Dear members of IVR Sweden, my name is Elena Prats, and I am a Ph.D candidate at the Department of Philosophy of the Uppsala University, where I started my Ph.D research 3 months ago. I am currently working in citizenship, particularly in immigrant investor programs and Citizenship-by-investment programs. Before starting my presentation, I would like to express my gratitude to you for the possibility to share with you my research in this annual conference.

The title of my presentation is ‘Citizenship on sale?’. The reason I introduced a question mark in the title is because currently there is an academic debate on Citizenship by investment programs where many think that today people can buy citizenship. Among those who think it is possible, many claim that this is wrong. During the coming 3 and a half years, I plan to assess the legitimacy of Citizenship by investment programs, focusing particularly on those implemented in member states of the European Union. Since I guess that many of you are not familiar with immigrant investor programs, before going deeper into the analysis, I would like to explain what immigrant investor programs and citizenship by investment programs are.

1. Object of study:

- **Immigrant investor programs (IIPs)** refer to a broad spectrum of programs enabling non-nationals to receive residence permits or become citizens of a state through economic transactions. There are currently several kinds of programs with different requirements. For instance, some programs require that the applicant creates a certain number of jobs in particular sectors or particular geographical areas. Other programs require an investment in government bonds. Despite the diversity of IIPs, all of them have in common one thing: they facilitate the route to citizenship by economic transactions. Yet, most of them still require some period of residence in the country.

- Citizenship-by-investment programs (CIPs) are a particular kind of immigrant investor programs that also comes in several forms. The most common of these forms are donations to the government and investments in real estate.

- Having thus introduced briefly CIPs as phenomena, I would like to give you its stipulative definition. The genus proximum definition of CIPs is “laws on the acquisition of nationality through naturalization in which economic transactions is one, but not necessarily the sole, criteria of acquisition”. In the case of CIPs the differentia specifica is given by the supplementary criteria of acquisition for access in the citizenship that have the CIP. Some examples of this differentia specifica can be found by comparing programs: for instance, while the CIP in Romania grants citizenship to those investing in its CIP after 4 years of residence, instead of the ordinary 8 years, Saint Kitts and Nevis completely eradicate the residence as a requirement to grant citizenship to investors in its CIP. Another example can be found comparing, Bulgaria that removed all ordinary naturalization conditions for those granted citizenship by investment with Romania, that retained all of them besides the residence, which I already told you is reduced.
- This definition allows us to clarify the phenomena of CIPs despite the diversity of existing specific criteria of acquisition for accessing the citizenship of the various states implementing the programs.

- **2. Background**
- In order to expand our understanding of CIPs and be able to understand the current phenomena, now I would like to bring some data related to the development of the programs as well as the recent academic focus.

**2.1. Development of CIPs:**
- Let’s start with some history then. According to Jelena Dzankic, the first CIP was established by Saint Kitts and Nevis, a federation of two islands in the West Indies. They established the program by the adoption of the Constitution and Citizenship Act already back in 1984, one year after the islands were granted independence from the United Kingdom. According to another scholar, Kristin Surak, the islands decided to establish the program as a way to recover from the economic downfall they faced at the time of independence, followed by the lack of competitiveness in the global agricultural market and the falling prices of sugar, which was the island’s main industry. The program opened two ways to access citizenship: by a donation of 250,000 USD to public coffers or an investment of 400,000 USD in real estate.

- So, Saint Kitts and Nevis were moved mainly by economic interests when they established their CIP. Data shows that in this case the islands obtained a high benefit: the Prime Minister of Saint Kitts has declared at public conferences that the receipts from its citizenship by investment program accounted for 37% of its GDP in 2015, that is to say, more than a third of the country’s GDP was obtained through the CIP. Quite impressive, I think. ————

- But, probably some of you wonder why wealthy people would like to invest in the citizenship of a poor island in the West Indies. According to Sumption and Hooper, applicants who invest in IIP usually have one or several of the coming interests: i) lower taxes, ii) insurance policy (as a way of securing residence rights abroad), iii) migrate or iv) visa-free travel. According to the same authors as well as to Surak, in the case of Saint Kitts and Nevis, the main motivations are usually lower taxes or visa free traveling. This is because Saint Kitts’ passport provides Visa free travel to over 80 countries, including all EU Schengen countries, Switzerland, UK and Ireland.

- Other interesting information about Saint Kitts program is that it does not grant applicants the right to vote directly after becoming citizens, because the suffrage is granted to those citizens of St. Kitts and Nevis who have been ordinarily resident in one of the islands for a ‘continuous period of at least twelve months immediately before the registration date’.

- Since the 80’, and especially during the last decade, the number of IIPs and CIPs has increased enormously. According to the Investment Migration Forum, there are currently 89 jurisdictions in the world that have programs granting citizenship by economic tran-
sactions (so it is obvious that we are not talking about an isolated phenomenon in some Caribbean Islands aiming to recover from economic downfall). Indeed, some countries with big economies, like USA, Canada and Australia also launched IIPs during the last decade. An example is the popular EB-5 IIP in USA, which grants green cards for 2 years by paying 500,000 USD. This program has been granting around 8,000 green cards every year since its implementation. —- Despite of the high prices of the investments, in the case of big economies the impact of the economic benefit obtained by the programs is quite small.

- Let’s go back and focus on CIPs. To identify which countries are offering CIPs all over the world is an enormous task. In most of the cases, the available data is offered by the private sector, which often differ from a consultancy to another. For instance, the consultancy Secondpassports claims that there are currently 10 CIPs in the world, while Henley and Partners, the major consultancy in the field, points out 7 (in Austria, Antigua and Barbuda, Malta, St. Kitts and Nevis, Cyprus, Dominica and Saint Lucia). However, some scholars claim that there are 9 programs only in Europe.

2.2 Recent academic focus:
- As the history of the programs shows, IIPs and CIPs have become increasingly popular over the last decades. Yet, CIPs have caught the interest of scholars only recently. —- Precisely, the debate took off in 2013. What happened that year? Well, 2013 was the year that Malta, a member of the EU and the Schengen area, approved amendments to its Citizenship Act enabling investors to acquire citizenship through economic transactions. —— As I said, the case of Malta has stimulated the debate on CIPs among scholars. A search on Google scholar shows that the first academic papers written on CIPs date back to 2012, while the first article published in a scientific journal indexed in Scopus came out in 2015. —— Although the debate is recent, there are already many scholars working in the field, most of them coming from the areas of political science, EU studies, international relations and sociology. Over the last 3 months that I have been researching on IIPs and CIPs I could not find any philosopher or legal theorist working in this field. The high degree of interdisciplinarity as well as the lack of normative and/or legal reasoning of the participants makes it difficult to follow up the scholarly debate.

3. The non-philosophical debate and questions raised:
In this section, I will introduce some existing disagreements in the current academic debate, as well as some questions raised. However, I will not provide answers to them in this year’s conference since, as I told you before, I am just in the beginning of the first year of my PhD Studies. I will welcome suggestions on these points after the presentation, if you have any.
3.1. Different characterization of the phenomenon:

- The vast majority of scholars agree that CIPs would imply a ‘commodification’ or ‘selling of citizenship’. Indeed, as you can see here, most of the articles written on CIPs over the last years include in the title the word “commodification”, “sale” or “selling”. Scholars agreeing with the idea that CIPs are commodifying or selling citizenship can be divided into two groups. On the one hand, there are several economists and some sociologists arguing that “the existence of a market is enough to convert citizenship into a commodity”. On the other hand, there are some political scientists, sociologists and scholars of the field of international studies opposing the implementation of CIPs arguing that ‘citizenship ought not to be for sale’, supporting their claims on arguments, such as: “it represents a corruption of democracy”, “it implies discrimination”, or, in the case of the EU, “it is against EU values”. —— Here, there are two interesting aspects to point out. The first one is that most of these scholars providing this sort of arguments do not have any training in normative or legal reasoning. The second one is that none of them have intended to assess the legitimacy of the programs.

- Besides these two groups of scholars who agree on the fact that CIPs are currently commodifying citizenship, there is a third group that does not agree. These scholars usually argue that citizenship, as a legal status, cannot be commodified. Thus, for them CIPs do not commodify or sell citizenship, but what they do is fasttracking the route to naturalization by accelerating the process.

3.2: Questions raised:

- The still underdeveloped non-philosophical debate on CIPs raises some questions like; ‘is citizenship a type of object that can be traded?’ ‘is it possible to trade a civil status’. Some authors like Ana Tanasoca have claimed that it is possible and that, indeed, it happened already in the past. Last year, in her article ‘Citizenship for Sale Neo-mediaeval, not Just Neoliberal?’ she compared the ‘sale of citizenship’ entailed by CIPs with the sale of honours in France and UK from the 16th century onwards. Other scholars, like Raul Magni Berton claimed that ‘the sale of citizenship’ is nothing new since it was a regular practice in Rome 2000 years ago, which had as a consequence that by the third century citizenship had become an aristocratic title.

- Other questions arising from the scholarly debate are ‘how do CIPs affect democracy?’ Some scholars, like Rainer Bauböck, have opposed CIPs by claiming that they corrupt democracy, since, he says, they are equivalent to sell the right to vote to non-nationals. ——— Another question that arose when Malta established the first CIP in the EU was ‘Should the EU be able to interfere in defining criteria for the acquisition and loss of national citizenship?’ By granting national citizenship, member states are also granting EU citizenship. The case of Malta showed how a member state can use the rights associated to EU citizenship as a hook to gain the attention of investors. The reactions against the Maltese CIP came swiftly: it raised many complaints from other states and even a joint motion for a resolution against the practice. Furthermore, in January 2014, Viviane Reding, then vice-president of the European Commission, argued
in the European parliament against, what she called, ‘the selling of citizenship‘ by asserting that citizenship ‘is a fundamental element of our Union and that one should not put a price tag on it’.

3.3: Research Question:
- As it has been shown, CIPs have raised several concerns among scholars as well as some questions. However, it is worth to note that in the current debate there are no scholars assessing the legitimacy of the programs. In my research, I will assess the legitimacy of the existing CIPs in the EU territory by analysing if they are compatible with the constitutional order. I suspect that they are not compatible in all cases, and that this is probably the strongest argument that can be found to reject their implementation. Thus, the question that leads my research is ‘What is distinctively wrong with CIPs in the EU? As I said, the answer will be given by assessing the compatibility of CIPs with the constitutional orders of the states.

4. Why legal theory?
- As I previously explained, the academic debate on CIPs is multidisciplinary. Most of the scholars participating are political scientist, sociologists or scholars from the field of international studies. However, there are several reasons to claim that legal theory should be caring about CIPs. First of all, the conceptual analysis is useful to clarify a debate plagued by unclarity concerning the object of study, as well as disagreements. Secondly, and surprisingly, most of the scholars participating in the debate have no training in legal reasoning. Last but not least, following Kelsen, if citizenship is the personal sphere of validity of the legal order, then who counts as citizens is of relevance to understanding a constitutive element of the state. CIPs alter this element by introducing the possibility that economic transactions enable non-citizens to become citizens, modifying by payment who counts as citizens. —— But, one could argue that not only CIPs alter this constitutive element of the state, so does birth. However, CIPs are held to be more controversial. Why? —— I think that one cannot reply to this question unless we inquire into what is distinctively wrong about CIPs.

5. Last remarks:
- To conclude, I would like to summarize the main points of my presentation. Firstly, I introduced CIPs as a specific kind of IIP that can be defined as “laws on the acquisition of nationality through naturalization in which economic transactions is one, but not necessarily the sole, criteria of acquisition”. I also pointed out that in CIPs the differentia specifica is given by the supplementary criteria of acquisition for access in the citizenship that have the specific program. —- Secondly, I have shown that, since the first program introduced back in 1984 several countries have adopted CIPs, specially over the last decade. Thirdly, I have briefly presented the academic debate on CIPs, what are the disagreements as well as the profile of the scholars participating in the debate. Last but
not least, I claimed that considering that CIPs alter the personal sphere of validity of the legal order, legal theory is the most suitable field to assess the legitimacy of the programs. Yet, I have not explained how I am going to assess it, because this point is something that I still need to develop.

Before opening up the debate to your questions, I would like to thank you for your attention, and I hope you found the presentation interesting. Since I am just in the very beginning of my doctoral studies, I will really appreciate any comments or suggestions that could help me to develop my research. Thank you.