG: 5 years (ordinary scheme) and 1 year (fast-track scheme); CY: at least 6 months; MT: at least 12 months) prior to the submission of the application for citizenship.

<sup>308</sup> The law requires knowledge of Maltese and English but it is not tested.

**Table 10** above indicates that different conditions apply under different naturalisation mechanisms. Compared to ordinary naturalisation that applies to those with multiannual residence in the country, in cases of discretionary naturalisation on the grounds of national interest and in investor citizenship schemes, the general criteria on proving language and civic knowledge, and the renunciation of prior citizenship are waived.

Unlike with the fully discretionary naturalisation, some form of mandatory ‘residence’ is maintained in investor citizenship schemes, albeit different from in ordinary naturalisation. Beneficiaries of investors’ citizenship schemes are only required to fulfil a ‘formal residence’ (i.e. to hold a residence permit) and do not need to be physically in the territory. Furthermore, under investors’ citizenship schemes the residence period is considerably reduced compared to ordinary naturalisation:

- In Bulgaria, the ordinary naturalisation requirement is for the foreigner to have held permanent residence for five years (plus the previous five years necessary to obtain such permanent residence, i.e. a total of ten years’ residence). As foreign investors may apply directly for permanent residence, the residence period required to qualify for citizenship is reduced by five years through the ordinary investors’ citizenship scheme (i.e. they can obtain citizenship after five years’ residence instead of ten) and by nine years through the fast-track investors’ citizenship scheme (i.e. they can obtain citizenship after one year of residence instead of ten).
- In Cyprus and Malta, applicants under ordinary naturalisation must fulfil the residence requirement for a total period of five years within a period of seven years, of which the year immediately prior to the submission of the application must be continuous. This requirement is completely waived for the investors’ citizenship schemes, as Malta only requires a prior 12-month residence and Cyprus a six-month residence. In neither case is physical presence required.

## 2. INVESTORS’ RESIDENCE SCHEMES AND CITIZENSHIP

### *Interrelation between investors’ residence schemes and investors’ citizenship schemes*

The interrelationship between investors’ residence schemes and citizenship is **directly** relevant in Member States that also operate investors’ citizenship schemes (BG, CY, MT), whereby investors may obtain citizenship in exchange for an investment (see [Section II](#)). As explained in Part 1 above, in these Member States the residence criterion is considerably reduced regarding the length of the period required to obtain citizenship and the ‘quality’ of the residence required (physical vs. formal residence).

For instance, in Bulgaria, the foreign investor must hold a permanent residence permit for six months before applying under the investors’ citizenship scheme (and increasing the initial investment made). As explained in [Section III](#), the permanent residence permit required to apply for citizenship can be obtained directly by foreign investors through the investors’ residence scheme, while under the general regime the permanent residence permit is obtained after five years of effective residence (continuous, physical residence under a valid residence permit).

In Cyprus, TCN investors can either apply directly for citizenship by exception if already resident in Cyprus, or they can first apply for a permanent residence permit (immigration permit) through the investors’ residence scheme and then decide to apply for citizenship.

As regards Malta, there is no formal link between the MRVP and the IIP. In practice, the qualifying investment under the MRVP can be retained for the purposes of an application under the IIP.

However, to date, there are no cases of MRVP beneficiaries who applied for the IIP.<sup>309</sup> MRVP targets applicants interested in residence rights and not in citizenship. These commonly come from countries that do not accept dual citizenship, e.g. China.<sup>310</sup> On the other hand, Regulation 6 of LN 288/2015 and Regulation 4 of LN 47/2014 respectively stipulate that GRP beneficiaries can apply for the MRVP and the IIP subject to satisfying all the additional eligibility requirements of the programme in question. There is no information as to how many GRP beneficiaries, if any, have applied or been granted citizenship under the IIP.

### *Interrelation between investors' residence schemes and naturalisation*

In the absence of specific and simultaneous citizenship and residence by investment schemes, there still can be a **relationship between investors' residence schemes and citizenship** acquisition. In this case, this link is only **indirect** as it relates to the 'quality' of the residence required: while foreign investors must apply for naturalisation through the general naturalisation procedures<sup>311</sup> fulfilling the total length of the period of residence required (ranging between five and ten years, see [Annex III](#)), the 'quality' of the residence in naturalisation procedures and under investors' residence schemes may differ. To maintain residence rights (and receive permit renewals), TCNs who have obtained residence through other routes (not through an investors' scheme) are not allowed to spend extensive time periods outside the country's territory (duration varies across the Member States). Furthermore, as explained in [Section III](#) of this Study, the physical presence of the foreign investor is not always required (see '[physical presence](#)') under investors' residence schemes. For example, in Spain, to be eligible for naturalisation, foreign investors need to meet the ten-year residence criterion applicable to all TCNs.<sup>312</sup> However, they may be absent for periods of up to six months per year,<sup>313</sup> while other TCNs are required to comply with the continuous residence requirement (no absence of more than ten months in every five-year period).<sup>314</sup> Therefore, in Member States operating investors' residence schemes under which foreign investors do not need to be physically present in the territory of the Member State (CZ, FR, HU, LV, MT, PL, RO (TRP), SK (permanent residence), UK) and in Member States where the investors' residence scheme simply requires the foreign investor to have an accommodation or be registered with the competent registry (formal residence) (BG, EE, EL, IE, LT), foreign investors are considered residents and, thus, qualify for naturalisation. In all of these cases, although foreign investors must fulfil the total length of the residence period required under general naturalisation rules, their actual, continuous, physical presence in the territory of the Member State concerned is not required. The residence under investors' residence schemes would thus be considered equivalent to the effective residence under general naturalisation rules. In conclusion, investors' residence schemes considerably alleviate the effective residence criterion under general naturalisation rules.

There is also an **indirect link** between investors' residence schemes and citizenship in cases where the **foreign investor may apply directly for permanent residence** under the investors' residence scheme

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<sup>309</sup> Information gathered through stakeholder consultation with national stakeholder (MRVA representative, competent authority, 7 March 2018).

<sup>310</sup> Ibid.

<sup>311</sup> The specific criteria to qualify for naturalisation (whether ordinary, discretionary in the national interest or discretionary facilitated) are analysed in [Annex III](#).

<sup>312</sup> Article 22(1) Civil Code.

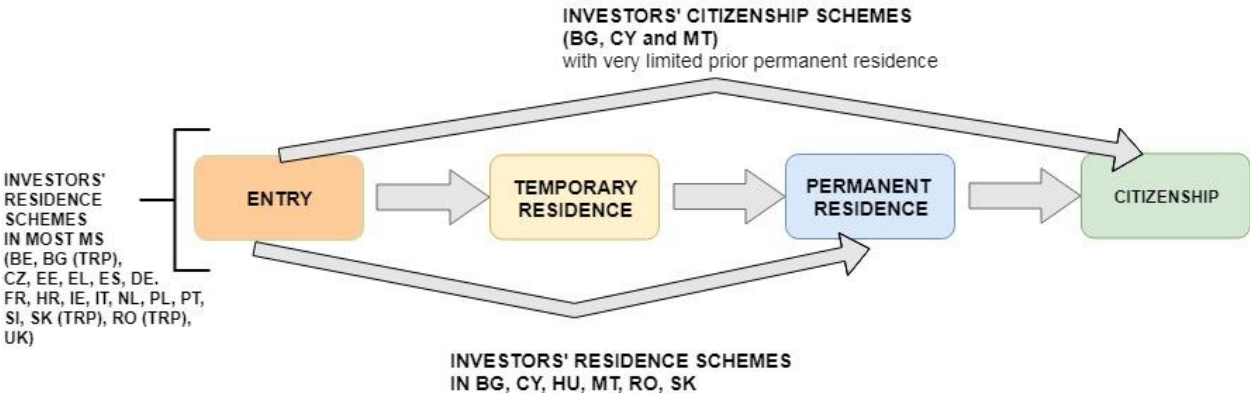
<sup>313</sup> Sixth Additional Provision Law 14/2013.

<sup>314</sup> Article 148(2) LOEX. The Spanish Supreme Court has used the definition of continuous residence for 'long-term residence' under Article 148(2) LOEX to determine what constitutes the continuous residence necessary to qualify for naturalisation. It has asserted that the occasional absence of the foreigner from Spanish territory does not entail the interruption of continuous residence unless the habitual residence (i.e. place of residence) is relocated elsewhere. Supreme Court, 'Jurisprudence on nationality (obtainment of Spanish nationality by residence) 2009-2012) point 2.2. p.5, available at <http://www.poderjudicial.es/stfls/TRIBUNAL%20SUPREMO/ACUERDOS%20y%20ESTUDIOS%20DOCTRINALES/FICHERO/20130325%2019-Sec.%206%20Nacionalidad.pdf>.

(HU, SK). In Slovakia, investors benefiting from permanent residence (major investors<sup>315</sup>) will only need to hold this status for three years before applying for ordinary naturalisation instead of the eight years required under the Act on Slovak Citizenship. This stems from the fact that permanent residence is defined in the Slovak legislation as a legal, five-year continuous residence, which in the case of major investors is waived, allowing them to directly obtain permanent residence without that previous five-year residence. Major investors in Slovakia could also qualify directly for discretionary naturalisation in the (economic) interests of the Slovak Republic, as the features of their investment (EUR 100 million, economically significant or has created 300 jobs, the Slovak Government decides that the implementation of the project would be in the public interest) already show that they have contributed to Slovakia’s economy.

**Figure 2** below shows the interrelationship between investors’ schemes and citizenship and the steps of the procedure that must be fulfilled to reach citizenship.

**Figure 2 Overview of the steps of the procedure (from entry to citizenship)**



<sup>315</sup> Who have received a Certificate of Major Investments (EUR 100 million, economically significant or has created 300 jobs, the Slovak Government decides that the implementation of the project would be in the public interest) or regional investment aid.

## V. ECONOMIC ANALYSIS OF THE INVESTORS' RESIDENCE AND INVESTORS' CITIZENSHIP SCHEMES

This Section presents an overview of the economic impact of investors' citizenship and residence schemes in the Member States analysed. The economic analysis draws on quantitative figures where available. Where no data were available on the impact of the schemes, an assessment was made using the following parameters:

- Number of applications;
- Applicable fees;
- Minimum investment.

Calculations on the basis of these parameters allow for a distinction to be drawn between actual and potential income. '**Income**' in this context means the economic gain generated for the Member State concerned from the addition of the monies paid by foreign investors through all the economic disbursements that they must make to qualify for the investors' scheme (whether residence or citizenship schemes). '**Actual income**' refers to those cases where estimates were obtained by multiplying the number of successful applications by the level of investment (including all economic disbursements carried out by the applicants, i.e. investment and administrative fees). '**Potential income**' refers to the cases where the number of successful applications was unknown and, thus, the income can only be estimated per applicant based on the level of investment and applicable administrative fee. Estimates of potential income are relevant, as they provide an indication of the economic gain that could be generated for the Member State concerned where the investment is made.

With regard to **administrative fees**, in several Member States the total amount depends on the **family composition** of investors (different fees for child and spouse and, where applicable, other dependants). In such cases, different scenarios were considered, based on whether investors were alone or accompanied by their family. The first scenario is where the investor applies on his/her own; the second scenario is where the investor applies with one spouse and one child. These scenarios could provide a basis for defining lower (the investor on his own) and upper (the investor applying with one spouse and one child) bounds of estimated income. These and other assumptions (e.g. the number of years for which the immovable property is rented (when the investment is in immovable property) or the number of years for which the residence permit is issued) are explained further in the footnotes.

### 1. MEMBER STATES OPERATING BOTH INVESTORS' RESIDENCE AND CITIZENSHIP SCHEMES

**Table 11** below shows quantitative data on the approximate income from investors' citizenship schemes based on the number of successful applications (where available), the administrative fee payable in the procedure and the minimum level of investment. In Bulgaria and Cyprus, the total figure reflects the minimum income generated regardless of the number of applications, as that information was not available. On the basis of the same parameters, **Table 12** shows quantitative data on the approximate income from investors' residence schemes and **Table 13** for both investors' citizenship and investors' residence schemes.

Qualitative data on the economic impact of these schemes is also provided below.

**Table 11 Overview of estimated total income generated by investors' citizenship schemes<sup>316</sup>**

MS	Number of successful applications	Administrative fee	Investment			Estimated total income	
			Type of investment	Ordinary	Fast-track	Ordinary	Fast track
BG	12 successful fast-track applications in 2017	EUR 655 (total)  (EUR 100 visa + EUR 50 process application + EUR 5 administrative fee + EUR 500 issuance permanent residence permit)	Shares OR bonds and treasury bills OR ownership of company owned in more than 50% by State/municipality, OR shares owned by State/municipality, OR Bulgarian intellectual property OR rights under concession contracts	EUR 500,000	Increase to EUR 1 million OR at least EUR 500,000 capital for a priority commercial investment	EUR 500,655 per person*	EUR 6-12 million
			Licensed credit institution under trustee agreement	EUR 500,000		EUR 500,655* per person	
			In capital of Bulgarian trading company	EUR 3 million	N/A	EUR 3 million per person*	N/A
			Bulgarian commercial company awarded Class A, B or priority investment project	Depends on type of company	Have maintained investment for at least one year	Depends on type of company	Depends on type of company

<sup>316</sup> Italicised figures with \* indicate potential income per investor or investor household.

MS		Number of successful applications	Administrative fee	Investment			Estimated total income	
				Bulgarian commercial company owned in no less 50% by investor	EUR 250,000	N/A	EUR 250,655	N/A
CY	Main applicant	No specific information available.	EUR 7,000 total (EUR 2,000 at application + EUR 5,000 for issuance)	Real estate Company	EUR 2 million + permanent privately owned residence min. EUR 500,000 (+VAT)		EUR 2.5-3 million per investor household <sup>317</sup>	
	Alternative Investment Funds or financial assets of Cypriot companies or Cypriot organisations licensed by CySec							
	Family members		<ul style="list-style-type: none"> <li>■ Spouse: EUR 7,000 (EUR 2,000 at application and EUR 5,000 for issuance)</li> <li>■ Adult child: EUR 7,000 (EUR 2,000 at application and EUR 5,000 for issuance)</li> <li>■ Minor child: EUR 80</li> </ul>	Permanent privately owned residence min. EUR 500,000 (+VAT) (except minor children)				
MT	Main applicant	At least 738 between July 2014 and June 2017	EUR 8,200 (Total) (EUR 7,500 due diligence fees + EUR 500 passport + EUR 200 application fee)	TOTAL		EUR 1,150,000	EUR 855 million	EUR 874 million
				Residential immovable property		EUR 350,000		
				Investments <sup>318</sup>		EUR 150,000		
				Contribution		EUR 650,000		

<sup>317</sup> The lower bound assumes that investors do not have a spouse, while the upper bound assumes investors have a spouse and one child. The calculation also assumes that the privately-owned residence minimum applies separately to the investor and the spouse.

<sup>318</sup> Among others, in stocks, bonds, securities, special purpose vehicles or other investment as provided from time to time by Identity Malta by means of a notice in the Gazette.



MS	Number of successful applications	Administrative fee	Investment	Estimated total income
Family members	At least 1,666 between July 2014 and June 2017	<ul style="list-style-type: none"> <li>■ Spouse: EUR 5,000</li> <li>■ Each child between 13 and 18 years of age: EUR 3,000</li> <li>■ Each dependant unmarried child between 18 and 26 years of age: EUR 5,000</li> <li>■ Each dependant parent/grandparent above 55 years of age: EUR 5,000</li> </ul> + EUR 500 (passport) + EUR 200 (application fee)	N/A	EUR 19 million <sup>319</sup>

**Table 12 Overview of estimated total income generated by investors' residence schemes<sup>320</sup>**

MS	No. of successful applications for residence permit	Administrative fee <sup>321</sup>	Investment	Estimated total income
BG	No specific information available <sup>322</sup>	EUR 250	Minimum investment: EUR 250,000 (Article 25, par.1 item 16 FNA) Medium investment: EUR 500,000 (Article 25, par.1, items 6 and 7 FNA) Maximum investment: EUR 3 million (Article 25, par.1, item 8 FNA)	<i>Minimum</i> <i>EUR 250,250</i> <i>per person*</i>

<sup>319</sup> The average number of family members per main investor was 2.25. For the calculation of administrative fees, it was assumed that one individual was a spouse while the others were a younger or older dependent. A base fee was assumed for these additional family members of EUR 4,000 (average value of fees) and multiplied by the number of successful applicants.

<sup>320</sup> Italicised figures with \* indicate potential income per investor or investor household.

<sup>321</sup> Based on the information in **Table 7** Administrative fees in investors' residence schemes. Fees for application, issuance of the permit and renewal.

<sup>322</sup> A total of 732 individuals were granted permanent residence between 2012-2017. However, the data is not specific to investors.

MS	No. of successful applications for residence permit	Administrative fee <sup>321</sup>	Investment				Estimated total income
CY <sup>323</sup>	No specific information available <sup>324</sup>	EUR 500	Minimum investment per person: EUR 630,000 – EUR 640,000* <sup>325</sup>				Minimum EUR 630,500- EUR 650,000 per person*
MT	112 in 2016 and 2017 <sup>326</sup>	EUR 5,500 fee  + EUR 5,000 per family member + EUR 27.50 renewal fee	<b>TOTAL (qualifying property + government bonds + one-time contribution)</b>	If property owned	In Malta	<b>EUR 600,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) or	EUR 33 million -EUR 68 million <sup>327</sup>
					South of Malta/Gozo	<b>EUR 550,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse)	
				If property rented	In Malta	<b>EUR 340,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) <sup>328</sup>	
					South of Malta/Gozo	<b>EUR 330,000</b> (+ EUR 5,000 per parent or grandparent of the main applicant or of his/her spouse) <sup>329</sup>	

<sup>323</sup> In this row, the lower bound assumes that investors do not have a spouse, while the upper bound assumes investors have a spouse and one child. The calculation also assumes that the privately-owned residence minimum applies separately to the investor and the spouse.

<sup>324</sup> Only information for 2015 – 2016 for residence permits in general. The Ministry of Interior official consulted explained that the Minister of Interior refused permission to provide the above statistics for the project.

<sup>325</sup> See Table 6 for specific information on the investment types and financial thresholds.

<sup>326</sup> As the programme started in late 2015, there were no applications in that calendar year. In addition to the data presented in the table, it should be noted that there have been an additional 82 applications under the MRVP in January 2018. All of these new applications are pending review as of March 2018.

<sup>327</sup> The lower bound assumes that all investors lease property in the South of Malta for EUR 10,000/year, while the upper bound assumes that all investors buy a property of at least EUR 320,000 in value. The calculation does not account for dependents, as their associated fees and contribution levels are relatively small and do not alter the overall figures substantially.

<sup>328</sup> Figure obtained taking into account that the property has to be rented at least for 5 years (12,000 annual rent x 5 years = EUR 60,000) + EUR 250,000 (qualifying investment) + EUR 30,000 (one-time contribution).

<sup>329</sup> Figure obtained taking into account that the property has to be rented at least for 5 years (10,000 annual rent x 5 years = EUR 50,000) + EUR 250,000 (qualifying investment) + EUR 30,000 (one-time contribution).

Table 13 Overview of estimated total income generated by both investors' citizenship and investors' residence schemes<sup>330</sup>

MS	Estimated total income						
	From investors' citizenship schemes			From investors' residence schemes	TOTAL		
BG	<b>Type of investment</b>	<b>Ordinary scheme</b>	<b>Fast track scheme</b>	<i>Minimum EUR 250,250 per person*</i>	<b>Type of investment</b>	<b>Ordinary scheme</b>	<b>Fast track scheme</b>
	Shares OR bonds and treasury bills OR ownership of company owned in more than 50% by State/municipality, OR shares owned by State/municipality, OR Bulgarian intellectual property OR rights under concession contracts	<i>EUR 500,655 per person*</i>	EUR 6-12 million		Shares OR bonds and treasury bills OR ownership of company owned in more than 50% by State/municipality, OR shares owned by State/municipality, OR Bulgarian intellectual property OR rights under concession contracts	<b><i>EUR 750,905 per person*</i></b>	<b><i>EUR 6.2-12.2 million</i></b>
	Licensed credit institution under trustee agreement	<i>EUR 500,655* per person</i>			Licensed credit institution under trustee agreement	<b><i>EUR 750,905 per person*</i></b>	
	In capital of Bulgarian trading company	<i>EUR 3 million per person*</i>	N/A		In capital of Bulgarian trading company	<b><i>EUR 3.2 million per person*</i></b>	<b><i>N/A</i></b>

<sup>330</sup> Italicised figures with \* indicate potential income per investor or investor household.

	Bulgarian commercial company awarded Class A, B or priority investment project	Depends on type of company	Depends on type of company		Bulgarian commercial company awarded Class A, B or priority investment project	Depends on type of company	Depends on type of company
	Bulgarian commercial company owned in no less 50% by investor	EUR 250,655	N/A		Bulgarian commercial company owned in no less 50% by investor	EUR 500,905 per person*	N/A
<b>CY<sup>331</sup></b>	EUR 2.5-3 million per investor household*			EUR 630,500-641,500 per investor household*	<b>EUR 3.1-3.6 million per investor household</b>		
<b>MT</b>	EUR 874 million			EUR 33 million -EUR 68 million <sup>332</sup>	<b>EUR 907 million -EUR 942 million<sup>333</sup></b>		

From the data above, it could be argued that investors' citizenship schemes were more profitable for all three Member States (with estimated income in the millions of euros) than investors residence schemes (with estimated income in the hundred thousands, except for Malta where, even if the estimated income was also in the millions, it was significantly lower than for the estimated income from investors' citizenship schemes).

Qualitative data on the economic impact of investors' citizenship and investors' residence schemes in Bulgaria, Cyprus and Malta is presented below.

<sup>331</sup> The lower bound assumes that investors do not have a spouse, while the upper bound assumes investors have a spouse and one child. The calculation also assumes that the privately-owned residence minimum applies separately to the investor and the spouse.

<sup>332</sup> The lower bound assumes that all investors lease property in the South of Malta for EUR 10,000/year, while the upper bound assumes that all investors buy a property of at least EUR 320,000 in value. The calculation does not account for dependents, as their associated fees and contribution levels are relatively small and do not alter the overall figures substantially.

<sup>333</sup> The lower bound assumes that all investors lease property in the South of Malta for EUR 10,000/year, while the upper bound assumes that all investors buy a property of at least EUR 320,000 in value. The calculation does not account for dependents, as their associated fees and contribution levels are relatively small and do not alter the overall figures substantially.

### *Qualitative information on the economic impact of investors' citizenship schemes*

In Malta, the **ORIIP's annual reports have covered the IIP's economic impact since 2015**. Despite the requirement for yearly publication under Regulation 14(2) of LN 47/2014, the publication of lists after 31 July 2015 was delayed.<sup>334</sup> The list covering January to December 2016 was published in the Government Gazette of 22 December 2017.<sup>335</sup> The comparison of data from the three reports where figures are available indicates that the IIP's contribution to Malta's Gross Domestic Product (GDP) increased from 0.75 per cent in June 2015 to 3.72 per cent in June 2017. In 2016, the media pointed to data indicating that the IIP was the largest contributor to the government's surplus. The International Monetary Fund observed that attaining medium-term financial objectives depends partly on IIP revenues and warned of the IIP's potential to distort the housing market and of risks associated with money laundering.<sup>336</sup> 70 per cent of the IIP contributions received by Identity Malta must be paid into the **National Development and Social Fund** (NDSF, established by LN 47/2014) and used in the public interest e.g. for the advancement of education, the environment and public health.<sup>337</sup> So far, the Fund has been used for what Identity Malta describes as strategic investments, namely, the purchase of shares in Malta's Bank of Valletta and expenditure for technical equipment for Malta's national hospital.<sup>338</sup> The rest of the IIP contributions goes to the Consolidated Fund established by the Constitution of Malta. Withdrawals from the Consolidated Fund are typically limited to those necessary to meet expenditure as set out in the Constitution or another law or authorised by an Appropriation Act. This Fund also receives the net surplus of funds from the MRVP contributions.<sup>339</sup> Media reports in Malta have indicated that the IIP has pushed the property prices upwards, and the IMF has warned Malta of the increased financial stability risks caused by this trend. The IMF has also recommended that periodic reviews of the IIP 'including the minimum real estate investment or leasing values could help curb the housing demand pressure and may improve the predictability of fiscal values'.<sup>340</sup>

In Cyprus, the lack of statistics on how many people have been granted citizenship prevents calculations of the total income received from investors' citizenship schemes. However, bearing in mind the amount of fees and level of investment required, it can be asserted that main applicants for citizenship must make an economic disbursement amounting to EUR 3.2 million at least.<sup>341</sup> Income from family members would amount to EUR 507,000 (if the family member is a spouse or an adult child) and EUR 80 if the applicant is a minor child. Until 21 May 2018, there was no legal obligation to monitor the economic impact of investors' citizenship schemes. Under the Council of Ministers Decision dated 21 May 2018,<sup>342</sup> as of 15 June 2018, the Ministry of Finance must study and assess the application of the Cyprus Investment Programme and its effects on the economy, and provide information to the Council of Ministers.

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<sup>334</sup> This has been commented on in the media, e.g. Times of Malta, 'Citizenship list yet to be published', 31 October 2017, available at <https://www.timesofmalta.com/articles/view/20171031/local/citizenship-list-yet-to-be-published.661858>.

<sup>335</sup> The Malta Government Gazette, 22 December 2017, Government Notice 1434 – Persons Naturalised/registered as Citizens of Malta, available at <http://www.gov.mt/en/Government/Government%20Gazette/Documents/12/Government%20Gazette%20-%2022nd%20December.pdf>.

<sup>336</sup> Malta: Staff Concluding Statement of the 2017 Article IV Mission, International Monetary Fund, 17 November 2017, available at <http://www.imf.org/en/News/Articles/2017/11/17/ms111717-malta-staff-concluding-statement-of-the-2017-article-iv-mission>.

<sup>337</sup> Regulation 13(1) and (2) of LN 47/2014.

<sup>338</sup> Information obtained through consultation with national stakeholder (Identity Malta, competent authority, 8 March 2018).

<sup>339</sup> Information gathered through consultation with national stakeholder (MRVA, competent authority, 7 March 2018).

<sup>340</sup> The Malta Independent, 'Strong increases in housing prices may raise financial stability risks, IMF says', 28 November 2017: <http://www.independent.com.mt/articles/2017-11-28/local-news/Strong-increases-in-housing-prices-may-raise-financial-stability-risks-IMF-says-6736182008>

<sup>341</sup> EUR 7,000 application fees + EUR 500,000 in immovable property + EUR 2 million investment.

<sup>342</sup> Council of Ministers' Decision 906/2018.

Similarly, no statistics are available in Bulgaria.<sup>343</sup> In general, according to publications in the press, the economic and financial efficiency of the investors' citizenship schemes is limited by slow administrative procedures.

### ***Qualitative information on economic impact of investors' residence schemes in Bulgaria, Cyprus and Malta***

In none of the three Member States are there mechanisms in place to monitor the economic impact and financial revenues from investors who have been granted residence. There is no publicly available information that would allow a determination of whether investors' residence schemes in these countries have met the expectations for which they were created. There are also no studies assessing their economic and financial efficiency. However, some information on the economic impact of the investors' residence schemes was provided by the competent authorities in Malta.

In Malta, any net surplus of funds from the contribution is transferred to the Consolidated Fund established by the Constitution of Malta every quarter.<sup>344</sup> All revenues and other monies raised or received by Malta except for revenues or monies payable into another fund established by law for a specific purpose are paid into the Consolidated Fund.<sup>345</sup> As stated above, withdrawals from the Consolidated Fund are typically limited to those necessary to meet expenditure as set out in the Constitution or another law or authorised by an Appropriation Act.

Immovable property in Malta has steadily increased in price and presumably, alongside the IIP, the MRVP and GRP are also driving forces behind this. These programmes also have an impact in terms of a revenue stream for real estate agents, lawyers, accountants and other non-public bodies that act as approved agents or mandatories of the applicants. In fact, on the occasion of its launch, the GRP was announced as 'a Programme that will give a strong boost to various economic sectors of Malta' (including property, lawyers and tax consultants, financial sector).<sup>346</sup> The GRP was also presented as a means of creating incentives for investment in the south of Malta and Gozo by setting lower thresholds in relation to the cost of the qualifying property and a lower administrative fee as well as through promotion.<sup>347</sup>

## **2. MEMBER STATES OPERATING INVESTORS' RESIDENCE SCHEMES ONLY**

In most Member States the legislation does not provide a **mechanism to monitor** the economic and financial efficiency of the schemes, and only limited information is available to facilitate such an analysis. A monitoring mechanism was only found to be place in Spain, Latvia and Portugal. In Spain, the

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<sup>343</sup> Information gathered through consultation with national stakeholder (representative of Investment Promotion and Investment Projects Department at the Economic Promotion Policies Directorate of the Ministry of Economy, competent authority, 21 February 2018).

<sup>344</sup> Information obtained through stakeholder consultation with MRVA representative on 7 March 2018.

<sup>345</sup> Article 102(1) of the Constitution of Malta.

<sup>346</sup> Ministry for Economy, 'Global Residence Programme is Launched', available at <https://economy.gov.mt/en/globalresidence/Pages/home.aspx>.

<sup>347</sup> See, for example, 'The Global Residence Programme - Gozo as an Exclusive Residence Destination', available at <https://economy.gov.mt/en/globalresidence/Documents/Gozo%20as%20an%20Exclusive%20Residence%20Destination.pdf>.

obligation for the competent authority to produce annual reports and submit them to the Council of Ministers has only resulted in one report so far (the first and only issued in 2015<sup>348</sup>).

While **statistics** on residence applications (including the number of applications and the number of successful applications) were identified in most Member States (BE, CZ, DE, EL, HU, PL, RO, SI), they are not disaggregated, i.e. they reflect data on applications for residence in general terms but without specifying if the applicant is an investor or, where applicable, a family member of the investor. In other Member States, the statistical data only cover a partial aspect of the investors' scheme (e.g. in Bulgaria and Slovakia, information is only available for permanent residence and it does not specifically indicate when the applicant is an investor). Specific, reliable statistics are only available in a number of Member States (EE, ES, FR, IE, LT, LV, NL, PT, UK). In some Member States, retrieving such information was just not possible (HR, IT, SK). This was particularly true for Italy, whose scheme just entered into force in July 2017 and is not yet entirely operational.

The reference period for statistics was set between 2012 and 2017. However, not all Member States with statistics covered the entire reference period, either because the statistics were not available or because the investors' residence schemes started operating later than the start date of the reference period (e.g. in Spain, investors' residence schemes began operating after 29 September 2013, when the applicable legislation<sup>349</sup> entered into force).

In some Member States, the gap on information by the competent authorities is mitigated to some extent by **media reporting**. For example, in Hungary, on 19 May 2017, 24.hu (an online media site) reported on an interview conducted with a member of the Hungarian Parliament and including information obtained from that person. The article stated that Hungary **did not benefit from the operation of the National Residency Bond Programme** during the four years the programme was in place. While the original purpose of launching the programme was to find alternative ways of providing financial aid in the form of medium-term loans to the Hungarian Government, the article states that Hungary lost 11.3 billion HUF (EUR 37.67 million) on these bonds, due to the high interest rates they paid to the investors. Given that the duration of the residency bonds was at least five years, the general interest rates in the world market significantly decreased, especially around 2014-2016. While in 2014, the average interest rate on bonds with a 5-year maturity issued by the Hungarian Government in the world market was around 5.5%, it dropped to 3.3% by the end of 2016.<sup>350</sup> The Hungarian Government nonetheless has to pay the originally promised interest rate on the residency bonds to the investor once the bonds expire. According to the article, the payoff could be around a total of 330 billion HUF (cc. EUR 1,100 million). The article states the first batch of pay-backs will start in 2018. However, investors who received residency based on their investments profited significantly from the scheme, especially since some companies authorised by the Parliament's Committee for Economic Affairs offered the residency bonds with large discounts in 2016 and 2017. In one instance, a company offered the bonds for only EUR 125,000 given that the rest of the value of the bond was financed from long-term loans provided by financial institutions. The reason why the company could sell the bonds with such a significant discount was that the interest rate on the bonds promised by the Hungarian Government was considerably above the interest rates stipulated in the loan contracts, and that the companies had to pay only EUR 265,200 to the Government in exchange for the issuance of the bonds. The companies authorised to issue the bonds also profited significantly on the transactions given that they made profits on the intermediary commissions they charged for the transactions. The article estimated the commission to EUR 40,000-60,000 per bond. The article states the

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<sup>348</sup> 2015 MESS Report.

<sup>349</sup> Law 14/2013.

<sup>350</sup> Trading Economics: Hungarian State Bonds, available at: <https://hu.tradingeconomics.com/hungary/government-bond-yield>.



aggregated profit the companies earned on the bonds was estimated at 100 billion HUF (cc. EUR 333.4 million).<sup>351</sup>

Information gathered from newspapers and other media reports, however, **requires careful consideration, as it may be less reliable than official statistics from the government.** Additional steps may be required to review and corroborate the information, which may then prove to be untrue. This was not the case for Hungary but, for example, in Spain, the most up-to-date analysis of the economic impact of the schemes is provided by newspaper articles.<sup>352</sup> However, the source cited (an alleged report of the Ministry of Economy) has not been found, nor has its existence been confirmed by the competent authorities.<sup>353</sup>

In other cases, gaps in the information are filled by information retrieved through **consultation with relevant stakeholders.** For instance, the Greek Ministry of Migration noted that, despite the various difficulties faced by Greece in recent years (e.g. negative publicity due to the economic crisis, introduction of capital controls, the refugee crisis, etc.), generally speaking, the investors' residence schemes (in particular, the residence by investment in real estate scheme) are judged to be satisfactory and successful, demonstrating a positive impact on the economy with a stable growth and the corresponding increase in proceeds for the State; however, it is believed there is scope for the schemes to do better so they are considering commissioning a study on the positive impact of the schemes.<sup>354</sup> Enterprise Greece is promoting the systems abroad very systematically, emphasising their many benefits (they are relatively low-price, transparent, and involve a quick and straightforward procedure).<sup>355</sup>

**Table 16** below presents an overview of the total income generated by investors' residence schemes by Member State. For some Member States, no relevant information could be retrieved and used to produce estimates of total income. These Member States are nevertheless included in the table, with the lack of estimated total income indicated by 'N/A'.

Qualitative information on the economic and financial efficiency of the schemes is also included below the table for some Member States (e.g. CY, HU and RO). In other Member States (ES, FR; IE, LV, NL, PT, UK), both a quantitative (**Table 13**) and qualitative assessment (discussion following the table) is drawn.

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<sup>351</sup> 24.hu (2018): Everybody profited from the Hungarian residency bonds, only the country lost billions (*Mindenki nyert a magyar letelepedési kötvényen, csak az ország bukott milliárdokat*), 19 May 2017, available at: <https://24.hu/belfold/2017/05/19/mindenki-nyert-a-magyar-letelepedesi-kotvenyen-csak-az-oroszag-bukott-milliardokat/>.

<sup>352</sup> El País, 'Russian and Chinese citizens monopolise the visas granted for real estate investments' (*Rusos y chinos acaparan los visados por compra de casas*), May 2018, available at [https://cincodias.elpais.com/cincodias/2018/05/04/midinero/1525450395\\_341550.html](https://cincodias.elpais.com/cincodias/2018/05/04/midinero/1525450395_341550.html); El Diario, 'Golden visas shoot up: 41,000 foreigners obtain permits in exchange of buying luxury houses or by investing millions' (*Los "visados dorados" se disparan: 41.000 extranjeros obtienen papeles por comprar casas de lujo o inversiones millonarias*), March 2018, available at [https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan\\_0\\_753125467.html](https://www.eldiario.es/economia/visados-extranjeros-invierten-millones-disparan_0_753125467.html); El País, 'Investment visas catches 2,157 million and attract Chinese and Russian millionaires' (*Los visados por inversiones captan 2.157 millones y atraen a millonarios chinos y rusos*), April 2017, available at [https://elpais.com/economia/2017/04/23/actualidad/1492964484\\_077992.html](https://elpais.com/economia/2017/04/23/actualidad/1492964484_077992.html);

<sup>353</sup> This report could not be found through desk research nor could the stakeholder consulted (representative of the General Secretariat on Migration, competent authority, 21 June 2018) confirm the existence of this report.

<sup>354</sup> Information gathered through consultation with national stakeholder (Head of Legal Coordination and Control Unit, Directorate of Migration Policy, Ministry of Migration Policy; competent authority for granting naturalisation; 26 February 2018).

<sup>355</sup> Information gathered through consultation with national stakeholder (Director General for Investments, Enterprise Greece, competent authority, 23 March 2018).



The three tables below summarise the findings for investors' residence schemes per-person income (**Table 14**) and total estimated income (**Table 15**). Thresholds were defined based on the distribution of the results from the analysis. With respect to per-person income (**Table 16**), two Member States were classified in the lowest category (0-EUR 100,000) while two Member States were classified in the highest category (> EUR 2 million). The Member States in italics indicate that a midpoint value was taken from the range.

**Table 14: Classification of investors' residence schemes on the basis of estimated income (per-person basis)**

Level of income generated (per person)	MS
Very low income (below EUR 100,000)	<i>HR, LV</i>
Low income (EUR 100,000 or more, and below EUR 500,000)	<i>FR, PT</i>
Medium income (EUR 500,000 or more, but below EUR 1 million)	<i>RO, EE</i>
High income (EUR 1 million or more, but below EUR 2 million)	<i>SK, NL, IT, ES</i>
Very high income (over 2 million euros)	<i>UK, IE</i>

Note: italicised figures indicate that point estimates were estimated based on the midpoint of ranges.

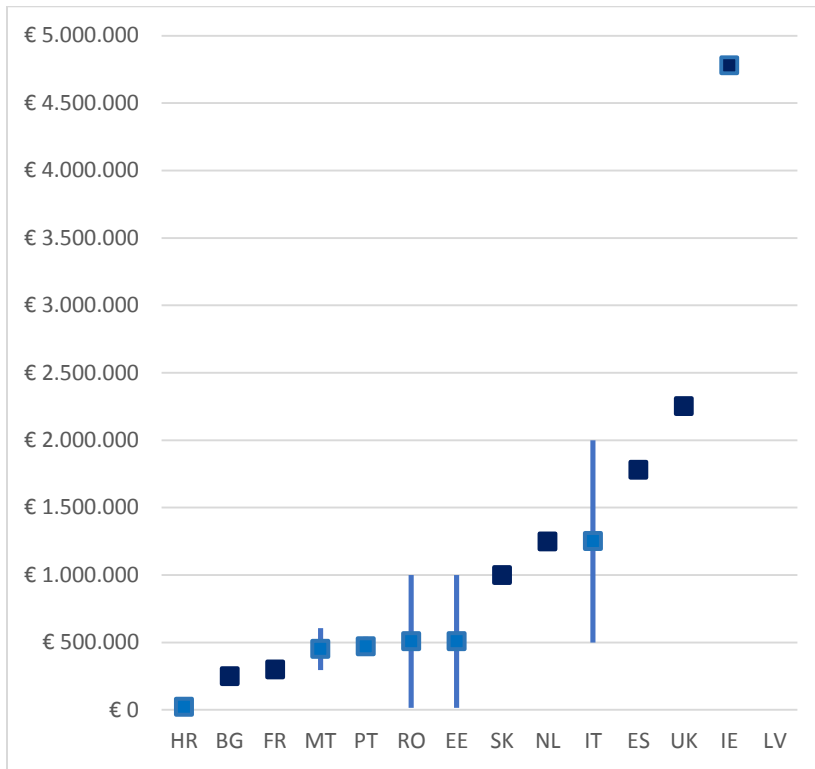
**Table 15** below presents the classification of 10 Member States by total estimated income. Based on the distribution of the data, three categories were defined – low, medium and high. It is interesting to note that **some Member States that classified as 'high income' on a per-person basis did not classify as 'high income' for total income**. For example, France was found to be low on both measures, while the Netherlands was high on a per-person basis but low overall.

**Table 15 Classification of estimated income in investors' residence schemes (total)**

Total level of income generated	MS
Low income (below 100 million EUR)	<i>NL, FR, EE</i>
Medium income (100-500 million EUR)	<i>ES, LT</i>
High income (>500 million EUR)	<i>IE, UK, LV, PT</i>

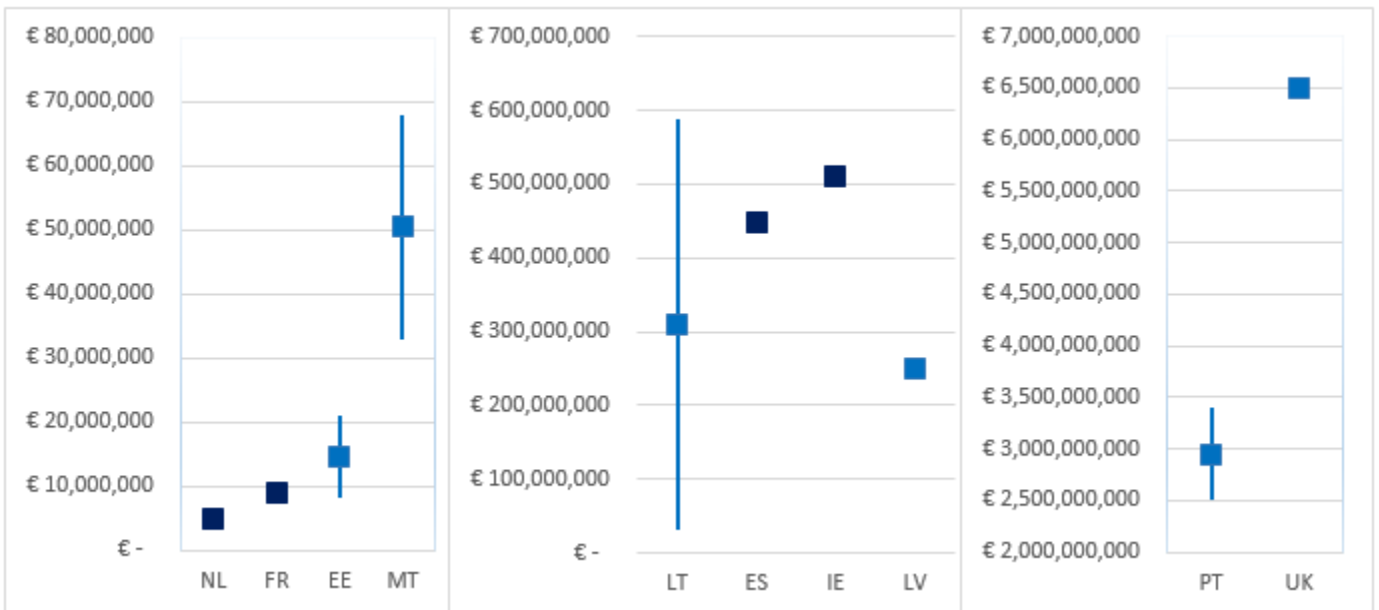
**Figure 3** and **Figure 4** below illustrate the overall estimated income levels for investors' residence schemes, per-person and total.

**Figure 3: Estimated per-person income – point estimates and ranges for investor residence schemes (14 Member States)**



Note: Dark markers indicate Member States where a point estimate was taken.

**Figure 4: Estimated total income – point estimates and ranges for investor residence schemes (10 Member States)**



Note: Dark markers indicate Member States where a point estimate was taken.

**Table 16 Overview of income generated by investors' residence schemes**

MS		No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment		Estimated total income	
BE		No specific information available <sup>357</sup>	EUR 230 <sup>358</sup>	N/A		N/A	
CZ		No specific information available	EUR 200	Minimum investment per person: EUR 3 million*		Minimum EUR 3 million per person*	
DE		No specific information available <sup>359</sup>	EUR 100 (TRP)	N/A		N/A	
EE	General scheme	260 for 2012-2017	EUR 160 <sup>360</sup>	General scheme	EUR 65,000	EUR 4.2-16.9 million <sup>361</sup>	
	Sole proprietor			Sole proprietor	EUR 16,000		
	Major investor	At least four successful applications <sup>362</sup>		Major investor	EUR 1 million		EUR 4 million
	Total	264		Total	EUR 1.01 million		EUR 8.2-20.9 million <sup>363</sup>
EL	Real estate	Not available	EUR 516	EUR 250,000		Minimum EUR 250,516 per person*	
	Positive impact on national growth and economy		EUR 516	At least EUR 250,000 (not established in the legislation; obtained through stakeholder consultation)		Minimum EUR 250,516 per person*	
	Strategic investment		EUR 600	No information on threshold in legislation nor through stakeholder consultation		Minimum EUR 600 per person*	
	Total		EUR 1 632	Minimum EUR 500,000 per person		Minimum EUR 501,632 per person*	

<sup>356</sup> Based on the information in **Table 7** Administrative fees in investors' residence schemes. Fees for application, issuance of the permit and renewal.

<sup>357</sup> A total of 3,417 professional cards were granted between 2013-2016. However, this information is not specific to investors and the professional card is not a residence permit.

<sup>358</sup> Professional cards are typically granted for 2 years and have an associated fee of EUR 230 (EUR 140 + EUR 90/year).

<sup>359</sup> 8,344 TRPs were granted between 2012-2016. Only information for 2015 – 2016 for residence permits in general. The Ministry of Interior official consulted explained that the Minister of Interior refused permission to provide the above statistics for the project.

<sup>360</sup> This fee is applied if the application is filed with the Police and Border Guard Board. The fee is EUR 180 if the application is filed with a consulate/diplomatic mission.

<sup>361</sup> Lower bound assumes that all applicants are sole proprietors, while upper bound assumes that all applicants are general scheme.

<sup>362</sup> The residence permit for major investors was introduced in the Aliens Act on 18 January 2017.

<sup>363</sup> Lower bound assumes that all applicants are sole proprietors, while upper bound assumes that all applicants are general scheme.

MS		No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment		Estimated total income
ES <sup>364</sup>	Assets	At least 29 successful applications (Sept 2013-Dec 2014)	EUR 206	EUR 37,543,696		EUR 447 million <sup>365</sup>
	Real estate	At least 490 successful applications (Sept 2013 - Dec 2014)		EUR 369,766,625		
	Business project	At least 12 successful applications (Sept 2013-Dec 2014)		EUR 39,533,600		
FR		30 applications made between Nov 2016 and Nov 2017 <sup>366</sup>	EUR 467	EUR 300,000		EUR 9 million
HR <sup>367</sup>		No information available	EUR 75	Self-employed investors	EUR 27,000	EUR 13,575-27,075 per investor*
				Employed investors	EUR 13,500	
HU		No specific information available <sup>368</sup>	N/A <sup>369</sup>	EUR 300,000		Minimum EUR 300,000 per person*

<sup>364</sup> Data retrieved from 2015 Report from Ministry of Employment and Social Security. Newspaper reports also provide information on 2017 data. However, the source of the data has not been confirmed. (See [Annex I](#) – Executive Summary Spain).

<sup>365</sup> The sum of investments (EUR 466,843,921) plus the administrative fees, multiplied by the number of applicants (EUR 109,386).

<sup>366</sup> The Talent Passport came into force on 1 November 2016 and the Tech Visa (information not available) in July 2017. In the same period, 20 applications were granted for renewal of the permit. This figure is not taken into account as only first-time issued permits are relevant.

<sup>367</sup> No specific data on applications (only general non-disaggregated data on requests for residence). Two applications by investors in 2017 but no information as to whether they are employed or self-employed, or the level of investment carried out.

<sup>368</sup> Between 2013 and 2017, 4,794 applicants were granted permanent residence permits. However, it is not possible to ascertain if all of them were investors.

<sup>369</sup> The applicant had to pay a so-called 'intermediary commission' to the companies authorised to issue the bonds, therefore signifying a net profit for such companies and NOT for the State. The commission ranged between EUR 45,200 – 58,100, depending on which company the applicant used to purchase the bond. Nemzet, M., 2018, 'Bond business: Money may still flow to the intermediaries (*Kötvénybiznisz: még mindig jöhet pénz a közvetítőknél*)', available at <https://mno.hu/gazdasag/kotvenybiznisz-meg-mindig-johet-penz-a-kozvetitoknek-2450568>.

MS	No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment		Estimated total income
IE	107 from 2012-2015 <sup>370</sup>	EUR 1,800	Endowment <sup>371</sup>	EUR 23.7 million	EUR 511 million
			Enterprise <sup>372</sup>	EUR 434 million	
			Mixed investment <sup>373</sup>	EUR 31.5 million	
			Bond <sup>374</sup>	EUR 16 million	
			Other <sup>375</sup>	EUR 5.5 million	
IT	No information available <sup>376</sup>	EUR 96.46	Government bonds	EUR 2 million	EUR 500,096-2 million per person*
			Instruments representative of capital operating in Italy	EUR 1 million (or EUR 500,000 if in innovative start-up)	
			Philanthropic donation	EUR 1 million	
LT	2,258 in 2016	EUR 114 <sup>377</sup>	Small investor	EUR 14,000	EUR 31.9-587 million <sup>378</sup>
			Medium investor	EUR 260,000	
LU	6 <sup>379</sup>	No information available <sup>380</sup>	Investment in company	EUR 500,000	EUR 3million -120 million per person* <sup>381</sup>
			Investment in management structure	EUR 3 million	
			Deposit in financial institution	EUR 20 million	

<sup>370</sup> ‘Parliamentary Question 263: 3 October 2017’, ‘Department of Justice and Equality Website, available at <http://www.justice.ie/en/JELR/Pages/PQ-03-10-2017-263>; ‘Parliamentary Question 99: 8 February 2017’, ‘Department of Justice and Equality Website, available at <http://www.justice.ie/en/JELR/Pages/PQ-08-02-2017-99>.

<sup>371</sup> Data from 2012-2017.

<sup>372</sup> Data from 2012-2017, except for 2014 when no data were available.

<sup>373</sup> Data from 2013-2016.

<sup>374</sup> Data from 2013-2016.

<sup>375</sup> Data from 2015-2017. Investment in funds and REIT.

<sup>376</sup> The scheme was just introduced in July 2017.

<sup>377</sup> General procedure; in the urgent procedure, fees are raised to EUR 228.

<sup>378</sup> The lower bound assumes that all investors are small, while the upper bound assumes that all investors are medium.

<sup>379</sup> Information gathered through consultation with national stakeholder (representative of the Ministry of Foreign Affairs, competent authority, 12 October 2018).

<sup>380</sup> No information was retrieved as no input was received from the contacted stakeholder (representative of the Ministry of Foreign Affairs, competent authority, 12 October 2018).

<sup>381</sup> Nevertheless, taking into account that the foreign investors (five Chinese and one Australian) obtained an investors’ residence permit to open a new company, the level of investment required for this type is of EUR 500,000 and, thus, the total investment would raise to EUR 3 million. Apart from this, each of these foreign investors should create at least five work positions. Therefore, at least 30 work positions would have been created. (Information gathered through consultation with national stakeholder (representative of Ministry of Foreign Affairs, competent authority, 12 October 2018).

MS		No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment	Estimated total income
LV	Real estate	15,104 investors and family members July 2010 to June 2017, not disaggregated <sup>382</sup>	EUR 150-450 <sup>383</sup>	EUR 1,190,825 <sup>384</sup>	EUR 249 million <sup>385</sup>
	Credit liabilities			EUR 155,891,000	
	Capital companies			EUR 80,301,000	
	State bonds			EUR 7,538,000	
NL		4 investors (total) <sup>386</sup>	EUR 2,137	EUR 1.25 million	EUR 5 million
PL		No specific information <sup>387</sup>	EUR 100 <sup>388</sup>	N/A	Minimum EUR 100 per person*
PT	Real estate	5,930	EUR 8,222.90 (in case of no family members)	EUR 500,000 (or EUR 400,000 in sparsely populated territories – less 100 inhabitants per sq. km) Or EUR 350,000 (construction more than 30 years ago or located in urban recovery areas for refurbishing)	EUR 2.5-3.4 billion <ul style="list-style-type: none"> <li>▪ EUR 2-3 billion<sup>389</sup> from real estate</li> <li>▪ EUR 85-338 million<sup>390</sup> from capital transfers</li> </ul>
	Capital transfer <sup>391</sup>	338		<ul style="list-style-type: none"> <li>■ Capital investment: EUR 1 million</li> <li>■ Investment in research activities: EUR 350,000</li> <li>■ Investment in artistic activities: EUR 250,000</li> <li>■ Acquisition of units of investment funds or venture capital fund: EUR 350,000</li> </ul>	
	Creation of jobs	11 <sup>392</sup>		N/A	

<sup>382</sup> The data do not include investment in start-ups, as this type of investment was only introduced in 2017.

<sup>383</sup> The fee for the review of application depends on the timeframe – EUR 150 for a 30-day timeframe, EUR 300 for a 10-day timeframe and EUR 450 for a 5-day timeframe.

<sup>384</sup> Plus 5% of the property value.

<sup>385</sup> The total number of applications is known but not the distribution by investment level. The midpoint value of administrative fees was used for the calculation of total income.

<sup>386</sup> Up until 2016, only 10 applications for the scheme were registered (since 2013) and only one application had been granted (to an investor from South Africa). Since July 2016, an additional three applicants have been granted a residence permit under the scheme. Information gathered through consultation with national stakeholder (Ministry of Security and Justice, competent authority, 9 April 2018).

<sup>387</sup> Only general information on residence permits, without breakdown by different types of those permits (there are currently 13 different types of TRP, depending on the intended purpose of stay of the applicant).

<sup>388</sup> Only fees for TRP.

<sup>389</sup> Lower bound assumes all investors take lower investment option, while the upper bound assumes that all investors take the higher investment option.

<sup>390</sup> Lower bound assumes that all investors invest in artistic activities, while upper bound assumes that all investors invest in capital.

<sup>391</sup> These funds must be transferred into a bank account with a banking institution registered or authorised by the Bank of Portugal. The transfer must be proven by a declaration issued by the banking institution. No further control is made, except when renewing the permit, where the bank declaration must be re-issued.

MS		No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment	Estimated total income	
RO		No specific information on investors (only general data on TRP and permanent resident permits)	EUR 175.95	TRP	Creation of jobs and/or investment <ul style="list-style-type: none"> <li>■ LLC – EUR 100,000 + 10 jobs (waiver<sup>393</sup> if EUR 150,000 + 25 jobs)</li> <li>■ Joint-stock company – EUR 150,000 + 15 jobs (waiver if 200,000 + 50 jobs)</li> </ul> Extension of permit - EUR 500,000 <u>or</u> creation of 50 new jobs	EUR 15,176-EUR 1 million per person  Analysis on economic efficiency provided by report of Foreign Investors Council <sup>394</sup>
				Permanent residence permit	EUR 1 million or 100 new jobs	
SI		No specific information on investors	N/A <sup>395</sup>	N/A	N/A	
SK	TRP	No information	EUR 232	N/A	EUR 100 million per person*	
	Permanent residence		EUR 165.50	Major investment – at least EUR 100 million + 300 jobs or approved for regional investment aid		

<sup>392</sup> The largest volume of jobs was created in the tourism sector and real estate. Study made by the Portuguese Association of Resources, mentioned in the Parliamentary debates in *Diário da Assembleia da República*, of 12/3/2015, n. 61, p. 4.

<sup>393</sup> Waiver of requirement to prove sufficient subsistence.

<sup>394</sup> See below in this Section.

<sup>395</sup> No administrative fees are applicable, as the procedure is launched ex officio by the competent authorities.

MS		No. of successful applications for residence permit	Administrative fee <sup>356</sup>	Investment	Estimated total income
UK (TRP)	Investor	2,884 between 2008 and 2016	EUR 3,631 <sup>396</sup>	EUR 2,237,200 (GBP 2 million)	EUR 6.5 billion
	Family members	3,879 between 2008 and 2016	EUR 3,631 <sup>397</sup>	N/A	

Note: Italicised figures with \* indicate potential income per investor or investor household.

<sup>396</sup> This only reflects the general application fee and not when the applicant applies through the super-premium service (for those fees, see Table 7). GBP converted to EUR using exchange rate on 23 July 2018.

<sup>397</sup> This only reflects the general application fee not when the applicant applies through the super-premium service (for those fees see Table 7). GBP converted to euros using exchange rate on 23 July 2018.



In a number of Member States, investors' residence schemes have gained in popularity since their creation, and their **impact is considered to be positive**. In the UK, the 2014 Report of the Migration Advisory Committee (MAC),<sup>398</sup> on assessing the **direct financial contribution** of Tier 1 investors, concluded that the scheme provided little direct benefit for the UK because the investments were primarily in the form of government bonds, i.e. loans to the UK government.<sup>399</sup> The MAC, however, found that the Tier 1 (investors) scheme benefited the UK economy through **indirect consumption by the investor**, mostly professional services and taxation. Apart from these direct and indirect contributions, the MAC report also considered the positive **dynamic effects for the UK** resulting from the Tier 1 investors' **business/entrepreneurial activities** (resulting in increased productivity gains and indirect benefits, such as corporate taxes); job creation (mainly related to domestic jobs); additional investments; and philanthropic contributions by Tier 1 investors. While the study recognised the potential for these benefits, there is very little evidence on which to measure this contribution.

By contrast, in other Member States, the schemes have **not entirely met expectations**, in some cases coming to a halt (or even at risk of being disbanded entirely), either due to changes in the legislation making the schemes less attractive (e.g. more burdensome in terms of financial threshold, details required and number of documents to be provided, complexity of the procedures) or simply due to lack of uptake.

In Latvia, for example, the Immigration Law was **made stricter** in 2014 by raising the minimum investment levels substantially and introducing one-off payments to the State budget. These changes were intended to limit the growing number of successful applications, seen by many as a **threat to public security and policy**. In particular, concerns were raised over money laundering, threats to local jobs due to investors' unlimited access to the labour market, concentration of foreigners in certain locations (specifically, Riga, the capital of Latvia, and the coastal resort of Jurmala), and the fact that foreign investors did not need to integrate or learn the Latvian language. In addition, although the scheme contributed to the growth and recovery of the Latvian economy in the aftermath of the 2008 financial crisis, it mainly activated the real estate market rather than attracting investment in equity capital of capital companies, which would have contributed more to competitiveness and job creation. There has thus been a **sharp decrease in investment** attracted through the scheme and, if nothing changes, it is likely that **this scheme will effectively cease to exist**.<sup>400</sup> At the moment, investments in Latvia are growing, without investors taking part in the Latvian investors' residence scheme.<sup>401</sup>

In the Netherlands, according to the 2016 Ministry of Justice assessment,<sup>402</sup> **expectations of the scheme have not been met**.<sup>403</sup> As shown by the data in **Table 14**, the scheme has had a very low uptake (four

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<sup>398</sup> Migration Advisory Committee, February 2014, Investment thresholds and economic benefits, Tier 1 (Investor) route, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285220/Tier1InvestmentRoute.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/285220/Tier1InvestmentRoute.pdf), accessed in April 2018.

<sup>399</sup> Ibid.

<sup>400</sup> Latvian Public Media LSM.LV, 'Migration Service: demand for investor residence permits – virtually expired' (*Migrācijas dienests: Pieprasījums pēc investoru uzturēšanās atļaujām – praktiski beidzies*), available at <https://www.lsm.lv/raksts/zinas/latvija/migracijas-dienests-pieprasijums-pec-investoru-uzturesanas-atlajam-praktiski-beidzies.a254822/>.

<sup>401</sup> The OCMA 2017 Report on progress and results of implementing Article 23(1), points 3, 28, 29, 30 and 31 of the Immigration Law, available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40441522>.

<sup>402</sup> Letter of the Minister of Security and Justice to the Dutch House of Representatives of 8 January 2016 (*Brief van de Staatssecretaris van Veiligheid en Justitie aan de Voorzitter van de Tweede Kamer der Staten-Generaal*), available at <https://zoek.officielebekendmakingen.nl/kst-30573-134.html>.

<sup>403</sup> Information gathered through consultation with national stakeholder (Ministry of Justice, competent authority, 9 April 2018). The scheme will be evaluated again by the end of this year.

residence permits granted since the start of the scheme until May 2018 (in April 2018 one new application was handled, which is likely to be approved), with a total of 12 applications lodged).

In other Member States, **the relationship** between the investors' residence programme and its impact on the economy is **not that clear**. For example, in Portugal, there are no data on whether or not the boost of the economy is connected to the launching and implementation of IRP schemes. Some sources report that, of the European countries, Portugal is where the Chinese investment has had most impact on the economy,<sup>404</sup> especially in the energy, banking, health and real estate sectors. Such investment represented a total of 3.3 per cent of GDP in 2016. This investment is partly made through the IRP scheme, where, according to SEF data, the majority of the applicants are Chinese nationals, followed by Brazilians.<sup>405</sup>

Not all effects of investors' residence schemes are positive. For instance, the **impact in the real estate sector** has led to an increase in the prices of housing. For example, in Portugal, especially in the urban areas of Lisbon and Porto, there has been a dramatic increase in prices, although this increase cannot be securely attributed to the IRP scheme. In fact, Portuguese tourism has also evolved considerably, contributing to this increase in real estate prices. In Lisbon, for example, the average price of one square metre increased from EUR 1,769 in the first quarter of 2016 to EUR 2,394 in the final quarter of 2017.<sup>406</sup> Such increases make it virtually impossible for young Portuguese citizens to buy or rent houses in the centres of these two cities.

In other Member States, the short life of the investors' residence scheme **impedes any assessment** of whether the intended goal has been, or will be, achieved. This is the case in Ireland, where, although the IIP was established in 2012, it has only been in full operation since the middle of 2016.<sup>407</sup> On the basis of the information provided in **Table 14** above, however, it is reasonable to assume that the programme has had a significant impact on boosting Ireland's economy.<sup>408</sup> It may also be concluded that, in addition to job creation, the IIP also creates business for solicitors and other non-public bodies involved in the application process.

The analysis of the economic impact on some Member States is rendered impossible by the lack of statistics, although **qualitative information** may help to close this gap. In Romania, for example, the gap in the information on the economic impact of investors' residence schemes is filled by the 2017 report<sup>409</sup> of a representative of foreign companies: the Foreign Investors Council (*Consiliul Investitorilor Străini*).<sup>410</sup> Despite declaring (in February 2018) that Romania is becoming less and less attractive to foreign investors, the report also highlighted the following:

- Foreign Direct Investment (FDI) has contributed significantly to the modernisation of the Romanian economy, as well as its integration into the European market and international production chains.

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<sup>404</sup> Report of the Barcelona School of Economics and Business, 'Trends in Chinese Investment in Europe', available at <http://www.jornaleconomico.sapo.pt/noticias/portugal-e-o-pais-europeu-onde-o-investimento-chines-tem-mais-impacto-na-economia-141467>.

<sup>405</sup> Government of Portugal, 'Golden Residence Permit. Data from the 8 October 2012 to the 31 January 2018', available at [http://www.sef.pt/documentos/56/Mapa\\_ARI\\_PT\\_janeiro18.pdf](http://www.sef.pt/documentos/56/Mapa_ARI_PT_janeiro18.pdf).

<sup>406</sup> National Statistics Webpage, available at [https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine\\_indicadores&indOcorrCod=0009496&contexto=bd&selTab=tab2](https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_indicadores&indOcorrCod=0009496&contexto=bd&selTab=tab2).

<sup>407</sup> Information gathered through consultation with national stakeholder (Irish Naturalisation and Immigration Service, competent authority, 17 April 2018).

<sup>408</sup> Ibid; Information gathered through consultation with national stakeholder (Central Statistics Office Ireland, 12 April 2018).

<sup>409</sup> The full report is available at <https://www.fic.ro/Documents/view/Report-Foreign-Direct-Investment-Development-and-Importance-in-Romania>.

<sup>410</sup> An organisation representing the largest foreign companies in Romania (130 companies with a total RON 183,000,000,000.00 turnover (26% of Romania's GDP), website available at <https://www.fic.ro/membership/fic-in-numbers>.

- Between 2010 and 2015, foreign companies continued to hire, even though their turnover remained relatively constant. This suggests that most have made long-term investments in Romania and are not focused on merely short-term profit.
- Foreign companies account for an average of 70 per cent of Romania's exports, as well as 60 per cent of its imports.
- Although the general perception is that the volume of FDI is high, Romania has the lowest FDI stock per capita in the region (EUR 3,130 per capita).
- Almost half of all FDI has been in the industrial sector. These investments are long-term and capital intensive.
- Romania has the second most stable macroeconomic framework in the region, after the Czech Republic, but is among the last when it comes to other indicators like infrastructure, tertiary education and training, and labour market efficiency.<sup>411</sup>

In addition to the report, the National Bank of Romania also has its own estimates, showing that between January and April 2018, total foreign investment in Romania amounted to EUR 1,454 million, an increase of EUR 263 million compared to the same period the previous year.<sup>412</sup> FDI amounted to EUR 4,517 million in 2016, totalling EUR 48,964 million at the end of the year. Most of these investments were made in the manufacturing industry, followed by construction, real estate, commerce, financial brokering and insurance.<sup>413</sup>

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<sup>411</sup> The full report is available at <https://www.fic.ro/Documents/view/Report-Foreign-Direct-Investment-Development-and-Importance-in-Romania>.

<sup>412</sup> National Bank of Romania website, 'Statistics', available at <http://bnr.ro/Investitii-directe---principiul-direc%C8%9Bional-12332.aspx>.

<sup>413</sup> National Bank of Romania, 'Direct foreign investments in Romania in 2016' (*Investițiile străine directe în România, anul 2016*), available at <http://bnr.ro/DocumentInformation.aspx?idDocument=26094&idInfoClass=9403>.

## **ANNEX I – INVESTORS’ CITIZENSHIP AND RESIDENCE SCHEMES BY MEMBER STATE**

*See zip file in attachment*

## ANNEX II – BIBLIOGRAPHY

MS	Legislation/Policy instruments
AT	<p>Federal Law on Austrian Nationality 1985 (<i>Bundesgesetz über die österreichische Staatsbürgerschaft (Staatsbürgerschaftsgesetz 1985 – StbG)</i>), Official Gazette BGBl. Nr. 311/1985, last amended by BGBl. I Nr. 68/2017 (NR: GP XXV RV 1586 AB 1631 S. 179. BR: AB 9800 S. 868.), current consolidated version available at <a href="http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10005579">http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10005579</a> <b>(FLAN)</b></p>
BE	<ul style="list-style-type: none"> <li data-bbox="300 492 1883 686">■ Act of 19 February 1965 regarding the exercise of self-employed professional activities by foreigners (<i>Wet betreffende de uitoefening van de zelfstandige beroepsactiviteiten der vreemdelingen</i>), Belgisch Staatsblad 26 February 1965, available at <a href="http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1965021930%2FN&amp;caller=list&amp;row_id=1&amp;numero=1&amp;rech=2&amp;cn=1965021930&amp;table_name=wet&amp;nm=1965021902&amp;la=N&amp;ddfm=02&amp;chercher=t&amp;dt=WET&amp;language=nl&amp;choix1=EN&amp;choix2=EN&amp;fromtab=wet_all&amp;nl=n&amp;sql=dt+contains+%27WET%27+and+dd+between+date%271965-02-19%27+and+date%271965-02-19%27+and+actif+%3D+%27Y%27&amp;ddda=1965&amp;tri=dd+AS+RANK+&amp;trier=afkondiging&amp;ddfa=1965&amp;dddj=19&amp;dddm=02&amp;ddfj=19&amp;imgcn.x=15&amp;imgcn.y=9">http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1965021930%2FN&amp;caller=list&amp;row_id=1&amp;numero=1&amp;rech=2&amp;cn=1965021930&amp;table_name=wet&amp;nm=1965021902&amp;la=N&amp;ddfm=02&amp;chercher=t&amp;dt=WET&amp;language=nl&amp;choix1=EN&amp;choix2=EN&amp;fromtab=wet_all&amp;nl=n&amp;sql=dt+contains+%27WET%27+and+dd+between+date%271965-02-19%27+and+date%271965-02-19%27+and+actif+%3D+%27Y%27&amp;ddda=1965&amp;tri=dd+AS+RANK+&amp;trier=afkondiging&amp;ddfa=1965&amp;dddj=19&amp;dddm=02&amp;ddfj=19&amp;imgcn.x=15&amp;imgcn.y=9</a>. <b>(Professional Card Act)</b></li> <li data-bbox="300 695 1883 979">■ Royal Decree of 2 August 1985 regarding the implementation of the Act of 19 February 1965 regarding the exercise of professional activities by self-employed foreigners (<i>Koninklijk besluit houdende uitvoering van de wet van 19 februari 1965 betreffende de uitoefening van de zelfstandige beroepsactiviteiten der vreemdelingen</i>), Belgisch Staatsblad 24 September 1985, available at <a href="http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1985080266%2FN&amp;caller=list&amp;row_id=1&amp;numero=1&amp;rech=1&amp;cn=1985080266&amp;table_name=WET&amp;nm=1985018112&amp;la=N&amp;ddfm=08&amp;chercher=t&amp;dt=KONINKLIJK+BESLUIT&amp;language=nl&amp;choix1=EN&amp;choix2=EN&amp;text1=zelfstandige&amp;fromtab=wet_all&amp;nl=n&amp;sql=dt+contains+%27KONINKLIJK%27%2526+%27BESLUIT%27+and+dd+between+date%271985-08-02%27+and+date%271985-08-02%27+and+%28%28+tit+contains+%28+%27zelfstandige%27%29+++%29+or+%28+text+contains+%28+%27zelfstandige%27%29+++%29%29and+actif+%3D+%27Y%27&amp;ddda=1985&amp;tri=dd+AS+RANK+&amp;trier=afkondiging&amp;ddfa=1985&amp;dddj=02&amp;dddm=08&amp;ddfj=02&amp;imgcn.x=34&amp;imgcn.y=10">http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?DETAIL=1985080266%2FN&amp;caller=list&amp;row_id=1&amp;numero=1&amp;rech=1&amp;cn=1985080266&amp;table_name=WET&amp;nm=1985018112&amp;la=N&amp;ddfm=08&amp;chercher=t&amp;dt=KONINKLIJK+BESLUIT&amp;language=nl&amp;choix1=EN&amp;choix2=EN&amp;text1=zelfstandige&amp;fromtab=wet_all&amp;nl=n&amp;sql=dt+contains+%27KONINKLIJK%27%2526+%27BESLUIT%27+and+dd+between+date%271985-08-02%27+and+date%271985-08-02%27+and+%28%28+tit+contains+%28+%27zelfstandige%27%29+++%29+or+%28+text+contains+%28+%27zelfstandige%27%29+++%29%29and+actif+%3D+%27Y%27&amp;ddda=1985&amp;tri=dd+AS+RANK+&amp;trier=afkondiging&amp;ddfa=1985&amp;dddj=02&amp;dddm=08&amp;ddfj=02&amp;imgcn.x=34&amp;imgcn.y=10</a>. <b>(Royal Decree of 2 August 1985)</b></li> <li data-bbox="300 987 1883 1101">■ Act of 15 December 1980 regarding access to the territory of Belgium, the residence and expulsion of foreigners (<i>Wet betreffende de toegang tot het grondgebied, het verblijf, de vestiging en de verwijdering van vreemdelingen</i>), Belgisch Staatsblad 31 December 1980, available at <a href="http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;table_name=wet&amp;cn=1980121530">http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&amp;la=N&amp;table_name=wet&amp;cn=1980121530</a>. <b>(Aliens Act)</b></li> </ul>
BG	<ul style="list-style-type: none"> <li data-bbox="300 1125 1883 1174">■ Bulgarian Citizenship Act (<i>Закон за българското гражданство</i>), SG N. 136, 18 November 1998 <a href="https://www.lex.bg/laws/ldoc/2134446592">https://www.lex.bg/laws/ldoc/2134446592</a>, as subsequently amended and supplemented. <b>(BCA)</b></li> <li data-bbox="300 1182 1883 1230">■ Foreign Nationals in the Republic of Bulgaria Act (<i>Закон за чужденците в Република България</i>), Prom. SG. No. 153 of 23 December 1998, as subsequently amended and supplemented. <b>(FNA)</b></li> <li data-bbox="300 1239 1883 1287">■ Bulgarian Investments Promotion Act (<i>Закон за насърчаване на инвестициите</i>), SG N. 97, 24 October 1997, as subsequently amended and supplemented, available at <a href="https://lex.bg/bg/laws/ldoc/2134164480">https://lex.bg/bg/laws/ldoc/2134164480</a>. <b>(Bulgarian Investments Promotion Act)</b></li> <li data-bbox="300 1295 1883 1344">■ Law on Measures against Money Laundering (<i>Закон за мерските срещу изпирането на пари</i>), Promulgated, SG No. 27/27.03.2018, available at <a href="https://www.lex.bg/laws/ldoc/2134420482">https://www.lex.bg/laws/ldoc/2134420482</a>. <b>(Anti-money laundering Law)</b></li> </ul>

MS	Legislation/Policy instruments
CY	<ul style="list-style-type: none"> <li>■ Law No. 141(I)/2002: The Civil Registry Law 2002 (Αρχείου Πληθυσμού Νόμος του 2002), 141(I)/2002, O.G, Par 1(I), No.3626, 26/7/2002, as amended, available at <a href="http://www.cylaw.org/nomoi/indexes/2002_1_141.html">http://www.cylaw.org/nomoi/indexes/2002_1_141.html</a> (<b>Civil Registry Law</b>).</li> <li>■ Council of Ministers' Decision 81.292 of 13 September 2016, (Απόφαση Υπουργικού Συμβουλίου αρ. 81.292 ημερομηνίας 13.9.2016, Παραχώρηση της κυπριακής υπηκοότητας με κατ' εξαίρεση πολιτογράφηση σε μη Κύπριους επενδυτές/επιχειρηματίες στη βάση του εδαφίου (2) του άρθρου 111Α του περί Αρχείου Πληθυσμού Νόμου 141(I)/2002 και παραχώρηση της κυπριακής υπηκοότητας με κατ' εξαίρεση πολιτογράφηση στα μέλη οικογένειας επιχειρηματία/επενδυτή/τριας πολιτογραφηθέντος βάσει Αποφασής του Υπουργικού Συμβουλίου), O.G, Par 4(I), No.4504, 16.9.2016, available at <a href="http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/626C3F5813AB3EF9C22580300033CD78/\$file/4504%2016%209%202016%20PARARTIMA%204o%20MEROS%20I.pdf">http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/626C3F5813AB3EF9C22580300033CD78/\$file/4504%2016%209%202016%20PARARTIMA%204o%20MEROS%20I.pdf</a> and website of the Civil Registry and Migration, available at <a href="http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/DABB1713307D8C4CC2257D2C0045433C?OpenDocument">http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/DABB1713307D8C4CC2257D2C0045433C?OpenDocument</a>. (<b>Council of Ministers' Decision 81.292</b>)</li> <li>■ Council of Ministers' Decision 906/2018, dated 21 May 2018; Granting of Cypriot Citizenship to non-Cypriot investors/businessmen under the naturalization by exception Scheme on the basis of subsection (2) of section 111A of the Civil Registry Laws of 2002-2015, available at <a href="http://www.cm.gov.cy/cm/cm_2013/cm.nsf/0A98785E52C002A9C22582AD002CBAFF/\$file/906-2018.pdf">http://www.cm.gov.cy/cm/cm_2013/cm.nsf/0A98785E52C002A9C22582AD002CBAFF/\$file/906-2018.pdf</a> (<b>Council of Ministers Decision 906/2018</b>)</li> <li>■ Council of Ministers' Decision 84.068 dated 9 January 2018 (Απόφαση Υπουργικού Συμβουλίου αρ. 84.068 ημερομηνίας 9.1.2018, Παραχώρηση της κυπριακής υπηκοότητας με κατ' εξαίρεση Πολιτογράφηση σε μη Κύπριους επενδυτές/επιχειρηματίες στη βάση του εδαφίου (2) του άρθρου 111Α του περί Αρχείου Πληθυσμού Νόμου 141(I)/2002. Σύσταση Επιτροπής Εποπτείας και Ελέγχου, εισαγωγή κώδικα συμπεριφοράς και άλλων πρακτικών μέτρων διαχείρισης της προώθησης και εφαρμογής του Σχεδίου.), O.G, Par 4(I), No.4568, 2.3.2018, available at <a href="http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/20CF8C6CABEC7FF4C225824400389AD4/\$file/4568%202%203%202018%20PARARTHMA%204o%20MEROS%20I.pdf">http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/20CF8C6CABEC7FF4C225824400389AD4/\$file/4568%202%203%202018%20PARARTHMA%204o%20MEROS%20I.pdf</a> (<b>Council of Ministers' Decision 84.068</b>)</li> <li>■ Law providing for the Prevention and Combatting of Legalisation of Profits from Illegal Activities of 2007 to 2018 (Ο περί της Παρεμπόδισης και Καταπολέμησης της Νομιμοποίησης Εσόδων από Παράνομες Δραστηριότητες Νόμος του 2007-2018), O.G, Par 1(I), No. 4154, 31/12/2007, available at <a href="http://www.cylaw.org/nomoi/enop/non-ind/2007_1_188/full.html">http://www.cylaw.org/nomoi/enop/non-ind/2007_1_188/full.html</a> (<b>Anti-money laundering Law</b>)</li> <li>■ The General Principles of Administrative Law of 1999, L. 158(I)/1999, as amended by Law. 99(I)/2014 (Ο περί των Γενικών Αρχών του Διοικητικού Δικαίου Νόμος του 1999), OG Par. 1(I), No 3378, 31.12.1999, available at <a href="http://www.cylaw.org/nomoi/enop/non-ind/1999_1_158/full.html">http://www.cylaw.org/nomoi/enop/non-ind/1999_1_158/full.html</a>. (<b>General Principles of Administrative Law</b>).</li> </ul>
CZ	<ul style="list-style-type: none"> <li>■ Act No 222/2017 Amending Act No 326/1999 on the Residence of Foreign Nationals on the Territory of the Czech Republic, as Amended, and Other Related Acts (Zákon č. 222/2017 Sb., kterým se mění zákon č. 326/1999 Sb., o pobytu cizinců na území České republiky a o změně některých zákonů, ve znění pozdějších předpisů, a další související zákony), Collection of Laws of the Czech Republic, Chapter 81/2017, available at <a href="http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy">http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy</a>. (<b>Act on the Residence of Foreign Nationals</b>)</li> <li>■ Government Regulation No 223/2017 of 10 July 2017 on Some Conditions for Issuing and Prolongation of the Validity of the Long Term Residence Permit for the Purpose of Investment (Nařízení vlády č. 223/2017 Sb., ze dne 10. července 2017, o některých podmínkách vydání a prodloužení platnosti povolení k dlouhodobému pobytu za účelem investování), Collection of Laws of the Czech Republic, Chapter 81/2017, available at <a href="http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy">http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=222/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy</a>. (<b>Government Regulation No 223/2017</b>)</li> </ul>



MS	Legislation/Policy instruments
	<ul style="list-style-type: none"> <li>Decree No 224/2017, of 14 July 2017, amending Decree No 368/1999, laying down Elements and Number of Photographs Necessary Under the Act on the Residence of Foreign Nationals (Vyhláška č. 224/2017, zed ne 14. července 2017, kterou se mění vyhláška č. 368/1999 Sb., kterou se stanoví náležitosti a počty fotografií vyžadovaných podle zákona o pobytu cizinců, ve znění pozdějších předpisů), Chapter 81/2017, available at <a href="http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=224/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy">http://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=224/2017&amp;typeLaw=zakon&amp;what=Cislo_zakona_smlouvy</a> (<b>Decree No 224/2017</b>)</li> </ul>
DE	<ul style="list-style-type: none"> <li>Residence Act (Aufenthaltsgesetz), in the version of the publication of 25 February 2008 (BGBl. I p. 162), most recently amended by act of 8 March 2018 (BGBl. I p. 342), available at <a href="https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html#BJNR195010004BJNG000101310">https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html#BJNR195010004BJNG000101310</a> (<b>Residence Act</b>)</li> <li>Basic Law, (Grundgesetz), enacted on 23 May 1949 (BGBl. P. 1), most recently amended by Act of 13 July 2017 (BGBl. I p. 2347), available in an English version at <a href="https://www.gesetze-im-internet.de/englisch_gg/index.html">https://www.gesetze-im-internet.de/englisch_gg/index.html</a> (<b>Basic Law</b>)</li> <li>Recommendation on the draft law on the implementation of the Highly Qualified Workers Directive (Empfehlung zum Entwurf eines Gesetzes zur Umsetzung der HochqualifiziertenRichtlinie der Europäischen Union, Drucksache 848/1/11), Bundesrat p. 16-17, available at <a href="http://dipbt.bundestag.de/dip21/brd/2011/0848-1-11.pdf">http://dipbt.bundestag.de/dip21/brd/2011/0848-1-11.pdf</a> (<b>Recommendation on the draft law on the implementation of the Highly Qualified Workers Directive</b>)</li> </ul>
EE	<p>Aliens Act (Välismaalaste seadus) RT I 4 July 2017, available at <a href="https://www.riigiteataja.ee/en/eli/501112017003/consolide">https://www.riigiteataja.ee/en/eli/501112017003/consolide</a> (<b>Aliens Act</b>)</p>
EL	<ul style="list-style-type: none"> <li>Law No 4251 Immigration and Social Integration Code and Other provisions of 1 April 2014 (Νόμος Υπ'Αριθμό 4251-2014 (ΦΕΚ 80 Α') Κώδικα Μετανάστευσης και Κοινωνικής Ένταξης και Λοιπές Διατάξεις), Government Gazette of the Hellenic Republic Issue No 80 Series A available at <a href="https://www.kodiko.gr/nomologia/document_navigation/95295/nomos-4251-2014">https://www.kodiko.gr/nomologia/document_navigation/95295/nomos-4251-2014</a> (consolidated version in Greek). (<b>Immigration Code</b>)</li> <li>Joint Ministerial Decision 30825-2014 specifying the documents for the issuance of national entry permits the grant and renewal of residence permit in accordance with the provisions of Law 4251-2014 of 6 June 2014 (ΚΥΑ 30825/2014 Καθορισμός δικαιολογητικών για χορήγηση εθνικών θεωρήσεων εισόδου και χορήγηση και ανανέωση τίτλου διαμονής σύμφωνα με τις διατάξεις του ν. 4251/2014) Government Gazette of the Hellenic Republic Issue No 1528 Series B available (in Greek) <a href="https://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.187118">https://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.187118</a> (<b>Joint Ministerial Decision 30825-2014</b>)</li> <li>Joint Ministerial Decision 68019-2015 amending Joint Ministerial Decision 30825-2014 (Κοινή Υπουργική Απόφαση 68019/2015 Τροποποίηση της υπ' αριθμό 30825/2014 κοινής απόφασης των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Εξωτερικών 'Καθορισμός απαιτούμενων δικαιολογητικών για τη χορήγηση εθνικών θεωρήσεων εισόδου και για την χορήγηση και ανανέωση τίτλου διαμονής σύμφωνα με τις διατάξεις του Ν. 4251/2014'), Government Gazette of the Hellenic Republic Issue No 2272 available (in Greek) at <a href="https://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.322190">https://www.synigoros.gr/?i=foreigner.el.metanastis-pdya.322190</a> (<b>Joint Ministerial Decision 68019-2015</b>)</li> <li>Law No. 3894 Acceleration and Transparency regarding the Realisation of Strategic Investments of 2 December 2010 (Νόμος Υπ'Αριθμό 4242 Ενιαίος Φορέας Εξωστρέφειας και άλλες διατάξεις), Government Gazette of the Hellenic Republic Issue No 204 Series A available (in Greek) at <a href="https://www.kodiko.gr/nomologia/document_navigation/57840">https://www.kodiko.gr/nomologia/document_navigation/57840</a> (<b>Law No. 3894 on the Realisation of Strategic Investments</b>)</li> </ul>
ES	<ul style="list-style-type: none"> <li>Law 14/2013, of 27 September, on the support to entrepreneurs and their internationalisation (Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización), Official State Gazette 233 of 29 September 2013, BOE-A-2013-10074, available at <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2013-10074">https://www.boe.es/buscar/act.php?id=BOE-A-2013-10074</a> (<b>Law 14/2013</b>)</li> <li>Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration (Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social), Official State Gazette No. 10/2000</li> </ul>

MS	Legislation/Policy instruments
	<p>of 12 January 2000, BOE-A-2000-544, available at <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2000-544">https://www.boe.es/buscar/act.php?id=BOE-A-2000-544</a> (<b>LOEX</b>) (last amended in 2009). The LOEX is developed by Royal Decree 557/2011, of 20 April, adopting the Regulation of Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration (<i>Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social</i>), Official Gazette No. 103/2011 of 3 April 2011, BOE-A-2011-7703, available at <a href="https://www.boe.es/buscar/act.php?id=BOE-A-2011-7703">https://www.boe.es/buscar/act.php?id=BOE-A-2011-7703</a> (<b>RELOEX</b>) (last amended in 2009).</p> <ul style="list-style-type: none"> <li>■ Royal Decree of 24 July of 1889 publishing the Civil Code (), Official Gazette 206/1889, BOE-A-1889-4763, available at <a href="https://boe.es/buscar/act.php?id=BOE-A-1889-4763">https://boe.es/buscar/act.php?id=BOE-A-1889-4763</a> (last amended in June 2017) (<b>Civil Code</b>)</li> <li>■ Ministry of Employment and Social Security, 'Report on the implementation on the Section on International Mobility of Law 14/2013 of 27 September on the support to entrepreneurs and their internationalisation' (<i>Informe sobre la aplicación de la Sección de Movilidad Internacional de la Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización</i>), April 2015, available at <a href="http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf">http://extranjeros.empleo.gob.es/es/UnidadGrandesEmpresas/ley14_2013/documentacion/Informe_anual_de_la_Seccion_de_Movilidad_de_la_ley_14_2013.pdf</a> (<b>2015 MESS Report</b>).</li> </ul>
FR	<ul style="list-style-type: none"> <li>■ Law No. 2006-911 of 24 July 2006 on immigration and integration (<i>Loi n° 2006-911 du 24 juillet 2006 relative à l'immigration et à l'intégration</i>), available at <a href="https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000266495">https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000266495</a> (<b>Immigration Code</b>)</li> <li>■ Law No. 2016-274 of 7 March 2016 on the rights of foreigners in France (<i>Loi du 7 mars 2016 relative au droit des étrangers en France</i>), available at <a href="https://www.legifrance.gouv.fr/eli/loi/2016/3/7/INTX1412529L/jo/texte">https://www.legifrance.gouv.fr/eli/loi/2016/3/7/INTX1412529L/jo/texte</a> (<b>Law on the rights of foreigners in France</b>)</li> <li>■ Decree No. 2016-1456 of 28 October 2016 adopted for the implementation of Law No. 2016-274 of 7 March 2016 and adopting various provisions on the entry, stay and work of foreigners in France (<i>Décret n° 2016-1456 du 28 octobre 2016 pris pour l'application de la loi n° 2016-274 du 7 mars 2016 et portant diverses dispositions relatives à l'entrée, au séjour et au travail des étrangers en France</i>), available at <a href="https://www.legifrance.gouv.fr/eli/decree/2016/10/28/INTV1618858D/jo">https://www.legifrance.gouv.fr/eli/decree/2016/10/28/INTV1618858D/jo</a> (<b>Decree No. 2016-1456</b>)</li> <li>■ Law No. 2016-1917 of 29 December 2016 on the finances for 2017 (<i>Loi no 2016-1917 du 29 décembre 2016 de finances pour 2017</i>), available at <a href="https://www.cjoint.com/doc/17_01/GAfjce7gW4M_loifinancespour2017.pdf">https://www.cjoint.com/doc/17_01/GAfjce7gW4M_loifinancespour2017.pdf</a> (<b>Law No. 2016-1917 on the finances for 2017</b>)</li> </ul>
HR	<p>Aliens Act (<i>Zakon o strancima</i>), Official Gazette of the Republic of Croatia, Nos. 130/11, 74/13, 69/17, available at <a href="http://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_130_2600.html">http://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_130_2600.html</a>, (2013 amendment available at <a href="https://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_74_1475.html">https://narodne-novine.nn.hr/clanci/sluzbeni/2013_06_74_1475.html</a>, (2017 amendment available at <a href="https://narodne-novine.nn.hr/clanci/sluzbeni/2017_07_69_1605.html">https://narodne-novine.nn.hr/clanci/sluzbeni/2017_07_69_1605.html</a>). Consolidated version available at <a href="https://www.zakon.hr/z/142/Zakon-o-strancima">https://www.zakon.hr/z/142/Zakon-o-strancima</a> (<b>Aliens Act</b>)</p>
HU	<ul style="list-style-type: none"> <li>■ Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (<i>2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról</i>), Official Gazette no. 2007/1, available at <a href="https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV">https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV</a> (<b>Act on the Admission and Right of Residence of Third-Country Nationals</b>)</li> <li>■ Act CCXX of 2012 on amending Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (<i>2012. évi CCXX. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény módosításáról</i>), Official Gazette no. 2012/180, available at <a href="https://mkogy.jogtar.hu/?page=show&amp;docid=a1200220.TV">https://mkogy.jogtar.hu/?page=show&amp;docid=a1200220.TV</a> (<b>Act CCXX of 2012</b>)</li> </ul>
IE	<ul style="list-style-type: none"> <li>■ Immigration Act 2004 (Immigrant Investor Programme) (Application for Permission) (Fee) Regulations 2017, S.I. No. 10/2017, available at <a href="http://www.irishstatutebook.ie/eli/2017/si/10/made/en/print">http://www.irishstatutebook.ie/eli/2017/si/10/made/en/print</a>. (<b>2004 Immigration Act</b>)</li> </ul>



MS	Legislation/Policy instruments
	<ul style="list-style-type: none"> <li>INIS, 'Immigrant Investor Programme: Guidelines', January 2018, p. 19 available at <a href="http://www.inis.gov.ie/en/INIS/Immigrant%20Investor%20Programme%20(IIP)%20Guidelines.pdf/Files/Immigrant%20Investor%20Programme%20(IIP)%20Guidelines.pdf">http://www.inis.gov.ie/en/INIS/Immigrant%20Investor%20Programme%20(IIP)%20Guidelines.pdf/Files/Immigrant%20Investor%20Programme%20(IIP)%20Guidelines.pdf</a> (<b>INIS IIP Guidelines</b>)</li> </ul>
IT	<ul style="list-style-type: none"> <li>Legislative Decree n. 286 of 25 July 1998 'Single Act on the discipline concerning immigration and the condition of the foreigner' (Decreto Legislativo n. 286 of 25 July 1998 'Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero'), OJ of 18 August 1998 n. 191, available at <a href="https://www.esteri.it/mae/normative/normativa_consolare/visti/d_lgs_25_luglio_1998_n_286.pdf">https://www.esteri.it/mae/normative/normativa_consolare/visti/d_lgs_25_luglio_1998_n_286.pdf</a> (<b>TUI</b>)</li> <li>Operative Guidelines adopted on 16 November 2017 by the Ministry of Economic Development, Ministry of Interior, Ministry of Foreign Affairs and International Cooperation available at <a href="https://investorvisa.mise.gov.it/images/documenti/Manuale-Operativo-Investor-Visa-for-Italy-ITA.pdf">https://investorvisa.mise.gov.it/images/documenti/Manuale-Operativo-Investor-Visa-for-Italy-ITA.pdf</a> (<b>Operative Guidelines</b>)</li> </ul>
LT	<p>Republic of Lithuania Law on the Legal Status of Aliens (<i>Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties</i>), Valstybės žinios No. 73-2539, 1041010ISTA0IX-2206, available at <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.42837E5A79DD/uCWCKWxVbe">https://www.e-tar.lt/portal/lt/legalAct/TAR.42837E5A79DD/uCWCKWxVbe</a>. (<b>Aliens Law</b>)</p>
LU	<p>Law of 29 August 2008 on the freedom of movement of people and on immigration (<i>Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration</i>), Mémorial A138, available at <a href="https://maee.gouvernement.lu/dam-assets/directions/d8/législations/Loi-modifiee-du-29-aout-2008-sur-la-libre-circulation-des-personnes-et-l-immigration.pdf">https://maee.gouvernement.lu/dam-assets/directions/d8/législations/Loi-modifiee-du-29-aout-2008-sur-la-libre-circulation-des-personnes-et-l-immigration.pdf</a> (consolidated text of 20 March 2017) (<b>Immigration Law</b>)</p>
LV	<p>Immigration Law (<i>Imigrācijas likums</i>), OP: "Latvijas Vēstnesis", 169 (2744), 20 November 2002, last amended on 4 July 2018, available at <a href="https://likumi.lv/ta/en/en/id/68522-immigration-law">https://likumi.lv/ta/en/en/id/68522-immigration-law</a> (<b>Immigration Law</b>)</p>
MT	<ul style="list-style-type: none"> <li>Chapter 188 of the Laws of Malta, Maltese Citizenship Act, 21 September 1964, Act XXX of 1965 as last amended by Acts XV of 2013, XXIV of 2017 and XXVI of 2017, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8702&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8702&amp;l=1</a> (<b>Maltese Citizenship Act</b>)</li> <li>Constitution of Malta, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8566&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8566&amp;l=1</a> (<b>Constitution of Malta</b>)</li> <li>Subsidiary Legislation 497.25, Malta Individual Investor Programme Agency (Establishment) Order, 29 March 2018, Legal Notice 96 of 2018, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12809&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12809&amp;l=1</a> (<b>LN 96/2018</b>)</li> <li>Subsidiary Legislation 188.01, Citizenship Regulations, 1 August 1989, Legal Notice 106 of 1989 as last amended by Legal Notices 17 and 63 of 2014 and Act XIII of 2015, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=9536&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=9536&amp;l=1</a> (<b>LN 106/1989</b>)</li> <li>Subsidiary Legislation 188.013, Individual Investor Programme of the Republic of Malta Regulations, 4 February 2014, Legal Notice 47 of 2014, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12141&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12141&amp;l=1</a> (<b>LN 47/2014</b>)</li> <li>Subsidiary Legislation 217.18, Malta Residence and Visa Programme Regulations, 25 August 2015. Legal Notice 288 of 2015, as amended by Legal Notice 189 of 2017, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12397&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12397&amp;l=1</a> (<b>LN 288/2015</b>)</li> <li>Subsidiary Legislation 217.04, Immigration Regulations, 1 May 2004, Legal Notice 205 of 2004 as amended by Legal Notices 307 and 426 of 2012, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=9559&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=9559&amp;l=1</a> (<b>LN 205/2004</b>)</li> <li>Subsidiary Legislation 497.07, Identity Malta Agency (Establishment) Order, 10 September 2103, Legal Notice 269 of 2013, as amended by Legal Notices 101 of 2016 and 95 of 2018, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12096&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12096&amp;l=1</a> (<b>LN 269/2013</b>)</li> </ul>

MS	Legislation/Policy instruments
	<ul style="list-style-type: none"> <li>■ Chapter 123 of the Laws of Malta, Income Tax Act, 1 January 1949, Act LIV of 1948 as last amended by Acts XV of 2016, XVI of 2017 and VII of 2018, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8658">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=8658</a> (last amended by Act VII of 2018) <b>(Income Tax Act)</b></li> <li>■ Subsidiary Legislation 123.148, Global Residence Programme Rules, 1 July 2013, Legal Notice 167 of 2013, as amended by Legal Notice 267 of 2014, available at <a href="http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12062&amp;l=1">http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&amp;itemid=12062&amp;l=1</a> <b>(LN 167/2013)</b></li> <li>■ Office of the Regulator Individual Investor Programme (ORIip), First Annual Report on the IIP Programme of the Government of Malta, October 2014, available at <a href="https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202014.pdf">https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202014.pdf</a> <b>(ORIip First Annual Report)</b></li> <li>■ Office of the Regulator Individual Investor Programme (ORIip), Second Annual Report on the IIP Programme of the Government of Malta, October 2015, available at <a href="https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202015.pdf">https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202015.pdf</a> <b>(ORIip Second Annual Report)</b></li> <li>■ Office of the Regulator Individual Investor Programme (ORIip), Third Annual Report on the Individual Investor Programme of the Government of Malta (1 July 2015 – 30 June 2016), October 2016 available at <a href="https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202016.pdf">https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202016.pdf</a> <b>(ORIip Third Annual Report)</b></li> <li>■ Office of the Regulator Individual Investor Programme (ORIip), Fourth Annual Report on the Individual Investor Programme of the Government of Malta (1st July 2016 – 30th June 2017), November 2017, available at <a href="https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202017.pdf">https://oriip.gov.mt/en/Documents/Reports/Annual%20Report%202017.pdf</a> <b>(ORIip Fourth Annual Report)</b></li> <li>■ Identity Malta Agency, 'Malta Individual Investor Programme Checklist and Guidelines', Version 2.0 – 2015, p. 3, available at <a href="http://iip.gov.mt/wp-content/uploads/2014/02/MIIP-Checklist-and-Guidelines-V2-1.pdf">http://iip.gov.mt/wp-content/uploads/2014/02/MIIP-Checklist-and-Guidelines-V2-1.pdf</a> <b>(Malta IIP Checklist and Guidelines)</b></li> </ul>
NL	<ul style="list-style-type: none"> <li>■ Aliens Act of 23 November 2000 (<i>Vreemdelingenwet</i>), identification number BWBR0011823, available at <a href="http://wetten.overheid.nl/BWBR0011823/2017-12-16#Hoofdstuk1">http://wetten.overheid.nl/BWBR0011823/2017-12-16#Hoofdstuk1</a> (last amended in 2017) <b>(Aliens Act)</b></li> <li>■ Aliens Decree of 23 November 2000 (<i>Vreemdelingsbesluit 2000</i>), identification number BWBR0011825, available at <a href="http://wetten.overheid.nl/BWBR0011825/2017-10-01#Hoofdstuk1">http://wetten.overheid.nl/BWBR0011825/2017-10-01#Hoofdstuk1</a> <b>(Aliens Decree)</b></li> <li>■ Implementation Guidelines of the Aliens Act (<i>Vreemdelingencirculaire 2000</i>), identification number BWBR0012289, available at <a href="http://wetten.overheid.nl/BWBR0012289/2018-01-01#Circulaire.divisieB11">http://wetten.overheid.nl/BWBR0012289/2018-01-01#Circulaire.divisieB11</a> <b>(Implementation Guidelines)</b></li> </ul>
PL	Act of 12 December 2013 on Aliens ( <i>Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach</i> ), O.J. 2013 item 1650, available at <a href="http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20130001650">http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20130001650</a> <b>(Act on Aliens)</b>
PT	<ul style="list-style-type: none"> <li>■ Law 23/2007 of 4 July on the Legal regime of entry, stay and removal of foreigners from the national territory (<i>regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional</i>), as amended by: Law 102/2017 of 28 August. Official publication in the Diário da República, I série, n. 165/2017, available at <a href="https://dre.pt/web/guest/pesquisa/-/search/108063583/details/normal?l=1">https://dre.pt/web/guest/pesquisa/-/search/108063583/details/normal?l=1</a> <b>(Aliens Act)</b></li> <li>■ Regulation (Portaria) 12/2010, of 7 January. Official Publication Diário da República, Serie I, n. 4/2010, available at <a href="http://www.sef.pt/documentos/35/PortariaTaxas2012.pdf">http://www.sef.pt/documentos/35/PortariaTaxas2012.pdf</a> <b>(Regulation (Portaria)12/2010)</b></li> </ul>
RO	Government Emergency Ordinance 194/2002 on the regime of foreigners in Romania ( <i>Ordonanța de urgență nr. 194/2002 privind regimul străinilor în România</i> ), Official Journal, Part I, no. 421/05 June 2008 (latest republication), available at <a href="http://legislatie.just.ro/Public/DetailiiDocument/93712">http://legislatie.just.ro/Public/DetailiiDocument/93712</a> <b>(OUG 194/2002)</b>
SI	Aliens Act, <i>Zakon o tujcih</i> (Official gazette RS, no. 1/18 – official consolidated text and 9/18 – corr.), available at <a href="http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761">http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761</a> <b>(Aliens Act)</b>

MS	Legislation/Policy instruments
SK	<ul style="list-style-type: none"> <li>■ Act No. 404/2011 Coll. of 21 October 2011 on Residence of Foreigners and Amendment and Supplementation of Certain Acts (<i>Zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov</i>), published in the Collection of Laws No. 126/2011 on 22 November 2011, available at <a href="http://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/404/20170901">www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/404/20170901</a> (<b>Act No. 404/2011 Coll.</b>)</li> <li>■ Act No. 57/2018 Coll of 7 March 2018, on Regional Investment Aid and on amendments to certain laws (<i>Zákon č. 57/2018 Z.z. o regionálnej investičnej pomoci a o zmene a doplnení niektorých zákonov</i>), published in the Collection of Laws No. 27/2018 on 7 March 2018, available at <a href="http://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/57/20180401">www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/57/20180401</a> (<b>Act No. 57/2018 Coll.</b>)</li> <li>■ Act No. 40/1993 Coll. on Slovak Citizenship of 19 January 1993 (<i>Zákon Národnej Rady Slovenskej Republiky z 19. januára 1993 o štátnom občianstve Slovenskej republiky</i>), published in the Collection of Laws No. 40/1993 on 15 February 1993, available at <a href="https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/40/">https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/40/</a> (last amended in July 2015) (<b>Act on Slovak Citizenship</b>).</li> </ul>
UK	Immigration Rules part 6A: the points-based system, available at <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-6a-the-points-based-system">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-6a-the-points-based-system</a> ( <b>Immigration Rules</b> )

## **ANNEX III – DELIVERABLE A**

*See Excel table in attachment.*