

Thematic dossier:

Anti-Money Laundering and Asset Recovery: 'Golden Passport' and 'Golden Visa' Investment Schemes

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“We must be guided above all by the overriding realisation that it is essential to build a united Europe”

Alcide De Gasperi

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About this OER



About this OER

1. **Author:** This OER has been developed by Dr Georgios Pavlidis, Assistant Professor of International and EU law at NUP, Cyprus as part of the activities of the Jean Monnet Chair. You can find more information about this projects at <https://www.nup.ac.cy/jean-monnet-chair/>
2. **Methodology:** This OER was developed in accordance with the principles of the UNESCO Recommendation on Open Educational Resources, as well as the Cape Town Open Education Declaration and the Paris OER Declaration, which deal with the application of open licenses to educational materials.
3. **Target audience:** This OER is designed for undergraduate students in the fields of law, political sciences, social sciences, etc, as well as for lawyers, judges, prosecutors and practitioners who are interested in the EU action in the areas of asset recovery and AML.
4. **The topic of this OER:** This OER deals with the money laundering risks that emerge in the context of citizenship-by-investment and residency-by-investment schemes (see sections **Learning Objectives** and **Learning Outcomes**)



About this OER

5. **Navigation:** This OER is structured into several sections, including an introduction, main content, learning activities, and additional resources. Use the table of contents provided to navigate through the OER and locate specific sections of interest.
6. **Reading and Understanding:** Begin by reading the introduction to gain an overview of the OER's purpose and learning objectives. Proceed to the main content, where you will find in-depth information and key concepts related to the topic. Take your time to understand the presented information and ensure comprehension before moving forward.
7. **Learning Activities:** In this OER you will encounter learning activities designed to enhance your understanding and application of the concepts covered. Engage with these activities to reinforce your learning and test your knowledge. Feel free to discuss the activities with peers or seek additional resources to deepen your understanding further.
8. **Reflection and Critical Thinking:** As you progress through the OER, take the opportunity to reflect on the concepts presented and consider their implications. Encourage critical thinking by asking questions, analyzing examples, and connecting the information to real-world scenarios.



About this OER

9. **Additional Resources:** The OER provides a list of additional resources, such as books, articles, websites, or videos, that you can explore for further study or to delve deeper into specific topics covered. Take advantage of these resources to expand your knowledge and explore related areas of interest.
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We hope that this OER serves as a valuable resource for your learning journey. If you have any questions or require further assistance, please reach out to us at: g.pavlidis@nup.ac.cy

Enjoy your exploration and learning!

Georgios Pavlidis

Jean Monnet Chair, NUP

Learning Objectives

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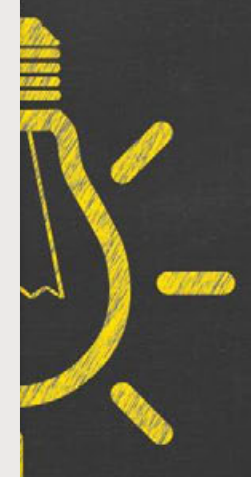
Learning Objectives

1. Understand the historical development and evolution of citizenship-by-investment (CBI) and residency-by-investment (RBI) schemes.
2. Analyze the economic advantages and potential risks associated with CBI/RBI programs.
3. Examine the ethical and legal implications of CBI/RBI schemes, including issues of justice, fairness, and transparency.
4. Evaluate the need for common rules and controls at the EU level to address compliance, money laundering, and security risks posed by CBI/RBI schemes.

Learning Outcomes

A row of five white lightbulbs hanging from the top of the page. The central lightbulb is slightly dimmer than the others.

Learning Outcomes

1. Identify the pioneering countries and programs that introduced CBI/RBI schemes and their respective characteristics.
 2. Assess the economic benefits and potential drawbacks of CBI/RBI programs, including their impact on sustainable development, market bubbles, and economic dependency.
 3. Analyze the compliance risks, such as money laundering, corruption, and tax evasion, associated with golden passport and golden visa schemes.
 4. Evaluate the arguments surrounding the ethical and legal implications of CBI/RBI programs, including their commodification of public law, neoliberal influences, and concerns of justice, fairness, and transparency.
- 
- A glowing yellow lightbulb with rays emanating from it, positioned on the right side of the page.

Main Content

Introduction

- Granting citizenship and residence permits to investors in the host country dates back to the 1980s.
- Saint Kitts and Nevis pioneered citizenship-by-investment (CBI) and residency-by-investment (RBI) schemes, followed by other countries including the United States with its EB-5 visa.
- Various jurisdictions have implemented specialized migration and investment schemes to attract skilled migrants and innovative entrepreneurs.
- Passive investment programs, such as "golden passport" and "golden visa" schemes, prioritize financial contributions over talent, skills, and cultural ties.
- Proponents argue that CBI/RBI programs bring economic advantages, including increased capital inflow, private sector investment, and fiscal revenues for the host country.

Introduction

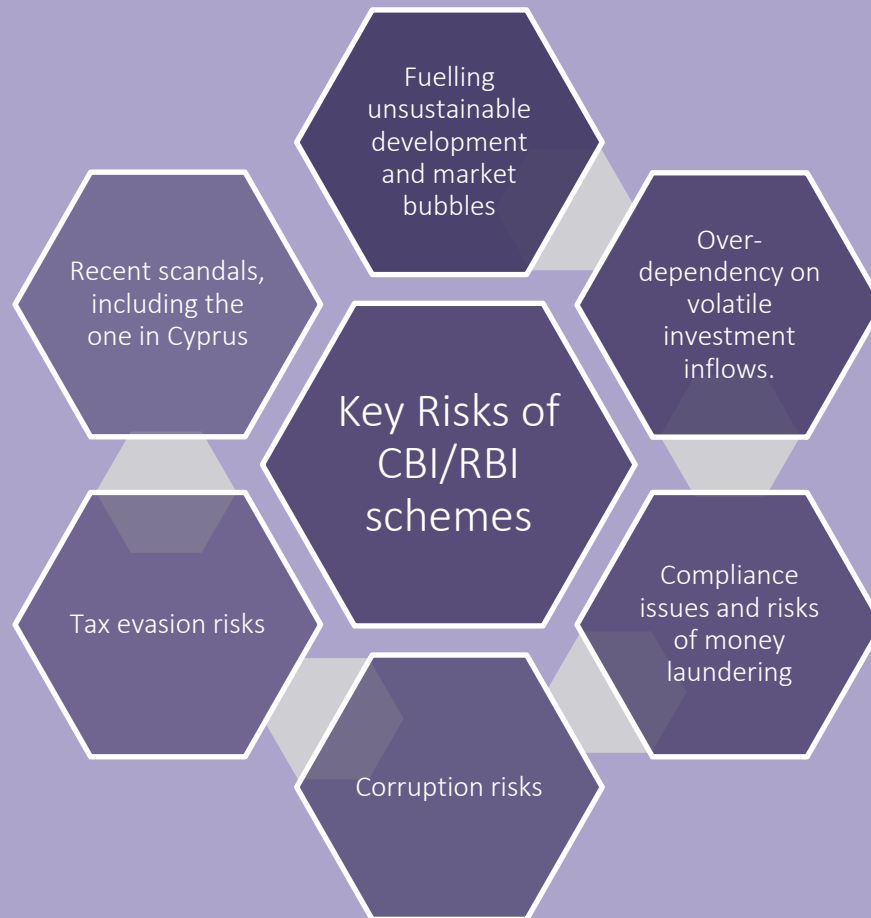
- Critics view these schemes as controversial commodification of public law and products of neoliberalism, raising concerns about justice, fairness, and transparency.
- At the EU level, there has been a proliferation of CBI/RBI schemes, with policymakers sometimes neglecting economic and compliance risks associated with them.

Introduction

- Poorly designed CBI/RBI schemes can fuel unsustainable development, market bubbles, and over-dependency on volatile investment inflows.
- Golden passport and golden visa schemes are associated with compliance issues, money laundering, corruption, and tax evasion risks.
- Recent scandals, including the one in Cyprus, have highlighted the need for effective due diligence safeguards and supervision mechanisms, prompting calls for EU common rules on CBI/RBI schemes.



Key Risks



Golden Passport and Golden Visa Investment Schemes in the EU

- Golden passport and golden visa schemes have experienced significant growth globally and within the European Union (EU) in the past two decades.
- EU Member States have been competing to attract high net-worth individuals and their families, especially after the 2008 global financial crisis, as a means to address budgetary problems.

Golden Passport and Golden Visa Investment Schemes in the EU

- Wealthy third-country nationals have a wide range of options for residency in the EU, with some schemes costing as little as €250,000 in countries like Latvia and Greece.
- Granting permanent residence permits allows individuals to reside in the new country and travel within the EU, while citizenship provides additional rights and privileges, including political rights and the ability to obtain a national passport.
- Citizenship is valid for life, can be inherited, and remains even if the investment made through the CBI scheme is sold after a specified period (typically five years).

Golden Passport and Golden Visa Investment Schemes in the EU

- Successful applicants to CBI schemes in EU Member States enjoy the extensive rights and privileges of EU citizenship, including the free movement of persons.
- Transparency International's 2018 study revealed that between 2008 and 2018, approximately 6,000 new citizens and nearly 100,000 new residents entered the EU through similar schemes.

Golden Passport and Golden Visa Investment Schemes in the EU

- Cyprus and Malta have faced criticism for their golden passport and golden visa schemes, but other EU Member States like Spain, Hungary, Latvia, and Portugal have also approved a significant number of golden visas.
- Limited transparency exists regarding the exact scale of these schemes, as detailed statistics and beneficiary lists are not published by most EU Member States.
- Rough estimates suggest that these programs have generated substantial profits for host states, contributing to their popularity.

Compliance Issues and Risks of Money Laundering and Other Criminal Activities

- The globalization of real estate investment has led to the emergence of a transnational class of super-rich homebuyers, impacting local housing markets and challenging AML regulations and investment compliance rules.
- Mobility rights attached to passports are highly valued by these investors, along with potential return on investment, which can lead to asset bubbles and misleading expectations.
- Third-country nationals applying for RBI/CBI schemes may not always have legitimate reasons, with instances of applicants involved in criminal proceedings or attempting to launder illicit proceeds.
- Risks of money laundering arise due to insufficient due diligence, lack of transparency, and inefficient control mechanisms in golden passport and golden visa schemes.

Compliance Issues and Risks of Money Laundering and Other Criminal Activities

- Corruption and conflicts of interest can occur when public authorities responsible for granting golden passports and golden visas engage in corrupt practices, influenced by private interests and profit-driven lobbying.
- Discretionary powers and conflicts of interest in the screening process for RBI/CBI schemes have raised concerns, as politicians and their associates may have business transactions and interests with program applicants.

Compliance Issues and Risks of Money Laundering and Other Criminal Activities

- CBI/RBI schemes have the potential to facilitate tax evasion by allowing wealthy individuals to acquire citizenship in a jurisdiction outside their vital interests, evading reporting requirements to their original citizenship's tax authorities.
- Regulatory arbitrage in tax planning through CBI/RBI schemes is an increasing trend that undermines the efficiency of automatic information exchange between tax authorities.

Compliance Issues and Risks of Money Laundering and Other Criminal Activities

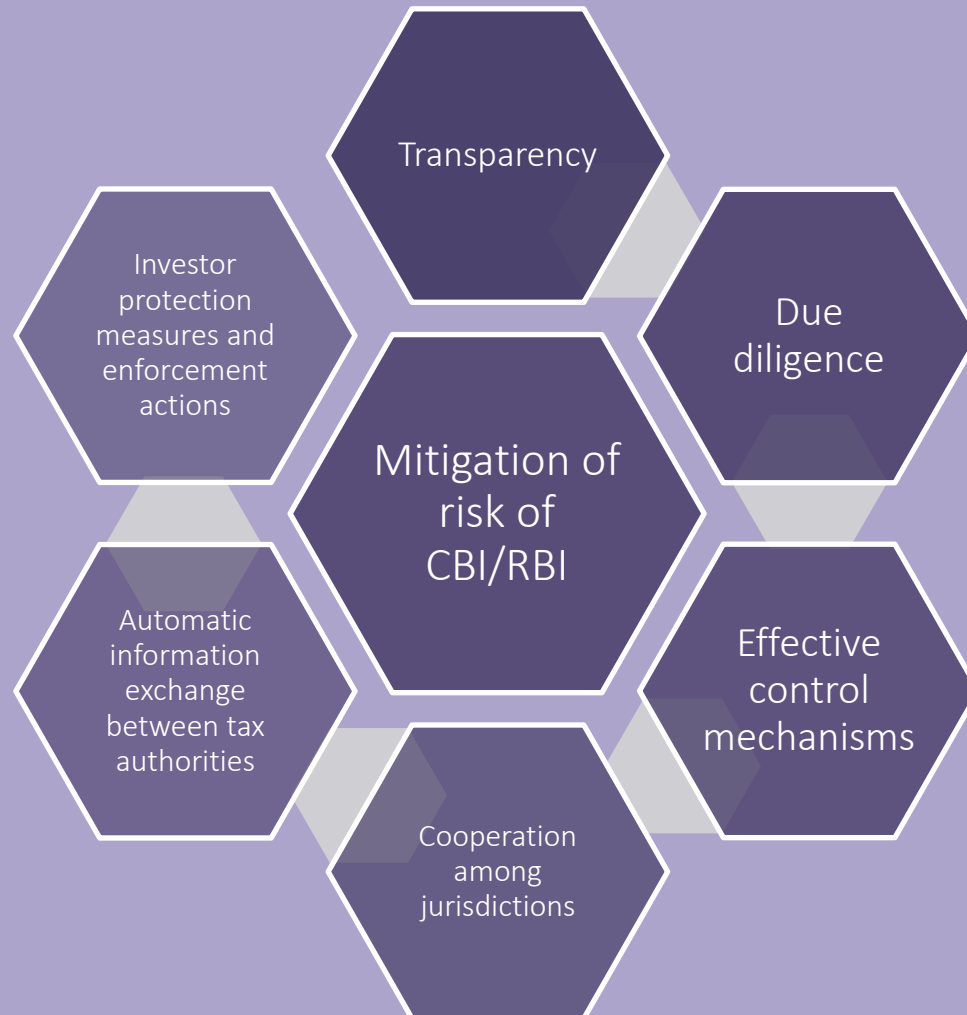
- Investor protection is a concern, as applicants for golden passport and golden visa programs may become victims of investment fraud, with reported criminal investigations and enforcement actions against fraudulent schemes in the US.
- The misuse of golden passport and golden visa schemes can involve money laundering, fake documents, and applications associated with foreign intelligence services.
- The lack of comprehensive assessment of money-laundering risks hinders the mitigation of these risks in CBI/RBI schemes.
- Proper design and implementation of RBI/CBI government schemes are crucial to prevent corruption, conflicts of interest, tax evasion, and investor fraud.

Compliance Issues and Risks of Money Laundering and Other Criminal Activities

- Transparency, due diligence, and effective control mechanisms are necessary to address the risks associated with golden passport and golden visa investment schemes.
- Cooperation among jurisdictions is important to avoid a race to the bottom in terms of AML safeguards and to ensure the integrity of CBI/RBI programs.
- The efficiency of automatic information exchange between tax authorities should be protected, and regulatory arbitrage in tax planning through CBI/RBI schemes should be addressed.
- Investor protection measures and enforcement actions should be strengthened to prevent fraud in the context of golden passport and golden visa programs.



How to mitigate risks



Case Study: The Cypriot Investment Program

- The Cypriot Investment Program (CIP) attracted significant investments, mainly in real estate, totaling over €6 billion annually, constituting a considerable part of the country's GDP.
- In 2019, the Cypriot government reinforced AML safeguards and established a Committee of Supervision and Control to enhance the program's AML measures.
- Confidential government documents revealed that politically exposed persons (PEPs) and their families were granted citizenship without proper due diligence, leading to public outrage.
- Undercover reporters exposed politicians, lawyers, and real estate agents offering to facilitate the application of a fictitious character with a criminal background.

Case Study: The Cypriot Investment Program

- The President of the Cypriot House of Representatives and a member of the House resigned amid public outrage, leading to the suspension of the CIP.
- Concerns have been raised regarding the design and implementation of AML safeguards in the CIP, including abuses of power and lack of control mechanisms.

Case Study: The Cypriot Investment Program

- The Auditor General's report identified possible intervention, discrimination, failures in criminal record submissions, and inadequately ensured origin of funds in the CIP.
- The lack of satisfactory control mechanisms and the interdiction of the report's publication have sparked an institutional conflict.
- The CIP scandal highlights the need for carefully designed and rigorously implemented safeguards to prevent misuse and mitigate risks of money laundering, corruption, and tax evasion in CBI/RBI programs.

Enhancing Compliance and Control Mechanisms at the EU Level

- The European Commission initiated an infringement procedure against Cyprus and Malta, stating that their investment schemes undermine the essence of EU citizenship.
- The lack of genuine links between applicants and the granting Member States raises concerns about the schemes' compatibility with EU principles.
- Golden passport schemes have implications for the EU as a whole, as individuals granted citizenship automatically become EU citizens with associated rights.

Enhancing Compliance and Control Mechanisms at the EU Level

- The European Court of Justice may ultimately judge the compatibility of the Cypriot and Maltese investment schemes with EU law.
- A new EU framework should be developed to address the problem and address shortcomings in norm setting and supervision.
- The European Commission could formulate guidelines or adopt a binding instrument to harmonize key aspects of granting EU residency and citizenship.

Enhancing Compliance and Control Mechanisms at the EU Level

- The risk-based approach (RBA) developed by the Financial Action Task Force (FATF) should be applied, considering money-laundering and corruption risks.
- A public authority, rather than private entities, should verify the accuracy of applications and maintain accessible documentation for accountability.
- Rigorous safeguards and oversight, in line with the RBA, should be implemented throughout the decision-making process of granting golden passports and visas.

Enhancing Compliance and Control Mechanisms at the EU Level

- Due diligence should focus on both applicants and their family members, applying enhanced checks and safeguards to mitigate security risks.
- Effective and dissuasive sanctions, both administrative and criminal, should deter abuse of the schemes, with international collaboration facilitated.
- Increased transparency through the publication of approved/rejected applications and possibly the names of successful applicants would enhance accountability.
- The EU should address the external dimension of the problem by imposing additional controls and increased due diligence for passports from third countries and working with international organizations to combat tax evasion and enhance information exchange.

Key Takeaways



Key Takeaways

1. CBI/RBI schemes grant citizenship or residency to individuals who make financial contributions to the host country, with some programs emphasizing passive investments and others focusing on entrepreneurial potential.
2. Golden passport and golden visa schemes have been criticized for shifting focus away from talent, skills, and cultural ties, raising concerns about the commodification of public law and undue market pressure on states.
3. CBI/RBI programs offer economic advantages, such as increased capital inflow, private sector investment, and fiscal revenues, but may also pose risks including unsustainable development, market bubbles, and compliance issues related to money laundering and corruption.
4. Recent scandals and compliance issues have highlighted the need for controls, safeguards, and common rules at the EU level to address the risks associated with CBI/RBI programs, including money laundering, integrity concerns, and threats to the Schengen area.

Learning Activity

Learning Activity

Title: Exploring the Cypriot "Golden Passports" Scandal

Objective:

To deepen understanding of the Cypriot scandal involving "golden passports," while fostering critical thinking, analysis, and collaboration skills through peer-review.

Activity Steps:

Conduct thorough research to understand the background, causes, consequences, and key players involved in the scandal.

Prepare a group presentation summarizing your findings and highlighting the economic, legal, and ethical implications of the scandal.

Deliver the presentation to the class, ensuring clarity and coherence in your analysis.

Engage in a peer-review session where each group provides constructive feedback and suggestions to the other groups.



Learning Activity



Actively participate in the peer-review process by asking questions, challenging assumptions, and offering suggestions for improvement.

Incorporate the feedback received and refine your group's presentation accordingly.

Present the revised analysis to the class, addressing the feedback received and showcasing the improvements made.

Engage in a class discussion to synthesize the key learnings from the case study, focusing on the importance of transparency, due diligence, and compliance in CBI/RBI schemes.

Individually reflect on the case study and the peer-review process, writing a brief response discussing the most significant lessons learned.

Share your reflections with your peers, fostering further discussion and dialogue about the topic.

Self-Assessment Questions

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Self-Assessment Questions

What are the key features of citizenship-by-investment (CBI) and residency-by-investment (RBI) schemes?

What economic advantages and risks are associated with CBI/RBI programs?

What compliance issues and risks, such as money laundering and corruption, are linked to golden passport and golden visa schemes?

What are the ethical and legal concerns raised by CBI/RBI programs, and why are justice, fairness, and transparency important considerations?

Additional Resources

Additional
Resources at EU
level

State of the Union
Address by President von
der Leyen at the European
Parliament Plenary,
Brussels, 16 September
2020

Council Directive
2003/86/EC of 22
September 2003 on the
right to family
reunification (OJ L 251,
3.10.2003)

Bibliography

Bibliography

- Ahrens, L., Bothner, F. (2020), "The Big Bang: Tax Evasion After Automatic Exchange of Information Under FATCA and CRS", *New Political Economy*, Vol. 25(6), pp. 849-864
- Ahrens, L., Hakelberg, L., Rixen, T. (2020), "A Victim of Regulatory Arbitrage? Automatic Exchange of Information and the Use of Golden Visas and Corporate Shells", *Regulation and Governance*, EarlyCite, October 2020.
- Audit Office of the Republic of Cyprus (2020), *Audit of Granting of the Cypriot Citizenship within the Framework of the Cyprus Investment Programme*, Special Report no. YPES/01/2020.
- Boatca, M. (2015), *Global Inequalities Beyond Occidentalism*, Routledge.
- Carrera, S. (2014), "How Much Does EU Citizenship Cost?" *CEPS Papers in Liberty and Security in Europe*, No. 64.
- Cerna, L. (2014), "Attracting High-Skilled Immigrants: Policies in Comparative Perspective", *International Migration*, Vol. 52 (3), pp. 69-84.
- Council of Europe/MONEYVAL (2019), *Anti-money laundering and counter-terrorist financing measures: Cyprus*, Fifth Round Mutual Evaluation Report, December 2019.
- De Lange, T. (2018), "Welcoming Talent? A Comparative Study of Immigrant Entrepreneurs' Entry Policies in France, Germany and the Netherlands", *Comparative Migration Studies*, Vol. 6, No. 27, pp. 1-18.
- Dzankic, J. (2012), *The Pros and Cons of Ius Pecuniae: Investor Citizenship in Comparative Perspective*, Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory.
- Dzankic, J. (2018), "Immigrant Investor Programmes in the European Union", *Journal of Contemporary European Studies*, Vol. 26 (1), pp. 64-80.
- European Commission (2019a), *Investor Citizenship and Residence Schemes in the European Union*, COM(2019) 12 final
- European Commission (2019b), *Report on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities*, COM(2019) 370 final.
- European Commission (2020), *Investor citizenship schemes: European Commission opens infringements against Cyprus and Malta for "selling" EU citizenship*, Press release, October 20, 2020.
- European Parliament (2020), *A comprehensive Union policy on preventing money laundering and terrorist financing - the Commission's Action plan and other recent developments*, Resolution adopted on July 10, 2020, P9_TA(2020)0204
- Mavelli, L. (2018), "Citizenship for Sale and the Neoliberal Political Economy of Belonging", *International Studies Quarterly*, Vol. 62, No. 3, pp. 482-93.

Bibliography

Nixon, R. (2016), "Program That Lets Foreigners Write a Check, and Get a Visa, Draws Scrutiny", *The New York Times*, March 15, 2016.

OECD (2018), *Preventing Abuse of Residence by Investment Schemes to Circumvent the CRS*, OECD Consultation Document.

Parker, O. (2017), "Commercializing Citizenship in Crisis EU: The Case of Immigrant Investor Programmes", *Journal of Common Market Studies*, Vol. 55, No. 2, pp. 332-348.

Patuzzi, L. (2019), "Start-Up Visas: A Passport for Innovation and Growth", *Migration Policy Institute Working Paper*, July 2019.

Pavlidis, G. (2020a), "Financial Action Task Force and the Fight Against Money Laundering and the Financing of Terrorism: Quo Vadimus?" *Journal of Financial Crime*, volume ahead-of-print

Pavlidis, G. (2020b), "Financial Information in the Context of Anti-Money Laundering: Broadening the Access of Law Enforcement and Facilitating Information Exchanges", *Journal of Money Laundering Control*, Vol. 23 No. 2, pp. 369-378

Peel, M. (2020), "Cyprus Scandal Exposes EU Golden Passport Problem", *Financial Times*, October 17, 2020.

Pow, C. (2017), "Courting the 'Rich And Restless': Globalisation of Real Estate and the New Spatial Fixities of the Super-Rich in Singapore", *International Journal of Housing Policy*, Vol. 17, No. 1, pp. 56-74

Securities and Exchange Commission (2018), *SEC Charges Unregistered Sales of Securities Issued Under EB-5 Immigrant Investor Program*, Press Release 2018-208, Washington D.C., September 21, 2018.

Shachar, A. (2017), *Citizenship For Sale? The Oxford Handbook of Citizenship*, Oxford Handbooks Online.

Shachar, A., Bauböck, R. (2014), *Should Citizenship be for Sale?*, European University Institute, Florence.

Transparency International (2018), *European Getaway: Inside the Murky World of Golden Visas*, Transparency International & Global Witness, Berlin/London.

Wamsley L. (2017), "Feds Raid Suspected \$50M Visa Fraud Ring Near Los Angeles", *National Public Radio*, April 5, 2017.

Xin, X., El-Ashram, A., Gold, J. (2015), "Too Much of a Good Thing? Prudent Management of Inflows under Economic Citizenship Programs", *IMF Working Paper*, WP15/93, May 2015.

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With gratitude,

Georgios Pavlidis

Jean Monnet Chair, NUP

Open Educational Resources (OER) NUP Jean Monnet Chair

The Jean Monnet Chair at NUP

Since 2020, Neapolis University Pafos has the honor to be the host of a prestigious Jean Monnet Chair, which has been awarded to Dr. George Pavlidis to further promote his teaching and research into innovative methods for “Targeting Criminal Assets in the European Union”. The Jean Monnet Chair at NUP fosters the development of existing and new teaching, including Open Educational Resources (OER), while research activities and events give greater visibility to this field of study at national and regional level. The promotion of knowledge sharing through OERs, a working papers series and a knowledge database on asset recovery fall within the mission objective of the NUP School of Law, which aims to consolidate a strong contribution to the discussion on the future of the European integration.

