



## Introduction

### Learning from Investment Migration

DIMITRY KOCHENOV AND KRISTIN SURAK\*

#### Delving into a Growing Phenomenon

Countries are competing ever more fervently to attract the best and brightest, whether highly skilled migrant workers, students with potential, or athletes and others boasting exceptional talent. It should therefore come as little surprise that they should vie with each other to lure in the wealthy as well. Indeed, the past thirty years have seen a rapid rise around the world in legislation that enables people to acquire citizenship or residence rights in exchange for a donation or an investment. Though not a new activity, it had become comparatively rare more recently<sup>1</sup> – with Liechtenstein hosting a twentieth-century precursor<sup>2</sup> that set the stage for the famous *Nottebohm* case decided by the International Court of Justice in the aftermath of the Second World War<sup>3</sup> – yet, since 1986 when Canada revised its Business Immigration Programme to allow passive investments to qualify for residence, investment migration has reached staggering proportions.<sup>4</sup> As of

\* CEU and LSE, respectively. The authors are grateful to Harry Panagopulos and Emma Schulte for assistance.

<sup>1</sup> While immensely widespread before the contemporary notion of citizenship came to dominate the legal-political reality of the world, Maarten Prak, *Citizens without Nations* (Cambridge University Press 2018); Andreas F Fahrmeir, ‘Nineteenth-Century German Citizenships: A Reconsideration’ (1997) 40 *The Historical Journal* 721. See also the chapter by Maarten Prak in this volume.

<sup>2</sup> Nicole Schwalbach, *Einbürgerungen in Liechtenstein 19.–20. Jahrhundert*, vol 3 (Chronos Verlag 2012).

<sup>3</sup> *Nottebohm Case (Liechtenstein v. Guatemala)* [1955] ICJ Rep 4. Cf.: Peter J Spiro, ‘Nottebohm and “Genuine Link”: Anatomy of a Jurisprudential Illusion’ in Dimitry Kochenov, Madeleine Sumption and Martijn van den Brink (eds), *Investment Migration in Europe and the World: Current Issues* (Hart Publishing 2024, forthcoming). Early version available in [2019] *Investment Migration Working Papers* No 2019/1 (and the literature cited therein). See also the chapters by Daniel Sarmiento and Martijn van den Brink as well as by Petra Weingerl and Matjaž Tratnik in this volume.

<sup>4</sup> Kristin Surak, ‘Marketizing Sovereign Prerogatives: How to Sell Citizenship’ (2021) 62(2) *European Journal of Sociology* 275. Miriam Cohen, ‘The Rise and Fall of Investment

2021, more than a third of the countries in the world offer paths to membership in exchange for a donation or investment into their economies.<sup>5</sup> Clearly, investment migration has obtained an established place alongside other modes of residence and citizenship acquisition. The implications are far-reaching for the established understanding of citizenship and residence in a number of the main disciplines engaged with them, from law to sociology, economics, philosophy and political science. Investment migration teaches us much about the shifting boundaries of belonging.<sup>6</sup>

Indeed, this phenomenon upends many commonplace assumptions about the operation of citizenship and residence in the contemporary world. Since only a handful of countries demand a substantial physical presence in their territory to qualify for investment citizenship or residence, let alone retain that status,<sup>7</sup> the cleavage between citizenship and residence as legal statuses is pronounced in comparison to the common view that presumes a prior incorporation into a given imagined community. Upon reflection, a question emerges of how different this is in other cases: could Advocate General Sharpston be right in the argument that qualifying periods of residence are bound to be ‘necessarily arbitrary’?<sup>8</sup> Indeed, research reveals that many investment migrants seek options abroad not with the goal of moving to and settling in the target country. Rather, as Kristin Surak shows, they often desire an additional base of operations, perhaps one of many, or simply an open option should they decide to move. Indeed, given that any citizenship is a global status by default, many seek out citizenship and residence not for the rights it confers in the granting jurisdiction, but for the extraterritorial rights it secures outside of it, such as visa-free access to third countries

Immigration in Canada’ in Dimitry Kochenov, Madeleine Sumption and Martijn van den Brink (eds), *Investment Migration in Europe and the World: Current Issues* (Hart Publishing, 2024). See also Miriam Cohen, ‘The Re-Invention of Investment Immigration in Canada and Constructions of Canadian Citizenship’ (2017) *Investment Migration Working Papers* No. 2017/2.

<sup>5</sup> Cf. Kristin Surak’s chapter in this volume; Christian H Kälin, *Ius Doni in International and European Law* (Brill–Nijhoff 2019); Jenela Džankić, *The Global Market for Investor Citizenship* (Palgrave Macmillan 2019).

<sup>6</sup> Kristin Surak, ‘What Money Can Buy: Citizenship by Investment on a Global Scale’ in Didier Fassin (ed), *Deepening Divides: How Borders and Boundaries Drive Our World Apart* (Pluto Press 2020).

<sup>7</sup> Dimitry Kochenov and Martijn van den Brink, ‘Residence and Presence’ in Dimitry Kochenov, Madeleine Sumption and Martijn van den Brink (eds), *Investment Migration in Europe and the World: Current Issues* (Hart Publishing 2024 forthcoming).

<sup>8</sup> Opinion of AG Sharpston in Joined Cases C-456 & 457/12 *O* and *S* ECLI:EU:C:2013:837, footnote 85.

or permit-free residence options outside of the country of new citizenship, alongside business investment options in third countries.<sup>9</sup> Think of a freshly minted Maltese citizen settling in Paris as of right by virtue of Maltese and European citizenship, or a brand-new Grenadian travelling to China visa-free, or of a box-fresh Turk opening a business in the US and thereby acquiring a residence permit as a ‘serial investor migrant’.<sup>10</sup>

In other words, investment migration, crucially, often has little to do with migration *per se*, as this is understood in the classical migration literature as involving the crossing of international borders.<sup>11</sup> Rather, it is the global extraterritorial rights that the new status unlocks in the present or its function as an insurance policy for the future that many people seek.<sup>12</sup> Thus the act of migration, viewed as a unidirectional movement from A to B, is not a feature of investment migration in many, if not possibly the majority of cases. It is instead about the formal statuses of residence and citizenship *obtained*, which *entitle* the bearer to migrate to the country of the newly acquired citizenship and other mobility options. We could speak in this respect – and following Yossi Harpaz – of a ‘compensatory’ citizenship<sup>13</sup> (as well as residence). Those whose birth citizenship is inferior to the global average<sup>14</sup> may seek out a better status without necessarily relocating geographically: a Russian or a Chinese millionaire investor would thus remain at home in Russia or China, where the business is, without suffering the negative consequences of the suboptimal Chinese or Russian citizenship globally.<sup>15</sup> This is part of a broader trend. It is essential

<sup>9</sup> Kristin Surak, ‘Millionaire Mobility and the Sale of Citizenship’ (2020) 47(1) *Journal of Ethnic and Migration Studies* 166; Kristin Surak, *The Golden Passport: Global Mobility for Millionaires* (Harvard University Press 2023). Kristin Surak, ‘Citizenship and Residence by Investment Schemes – State of Play and Avenues for EU action’ [2021] European Added Value Assessment (EAVA) commissioned by the European Parliamentary Research Service (EPRS).

<sup>10</sup> Kristin Surak, ‘Who Wants to Buy a Visa? Comparing the Uptake of Residence by Investment Programs in the EU’ [2020] *Journal of Contemporary European Studies*; Surak, ‘Millionaire Mobility and the Sale of Citizenship’ (n 9); Surak, this volume.

<sup>11</sup> See, for example, Sir Richard Plender’s seminal work: Sir Richard Plender, *International Migration Law* (AW Sijthoff 1972; and 2nd ed, Kluwer 1988).

<sup>12</sup> Surak, ‘Millionaire Mobility and the Sale of Citizenship’ (n 9).

<sup>13</sup> Yossi Harpaz, *Citizenship 2.0* (Princeton University Press 2019); see also Yossi Harpaz’s chapter in this volume.

<sup>14</sup> Dimitry Kochenov and Justin Lindeboom, ‘Empirical Assessment of the Quality of Nationalities’ (2017) 4(4) *European Journal of Law and Governance* 314; cf. Ayelet Shachar, *Birthing Lottery. Citizenship and Global Inequality* (Harvard University Press 2009).

<sup>15</sup> Dimitry Kochenov and Justin Lindeboom (eds), *Kälén and Kochenov’s Quality of Nationality Index* (Hart Publishing 2020). It is necessary to bear in mind of course that

to realise that ‘compensatory citizenship’ is not only about the rich: birth tourism and strategic ancestral citizenship acquisition roughly produce the same results,<sup>16</sup> which, coupled with the fact that these channels are also relatively cheap, has seen a vibrant market emerge around them.<sup>17</sup>

The bottom line – and one of the core findings of this volume – is the emergence of citizenship and residence as strategic and strategizable,<sup>18</sup> as opposed to simply blood-given and sanctified.<sup>19</sup> Citizenship and residence by investment are thus only an example of a much broader global trend of the diminished fetishisation of the outcomes of the proverbial ‘birthright lottery’<sup>20</sup> and evince what Christian Joppke has theorized as a strategic instrumentalisation of legal statuses<sup>21</sup> in the context of structural global inequalities, formalized and solidified by citizenship<sup>22</sup> as one of their core tools.<sup>23</sup> Investment migration is thus a clear example of the mutual strategic use of state sovereignty in citizenship and migration domains.<sup>24</sup> Such strategic use is leading, on the demand side, to individuals seeking to multiply their ‘citizenship capital’;<sup>25</sup> and on the supply side, to state authorities cashing in on this desire.<sup>26</sup> Notably, global inequalities structure the market not only in terms of supply, but also demand. Because much of the utility of investor citizenship, just as any citizenship tout court, lies in

such investors may not be merely victims of their birth citizenship: belonging to a particular culture can be crucial to their personal success stories, and many have been able to accumulate great wealth precisely because they were born in a particular country at a particular historical juncture. A longer temporal view is always required, and sometimes this reveals that more is involved than mere compensation for defects in the present. Cf. Surak, ‘What Money Can Buy’ (n 6) and Surak, ‘Millionaire Mobility and the Sale of Citizenship’ (n 9); as well as Kochenov’s chapter in this volume.

<sup>16</sup> Yossi Harpaz, *Citizenship 2.0* (Princeton University Press 2019).

<sup>17</sup> David Cook-Martín, *Scramble for Citizens: Dual Nationality and State Competition for Immigrants* (Stanford University Press 2013); Ozlem Altan-Olcay and Evren Balta, *The American Passport in Turkey: National Citizenship in the Age of Transnationalism* (University of Pennsylvania Press 2020).

<sup>18</sup> See also the chapter by Christian Joppke in this volume.

<sup>19</sup> See the chapter by Dimitry Kochenov in this volume.

<sup>20</sup> Shachar, *The Birthright Lottery* (n 14).

<sup>21</sup> Christian Joppke, ‘The Instrumental Turn of Citizenship’ (2018) 45(6) *Journal of Ethnic and Migration Studies* 858.

<sup>22</sup> Branko Milanović, *Capitalism Alone* (Harvard University Press 2019).

<sup>23</sup> Dimitry Kochenov, *Citizenship* (MIT Press 2019).

<sup>24</sup> See Sumption’s contribution to this volume.

<sup>25</sup> Sara Kalm, ‘Citizenship Capital’ (2020) 34 *Global Society* 528.

<sup>26</sup> Surak, *Citizenship for Sale* (n 9); Surak (n 4); Kristin Surak and Yusuke Tsuzuki, ‘Are Golden Visas a Golden Opportunity? Assessing the Economic Outcomes of Residence by Investment Programs in the EU’ 47(15) *Journal of Ethnic and Migration Studies* 3367.

the rights acquired not in the issuing country,<sup>27</sup> but outside of it, whether as mobility or business options, powerful third countries obtain considerable sway over the value of the product brought to market.<sup>28</sup> If the US were to cancel its E2 Treaty and China were to revoke its visa-free access from Grenada, the small Caribbean island would not be able to sustain its higher minimum investment amounts in comparison to its neighbours. The result is a complex geopolitics structuring the market.<sup>29</sup>

To date, scholars have largely ignored the implications of this global trend. Early literature on investment migration concentrated on the pros and cons of offering citizenship for a price. Economists typically regard citizenship as like anything else that can be commoditised and traded on a market. Selling citizenship, they argue, is an efficient and egalitarian way to screen people for membership in a nation, little different to other selection mechanisms.<sup>30</sup> Those willing and able to pay would also have other desirable characteristics – being skilled, educated and talented – that any nation would want, and that would keep the individuals from drawing on state funds.<sup>31</sup> Differences among the economists writing on the subject come down to programme design. Citizenship could be allocated through a pricing system to maximise the total per capita income for the existing citizenry,<sup>32</sup> or through an auction for qualified applicants.<sup>33</sup> Residence could also be sold to those looking for faster access to a new country and unwilling to wait or to relocate.<sup>34</sup> Adjustments to the programme could ensure access for those unable to afford the cost of membership outright. The government or banks could offer loans to the underprivileged,<sup>35</sup> or poorer applicants could choose to forgo part of the upfront cost by paying an additional surcharge on their national income tax.<sup>36</sup> As such, the sale of citizenship

<sup>27</sup> See Surak's chapter in this volume, on the case of Turkey as a partial exception.

<sup>28</sup> Surak (n 4).

<sup>29</sup> Surak, 'Millionaire Mobility and the Sale of Citizenship' (n 9); See also Surak (n 4).

<sup>30</sup> Javier Hidalgo, 'Selling Citizenship: A Defence' (2016) 33(3) *Journal of Applied Philosophy* 223.

<sup>31</sup> Shaheen Borna and James M Stearns, 'The Ethics and Efficacy of Selling National Citizenship' (2002) 37 *Journal of Business Ethics* 193; also Gary S Becker, 'Why Not Let Immigrants Pay for Speedy Entry?' in Gary S Becker and Guity Nashat Becker (eds), *The Economics of Life* (McGraw-Hill 1997) 58–59.

<sup>32</sup> Barry R Chiswick, 'The Impact of Immigration on the Level and Distribution of Economic Well-Being' in Barry R Chiswick (eds), *The Gateway: U.S. Immigration Issues and Policies* (American Enterprise Institute for Public Policy Research 1982).

<sup>33</sup> Julian Simon, *The Economic Consequences of Immigration* (Blackwell 1989) 357–363.

<sup>34</sup> Becker (n 31) 58–59.

<sup>35</sup> Ibid.

<sup>36</sup> Chiswick (n 32); Simon (n 33).

could decrease the population of irregular migrants, in addition to securing a revenue source for integrating new entrants.<sup>37</sup>

Yet, designing an effective operational investment migration programme is not a simple task at all, as Madeleine Sumption demonstrates in this volume.<sup>38</sup> As such, the likely net gains in financial and human resources that excite economists are possibly more muted.<sup>39</sup> Moreover, pricing mechanisms have proven a poor tool for regulating supply and demand in a terrain defined by shifting geopolitics and legal protocols. When Canada doubled the cost of its investor visa in 1999 and again in 2010, application numbers still outpaced availability. The result was a backlog of over 60,000 individuals when the programme was closed in 2014.

In contrast to the economists, a more wary camp, populated by political theorists and social scientists, has taken an apprehensive stance towards selling citizenship. Their trepidation draws from two sources: an Aristotelian conception of citizenship that selects political involvement as its foundation<sup>40</sup> and a Walzerian commitment to the maintenance of justice's separate spheres, namely that inequalities in the sphere of wealth should not map onto those of political participation.<sup>41</sup> As such, on that view, granting 'migrant millionaires' – who may have never even entered a country – a voice within politics and a stake in the political community represents a fundamental threat to citizenship as an institution based on ideals of equality and participation.<sup>42</sup> It is thought to violate the crucial link of *ius nexi* – a genuine connection – that both roots political membership and ensures that participants are 'genuine' stakeholders.<sup>43</sup> Within this line of reasoning, investor visas that require

<sup>37</sup> Borna and Stearns (n 31); also Hidalgo (n 30).

<sup>38</sup> See the chapter by Madeleine Sumption in this volume.

<sup>39</sup> See, for example, Migration Advisory Committee (UK), 'Tier 1 (Investor) Route: Investment Thresholds and Economic Benefits' (Report, Migration Advisory Committee, 2014).

<sup>40</sup> For a contextualization of this approach, see Christian Joppke's chapter in this volume.

<sup>41</sup> Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (Basic Books 1983); see also Michael J Sandel, 'Market Reasoning as Moral Reasoning: Why Economists Should Re-engage with Political Philosophy' (2013) 27(4) *Journal of Economic Perspectives* 121.

<sup>42</sup> Ayelet Shachar and Ran Hirschl, 'On Citizenship, States, and Markets' (2014) 22(2) *The Journal of Political Philosophy* 234, 241; Ayelet Shachar, 'Citizenship for Sale?' in Ayelet Shachar et al. (eds), *Oxford Handbook of Citizenship* (Oxford University Press 2017); Ayelet Shachar, 'The Marketization of Citizenship in an Age of Restrictionism' (2018) 32 *Ethics and International Affairs* 3.

<sup>43</sup> Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press 2009); Ayelet Shachar, 'Picking Winners: Olympic Citizenship and the Global Race for Talent' (2011) 120(8) *Yale Law Journal* 2088; see also Jelena Džankić, 'The Pros and Cons of *Ius Pecuniae*: Investor Citizenship in Comparative Perspective' [2012]

a period of residence before citizenship is granted are less problematic,<sup>44</sup> but they do not avoid all concerns, as exchanging citizenship for money in any form threatens to corrupt democracy. If voting in elections is the core political right of citizenship, then selling the status is akin to selling political influence, a danger that could reinforce inequity within society.<sup>45</sup> And where political influence is presumed to be a form of blood aristocracy, given that 98% of citizenships are inherited by blood, selling aristocratic titles damages their prestige and violates their exclusivity.<sup>46</sup> Putting a price tag on membership in the body politic so organised restricts its benefits, as the story goes, exclusively to the elites at the cost of equality, both within a state<sup>47</sup> and internationally.<sup>48</sup> Yet even if states adopting such schemes evinced a broader trend towards neoliberalisation,<sup>49</sup> such programmes might be structured, some have proposed, to advance global humanitarian goals, creating new forms of *ius nexi* for a global population.<sup>50</sup> Adherents to the camp demanding the purity of citizenship be restored and the marketization of citizenship and residence to be set aside thus rarely venture beyond condemnation of the new reality,<sup>51</sup> creating, together with some international institutions, a cottage industry of moral panics.<sup>52</sup> Given that condemnation does not

EUI Working Paper RSCAS 2012/14; Ana Tanasoca, 'Citizenship for Sale. Neomedieval, Not Just Neoliberal?' (2016) 57(1) *European Journal of Sociology* 169; Ana Tanasoca, *The Ethics of Multiple Citizenship* (Cambridge University Press 2018).

<sup>44</sup> Shachar and Hirschl (n 42); see also Jelena Džankić, *Citizenship in Bosnia and Herzegovina, Macedonia and Montenegro* (Ashgate 2016) 5.

<sup>45</sup> Rainer Bauböck, 'What Is Wrong with Selling Citizenship? It Corrupts Democracy!' in Rainer Bauböck (ed), *Debating Transformations of National Citizenship* (Springer 2018).

<sup>46</sup> Tanasoca (n 43).

<sup>47</sup> Džankić (n 5); also Shachar, *The Birthright Lottery* (n 14) 59.

<sup>48</sup> Manuela Boatcă, *Global Inequalities beyond Occidentalism* (Ashgate 2015).

<sup>49</sup> Luca Mavelli, 'Citizenship for Sale and the Neoliberal Political Economy of Belonging' (2018) 62 *International Studies Quarterly* 482. See also Surak, 'Millionaire Mobility and the Sale of Citizenship' (n 8); see also Surak (n 4).

<sup>50</sup> Michael B Krakat, 'Neo-Nottebohmian 21st Century Genuine Links and Australia's Indigenous Non-citizens' (2019) 4(2) *The Investment Migration Council Bulletin*.

<sup>51</sup> For example, Ayelet Shachar, 'Dangerous Liaisons: Money and Citizenship' in Rainer Bauböck (ed), *Debating Transformations of National Citizenship* (Springer 2018) 7; Tanasoca (n 43); Ayelet Shachar, 'Citizenship for Sale?' in Ayelet Shachar et al. (eds), *The Oxford Handbook of Citizenship* (Oxford University Press 2019) 795; Jelena Džankić, *The Global Market for Investor Citizenship* (Palgrave Macmillan 2019).

<sup>52</sup> Dimitry Kochenov, 'Genuine Purity of Blood: The 2019 Report on Investor Citizenship and Residence in the European Union and Its Litigious Progeny' [2020] LEQS Paper No 164 (London School of Economics and Political Science). Cf. Hans Ulrich Jessurun d'Oliveira, 'Golden Passports: The European Commission and European Parliament Reports Built on Quicksand', in Dimitry Kochenov, Madeleine Sumption and Martijn van den Brink (eds),

equal understanding and coherent theorizing, the growing global phenomenon of investment migration has remained largely unaddressed by scholars: a lacuna this book aims to bridge by moving beyond the street-light effect which plagues the dominant literature.

This volume is based on the premise that one can look at investment citizenship and residence not only as a dangerous deviation from some golden rule, but rather as a symptom of the changing function of citizenship statuses and residence entitlements as vehicles of exclusion.<sup>53</sup> Learning from the swift rise of investment migration suggests that its growth fits neatly within the general context of citizenship transformations over the last decades, marked by its purported thinning<sup>54</sup> and its simultaneously increasing contestation of the correspondence between the formal status and the rights formally associated with it.<sup>55</sup> Given that the key nexus of global inequality now lies between states, rather than within societies,<sup>56</sup> citizenships objectively acquire different levels of quality for their bearers,<sup>57</sup> becoming an instrument of oppression, not only liberation.<sup>58</sup> The discrepancy in quality between different citizenships is particularly stark in the context of growing inter-citizenship rights, allowing the citizens of the richest nations to enjoy almost full citizenship rights – including access to territory, residence, employment and non-discrimination – in many other countries beyond the one that issues their passport.<sup>59</sup> At the same time,

*Investment Migration in Europe and the World: Current Issues* (Hart Publishing 2024, forthcoming); Dimitry Kochenov and Elena Basheska, 'It's All about the Blood, Baby! The European Commission's Ongoing Attack against Investment Migration in the Context of EU Law and International Law', COMPAS Working Paper no. 161, 2022 (University of Oxford).

<sup>53</sup> Branko Milanović, *Capitalism Alone* (Harvard University Press 2019).

<sup>54</sup> Christian Joppke, 'The Inevitable Lightening of Citizenship' (2010) 51 *European Journal of Sociology* 9.

<sup>55</sup> Linda Bosniak, *The Citizen and the Alien* (Princeton University Press 2006); Linda Bosniak, 'Citizenship Denationalized' (2000) 7 *Indiana Journal of Global Legal Studies* 447; Kim Rubinstein and Daniel Adler, 'International Citizenship: The Future of Nationality in a Globalised World' (2000) 7 *Indiana Journal of Global Legal Studies* 519. Cf. Dimitry Kochenov, 'Abstract Citizenship in the Age of Concrete Human Rights', in Mark Tushnet and Dimitry Kochenov (eds), *Handbook on the Politics of Constitutional Law* (Edward Elgar, 2023, forthcoming).

<sup>56</sup> Branko Milanović, *Global Inequality* (Harvard University Press 2016).

<sup>57</sup> Kochenov and Lindeboom (n 15).

<sup>58</sup> Manuela Boatcă, *Global Inequalities beyond Occidentalism* (Ashgate 2015); Kochenov (n 23). For a counter-argument on the benefits of 'bad' citizenships to the winners of growing intra-state inequalities, see Surak, 'What Money can Buy' (n 15) and Kristin Surak, 'Millionaires and Mobility: Inequality and Investment Migration Programs' in Tesseltje de Lange and Willem Maas (eds), *Money Matters in Migration* (Cambridge University Press 2021).

<sup>59</sup> Dimitry Kochenov, 'Interlegality – Citizenships – Intercitizenships' in Gianluigi Palombella and Jan Klabbers (eds), *The Challenge of Interlegality* (Cambridge University Press 2019).



wealthy countries are reluctant to admit people from poorer parts of the world visa-free.<sup>60</sup> While the world is open and welcoming for the super-citizens of the rich ‘West’ – the citizens of their former colonies and the former Soviet space experience this institution radically differently.<sup>61</sup> The racist nature of the status quo is usually ignored, if not embraced.<sup>62</sup>

Thus investment migration is on the rise even as citizenship thins and the inequalities that citizenship sustains grow wider, and its core assumptions are increasingly contested. Besides the quality disparities evolving in parallel with citizenship’s thinning, while citizenship’s core assumptions are being contested, investment migration is further facilitated by the stable global trend of steadily increasing toleration of the cumulation of nationalities<sup>63</sup> coupled with tightening privacy rules.<sup>64</sup> Not only is it no longer necessary, in the majority of jurisdictions, to slough off a previous citizenship when naturalizing elsewhere: the very act of naturalization can more readily be kept secret to protect the bearer of the newly minted nationality – whether acquired through investment or not – from restrictive regulation back home, which can call the retention of the original citizenship into question.<sup>65</sup> These factors, taken together and coupled with the unequal economic growth around the world, facilitate the rise of investment migration and provoke a reassessment of the holy cows of citizenship theory, opening up a new perspective on the ethics of citizenship and its moral worth.<sup>66</sup>

<sup>60</sup> Kochenov and Lindeboom (n 15).

<sup>61</sup> Boatcă (n 58). Cf James Tully, ‘Lead Essay’ in James Tully (ed), *On Global Citizenship: James Tully in Dialogue* (Bloomsbury 2014); Kochenov (n 23) 88–120.

<sup>62</sup> E Tendayi Achiume, ‘Racial Borders’, (2022) 110 *Georgetown Law Journal* 445; E Tendayi Achiume, ‘Digital Racial Borders’ (2021) 115 *American Journal of International Law Unbound* 333; Sherally Munshi, ‘Race, Geography, and Mobility’ (2016) 30 *Georgetown Immigration Law Journal* 245.

<sup>63</sup> Peter J Spiro, ‘Dual Citizenship as Human Right’ (2010) 8 *International Journal of Constitutional Law* 111.

<sup>64</sup> Dimitry Kochenov, Oskar J Gstrein and Jacquelyn D Veraldi, ‘The Naturalization-Privacy Interface: Publication of Personal Data of New European Citizens versus European Privacy Standards’ (2019) 42 *Houston Journal of International Law* 237; Jacquelyn D Veraldi and Oskar J Gstrein, ‘Nothing to Hide? Transparency Requirements, Accountability, and Privacy in Investment Migration’, in Dimitry Kochenov, Madeleine Sumption and Martijn van den Brink (eds), *Investment Migration in Europe and the World: Current Issues* (Hart Publishing 2024, forthcoming).

<sup>65</sup> Compare with José-María Arraiza, ‘Good Neighbourliness as a Limit to Extraterritorial Citizenship: The Case of Hungary and Slovakia’ in Dimitry Kochenov and Elena Basheska (eds), *Good Neighbourly Relations in the European Legal Context* (Brill–Nijhoff 2015); the chapter by Daniel Twomey in this volume.

<sup>66</sup> Cf. Suryapratim Roy’s and Dimitry Kochenov’s chapters in this volume.

No one exemplifies the questionable starting points underlying the mainstream thinking about citizenship today better than investment migrants. They typically lead more transnational lives than what the presumptions of immobility built into modern conceptions of citizenship and residence assert: namely that citizens and residents should remain in ‘their’ states. Only some investor migrants settle in their new country; most are looking for the mobility, security and business opportunities that an additional passport offers.<sup>67</sup> Framing the present configuration against a background of the ‘golden days’ of citizenship does not adequately capture the transnational lives of those selecting the investor visa route in highly desired core countries. Canada’s Immigrant Investor Program, the largest and longest-lived investor scheme, which has served as a model for others, saw most participants maintain their centre of vital interests in East Asia, and many returned to their home region once permanent residence or a passport had been secured.<sup>68</sup> Yet most investment migrants – should they actually decide to migrate – are what many states would consider desirable citizens: they are wealthy and are ready to reach out across borders to invest and bring with them the other forms of capital that they have accumulated. In the context of the European Union, this fact is particularly clear.<sup>69</sup> The Union offers a supranational citizenship status to all the nationals of its Member States, which is directly derived from such nationalities.<sup>70</sup> The Union citizenship is marked by two core rights, including a right to swap states within the Union without any obstacles and a right not to be discriminated against based on the particular member state citizenship one can hold.<sup>71</sup> As EU law stands

<sup>67</sup> Surak, ‘Millionaire Mobility and the Sale of Citizenship’ (n 9); Surak, ‘Citizenship and Residence by Investment Schemes’ (n 9); Surak (n 10).

<sup>68</sup> David Ley, *Millionaire Migrants: Trans-Pacific Life Lines* (Wiley-Blackwell 2010); David Ley and Audrey Kobayashi, ‘Back to Hong Kong: Return Migration or Transnational Sojourn?’ (2005) 5(2) *Global Networks* 111.

<sup>69</sup> Niamh Nic Shuibhne, ‘The Resilience of EU Market Citizenship’ (2010) 47 *Common Market Law Review* 1597; Charlotte O’Brien, ‘I Trade Therefore I Am: Legal Personhood in the European Union’ (2013) 50 *Common Market Law Review* 1643; Pedro Caro de Sousa, ‘Quest for the Holy Grail – Is a Unified Approach to the Market Freedoms and European Citizenship Justified?’ (2014) 20 *European Law Journal* 499.

<sup>70</sup> Dimitry Kochenov, ‘*Ius Tractum* of Many Faces: European Citizenship and the Difficult Relationship between Status and Rights’ (2009) 15 *Columbia Journal of European Law* 169.

<sup>71</sup> Id.; Gareth Davies, ‘How Citizenship Divides: The New Legal Class of Transnational Europeans’ (2019) 4 *European Papers* 675; Hans Ulrich Jessurun d’Oliveira, ‘Union Citizenship and Beyond’, in Nathan Cambien, Dimitry Kochenov, and Elise Muir (eds), *European Citizenship under Stress: Social Justice, Brexit and Other Challenges* (Brill-Nijhoff, 2020) 28; Kochenov, ‘*Ius Tractum* of Many Faces’ (n 70).