

# ECJ Topples Malta's Golden Passport Scheme

Thomas Wahl



## News

The acquisition of Union citizenship cannot result from a commercial transaction. This was decided by the ECJ in its [judgment](#) of 29 April 2025 ([Case C-181/23, Commission v Malta](#)). The Court ruled that the programme "Maltese Citizenship by Naturalisation for Exceptional Services by Direct Investment" is contrary to EU law.

Since 2020, Malta has allowed foreign investors to apply for Maltese citizenship (and thus, if granted, acquire automatically Union citizenship) if they meet certain requirements, mainly of a financial nature. The approach has often also been referred to as "golden passport scheme".

In response to an action for failure to fulfil obligations brought by the European Commission, the ECJ ruled that it is in principle for the Member States to determine the conditions for granting and losing nationality. However, this national competence must be exercised in accordance with EU law. The judges in Luxembourg emphasised that Union citizenship is one of the principal concrete expressions of the solidarity which forms the very basis of the integration process (the *raison d'être* of the EU itself). It is therefore an integral part of the identity of the EU as a specific legal system, accepted by the Member States on a basis of reciprocity. Moreover, in accordance with the principle of sincere cooperation enshrined in Art. 4(3) TEU, it is for each Member State to refrain from any measure which could jeopardise the attainment of the EU's objectives.

Accordingly, granting nationality in direct exchange for predetermined investments or payments through a transactional procedure manifestly infringes these EU values and the Court calls such "commercialisation" of citizenship being incompatible with the basic concept of Union citizenship as defined by the Treaties. Such a practice does not make it possible to establish the necessary bond of solidarity and good faith between a Member State and its citizens, or to ensure mutual trust between the Member States and thus constitutes a breach of the principle of sincere cooperation.

The European Commission has eyed the "golden passports" schemes for several years. Among other things, it fears that they could open the door to money laundering and corruption. Golden passports were also issued in Cyprus, among other places, but the government withdrew them under pressure from the Commission.

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