

# **Economic analysis EU regulation on successions and related tax issues**

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**Why Economics?**

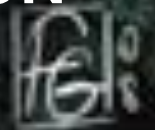
# Notary Office

Successions,  
National Law,  
Taxes, EU Law,

That's what we  
do ..better not to  
go outside

double taxation  
...??

STAMP  
STAMP  
REGISTRATION  
STAMP



Reform Policies

EU Law

Impact  
assessment

?? HELP!

National Government

Notarial  
profession

Economic Indicators

World Bank (doing usiness Report – Rank)

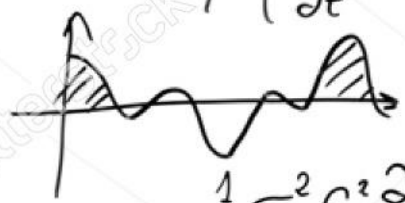
$$\mathcal{L} = \oint E_{at}$$


$$\begin{aligned} \nabla \cdot E &= 0 \\ \nabla \times E &= -\frac{1}{c} \frac{\partial H}{\partial t} \\ \nabla \cdot H &= 0 \\ \nabla \times H &= \frac{1}{c} \frac{\partial E}{\partial t} \end{aligned}$$

$$i\hbar \frac{\partial}{\partial t} \Psi = H \Psi$$

$$f(\omega) = \int_{-\infty}^{\infty} f(x) e^{-2\pi i x \omega} dx \quad \frac{dt}{d\omega}$$

$$\rho \left( \frac{\partial v}{\partial t} + v \cdot \nabla v \right) = -\nabla p + \nabla \cdot T + f$$

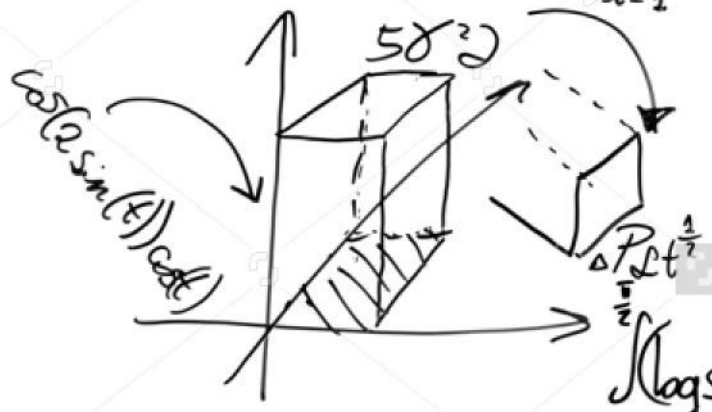


$$H = - \sum p(x) \log p(x)$$

$$\frac{1}{2} G^2 S^2 \frac{\partial^2 V}{\partial S^2} + r S \frac{\partial V}{\partial S} + \frac{\partial V}{\partial t} - r \cdot V = 0$$

$$\begin{aligned} &+ \sum_{i=1}^n \frac{q_i}{2} H_i^M + c_s \frac{D}{Q} + c_o D + \\ &+ \frac{Q(p-D)}{2p} H^M + F_o N + \\ &+ F_o N + \sum_{i=1}^n D_i w_i d_i \frac{(1+w_i)}{F_v} \end{aligned}$$

$$TC(Q, q_i, m_i) = \sum_{i=1}^n \left[ \frac{D_i}{m_i q_i} S_i + c_i v D_i + \frac{q_i H_i^v}{2} \left( m_i \left( 1 - \frac{D_i}{P_i} \right) - 1 + 2 \frac{D_i}{P_i} \right) \right] +$$



$$\begin{bmatrix} \frac{d \Delta p(s, \phi)}{d \phi} \\ \frac{d \Delta M(s, \phi)}{d \phi} \end{bmatrix} = \begin{bmatrix} \gamma & -\delta \\ -\beta & 0 \end{bmatrix} \begin{bmatrix} \Delta p(s, \phi) \\ \Delta M(s, \phi) \end{bmatrix}$$

$$\int_0^{\frac{\pi}{2}} (\log \sin x)^2 dx = \int_{\frac{\pi}{2}}^{\pi} (\log \cos x)^2 dx = \frac{\pi}{2} \left\{ \frac{\pi^2}{12} + (\log 2)^2 \right\}$$

**Awareness** of the  
macro-context where  
your professional  
services operate



**Capacity** to face and  
understand political  
reforms that affect  
your profession



The Daily The economics of life

How to make inheritance an incentive  
Too much too young can breed laziness.

R. Davis 13<sup>th</sup> Oct 2016



# The Economist

**Inheritance law  
A lack of will power**



Claudio Pincoz

**Inheritance law needs to catch up with  
economic and social change**

Nov 22nd 2014 | BEIJIN



# THE SPECTATOR

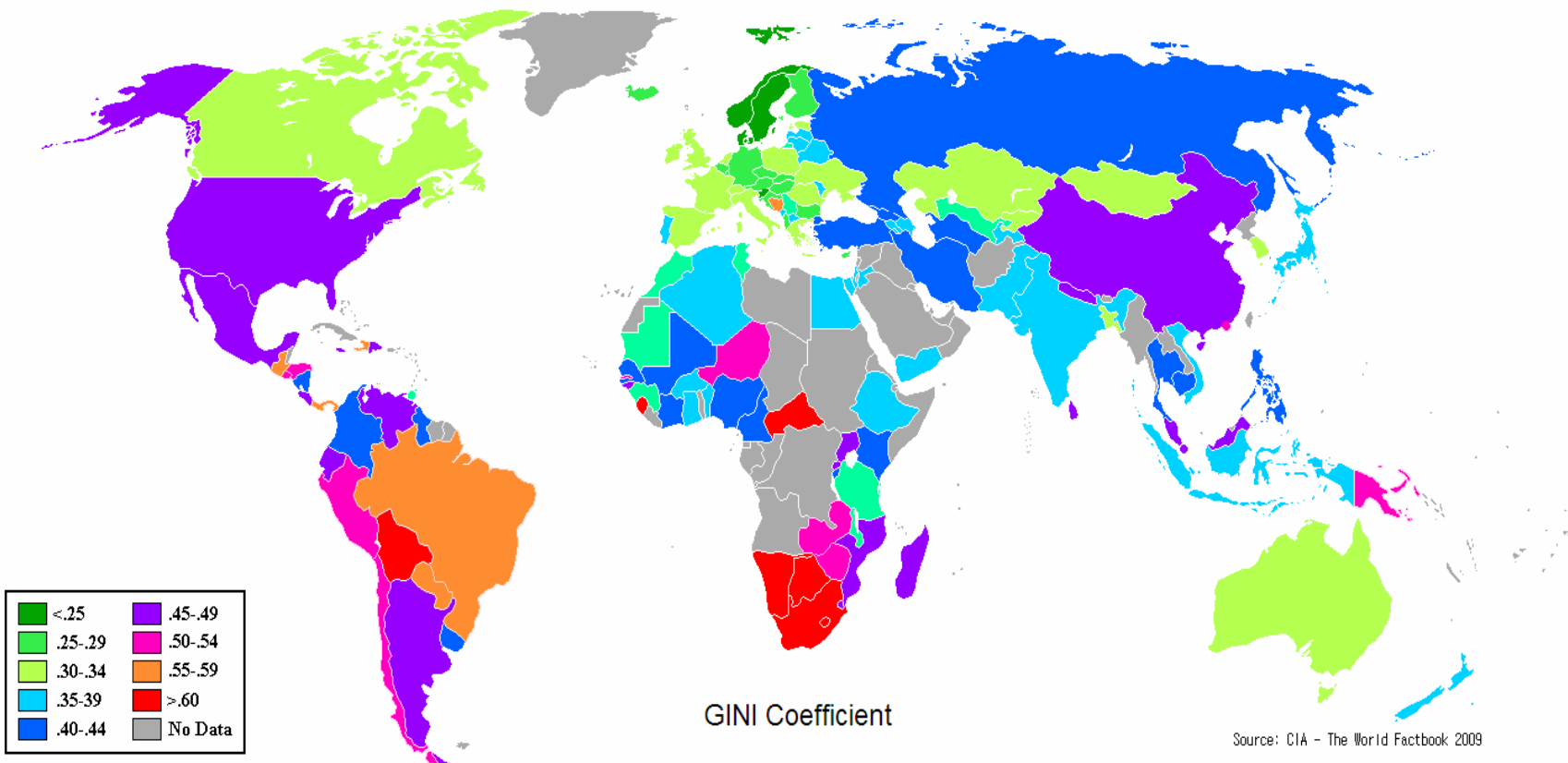
**Listen to Adam Smith: inheritance tax is good**

Inheritance tax is one levy that makes good economic sense

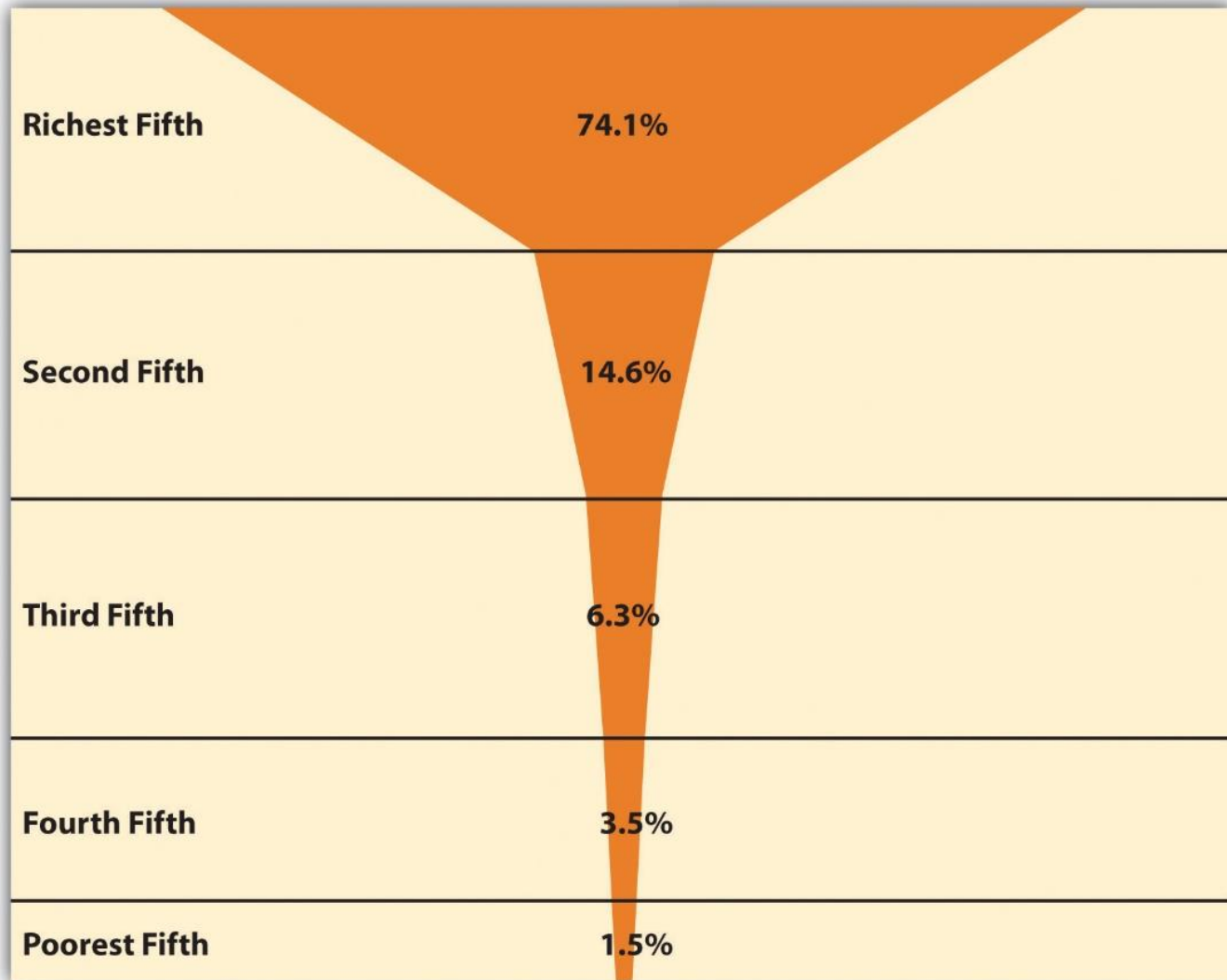
Irwin Stelzer



**What is the  
Macro-context of  
TAXATION?**

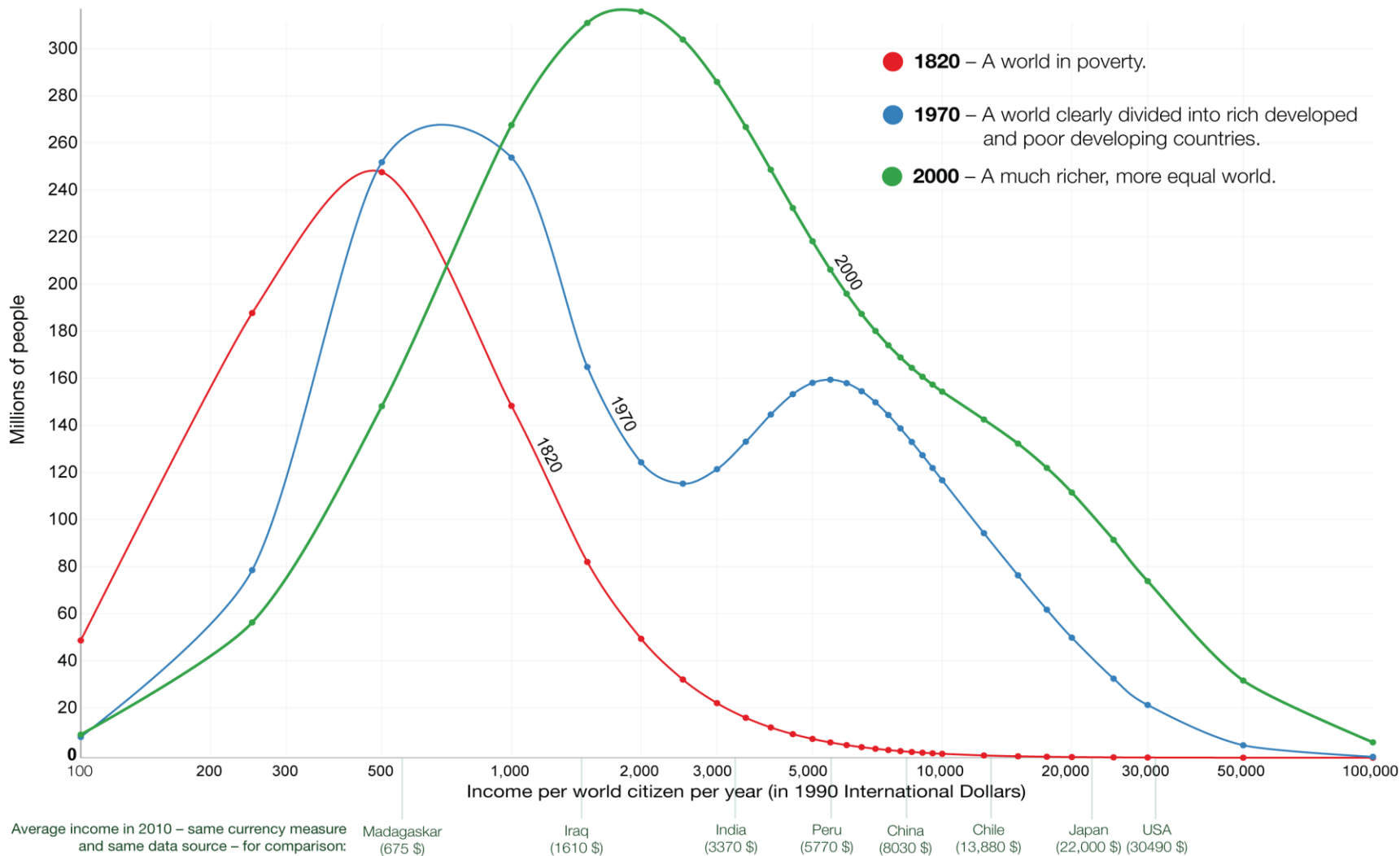


Source: CIA - The World Factbook 2009



# The World Income Distribution in 1820, 1970 and 2000 – by Max Roser

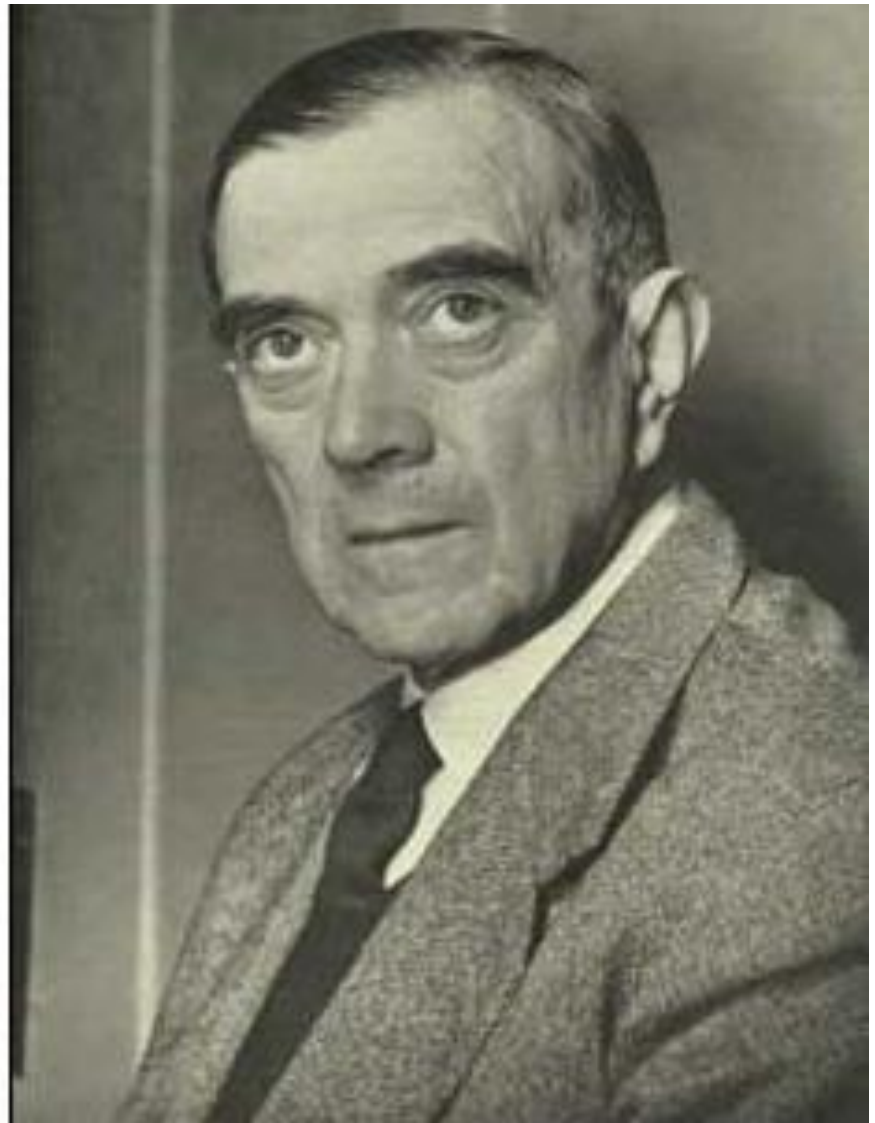
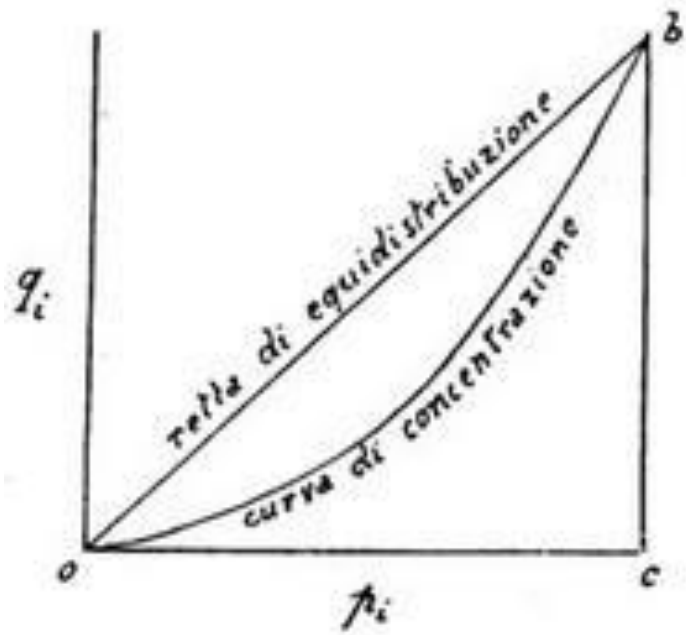
The yearly income of all world citizens is measured in International Dollars. This is a currency that would buy a comparable amount of goods and services a U.S. dollar would buy in the United States in 1990. Therefore incomes are comparable across countries and across time.



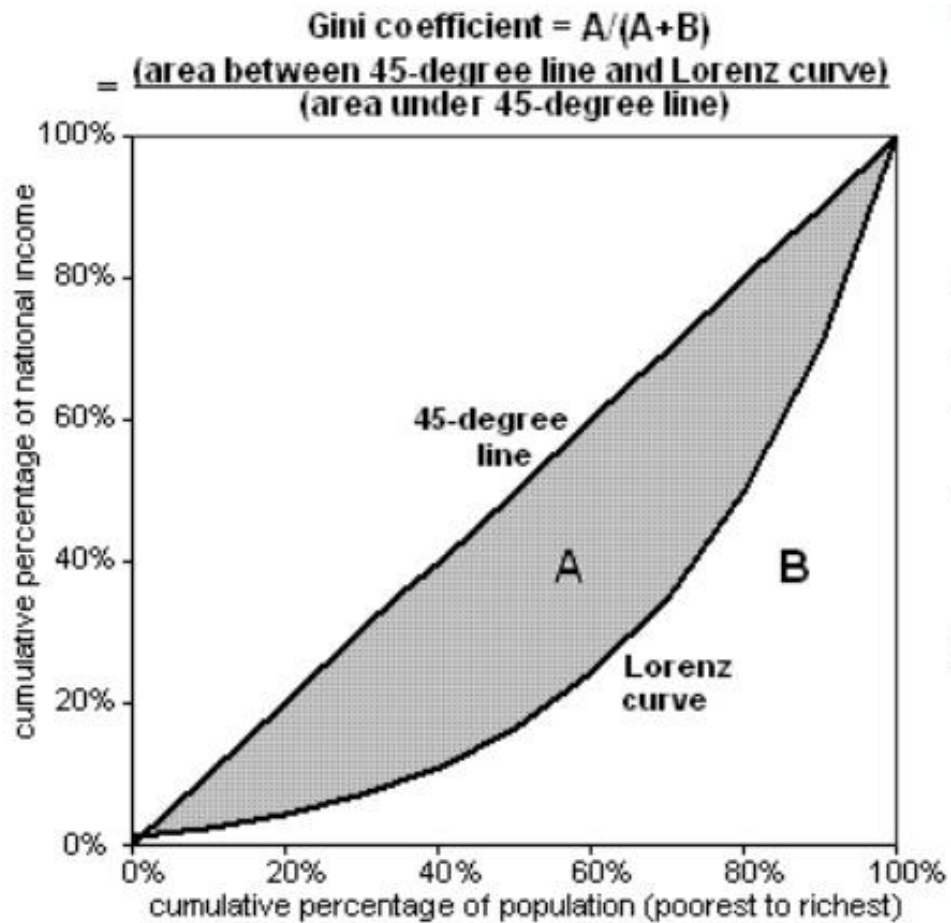
Data source: [www.Clio-Infra.eu](http://www.Clio-Infra.eu) via van Zanden et al. (2014) – *How Was Life?*, OECD.

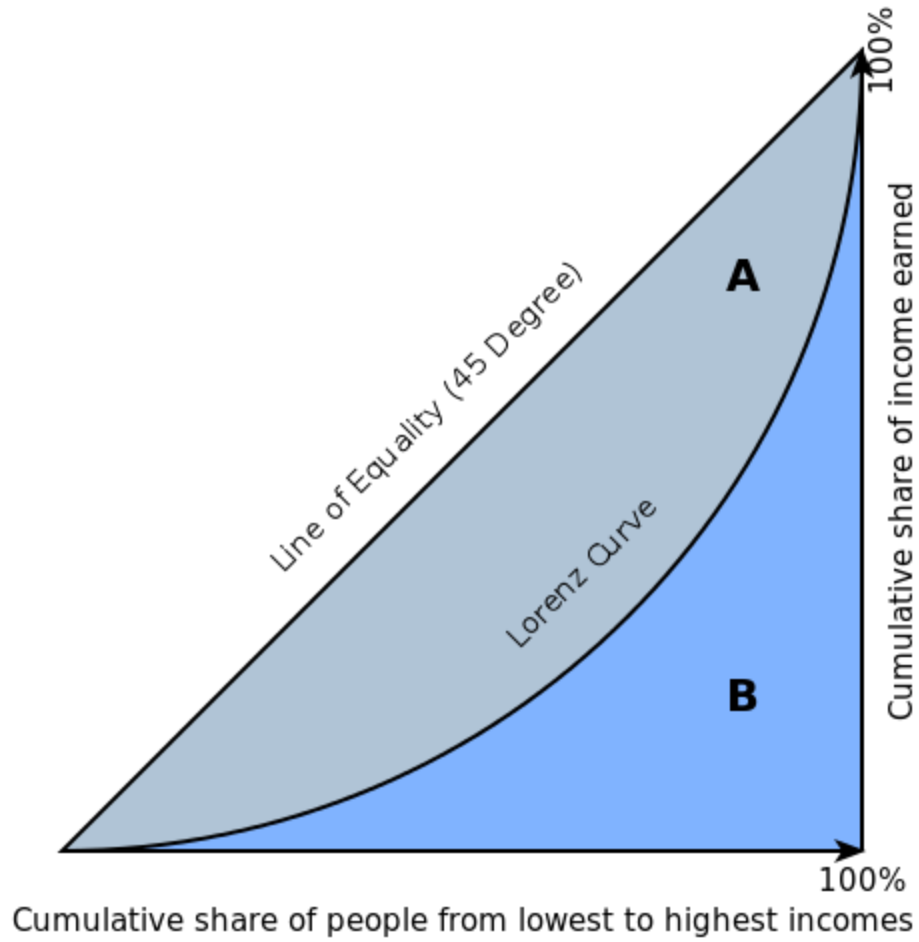
The interactive data visualisation is available at [OurWorldinData.org](http://OurWorldinData.org). There you find the raw data and more visualisations on this topic.

Licensed under [CC-BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) by the author Max Roser.



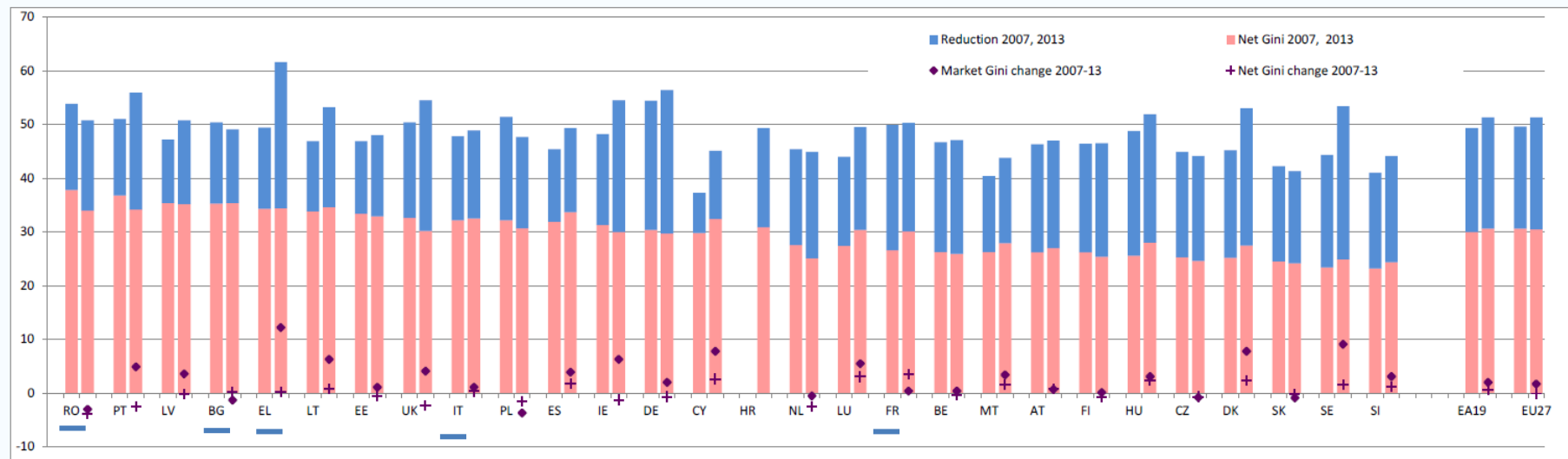
# Gini Coefficient







Graph 1: Inequality of market and disposable (i.e. after tax and benefits) income in EU Member States, 2007 and 2013, measured by the Gini index



Note: The sum of the red and blue bars corresponds to the Gini index of market income inequality. The countries are shown in declining order of net income inequality in 2007. Information on market income inequality in Croatia is available as of 2010 only.

**Source:** Eurostat.

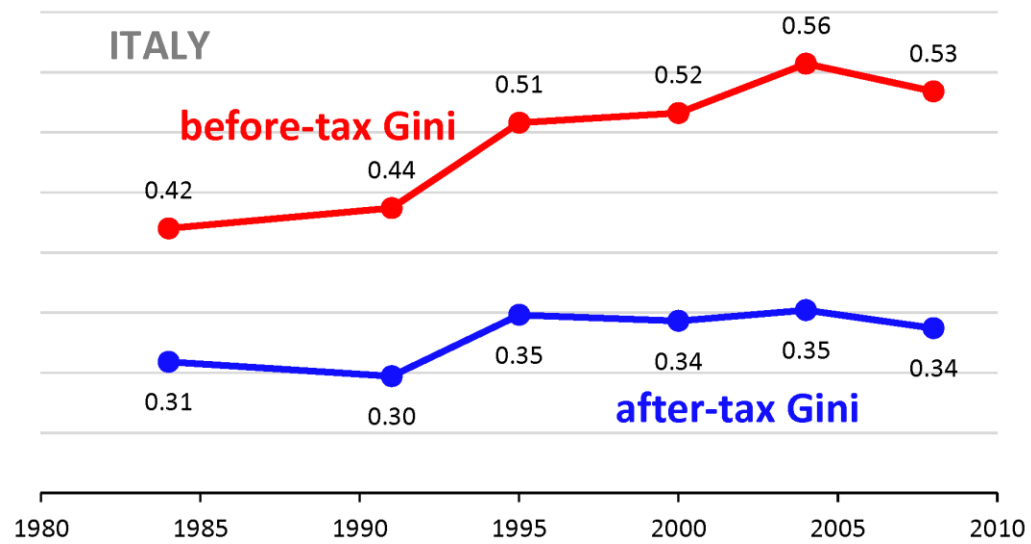


Table 2.7: Overview of the need to reduce labour taxation and the potential to finance a reduction in labour taxes

Country	Potential need to reduce the tax burden on labour			Potential scope for a tax shift					Need to reduce labour taxation and potential scope for a tax shift	Need to reduce labour taxation and potential scope for a partly unfinanced reduction
	Overall	Low-wage earner	Second earner	Consumption	Recurrent housing	Environment	Inheritance, estate and gift	Summary: scope for a tax shift		
BE	X	X	X	X		X		X	X	
BG					X		X	(X)		
CZ	X	(X)			X	X	X	X	X	
DK			(X)							
DE	(X)	(X)	(X)		X	X		X	(X)	(X)
EE		(X)			X		X	(X)	(X)	(X)
IE				X	X			X		
EL				X			X	X		
ES				X		X		X		
FR	X	(X)		X		X		X	X	
HR		(X)			X		X	(X)	(X)	
IT	X	X		X			X	X	X	
CY	-	-	-	X	X		X	X	-	
LV		X		X	X	X	X	X	X	X
LT		(X)		X	X	X	X	X	(X)	
LU					X			(X)		
HU	X	X			X	X	X	X	X	X
MT					X		X	(X)		
NL	(X)	(X)			X			(X)	(X)	(X)
AT	(X)	X	(X)		X	X	X	X	X	
PL						X	X	(X)		
PT			X	X	X	X	X	X	X	
RO		X			X	X	X	X	X	
SI					X		X	(X)		
SK				X	X	X	X	X		
FI	X	(X)			X			(X)	X	
SE	(X)	(X)			X		X	(X)	(X)	(X)
UK										

Notes: X denotes a Member State that has a need to reduce the tax burden on labour, scope to shift the tax burden to less detrimental sources of revenue and scope for a partly unfinanced labour tax reduction (according to the column heading), (X) denotes a borderline case. A Member States is considered to have a potential need to reduce the tax burden on labour if it is relatively high overall or for a specific group. If the employment rate, overall or for a specific group, is relatively high, the need to reduce the tax burden is considered a borderline case. A Member State is considered to have scope for a tax shift if consumption taxes are relatively low or if recurrent property taxes and environmental taxes are relatively low. If only recurrent property taxes or environmental taxes are relatively low, the scope to shift is considered a borderline case. While an increase in inheritance, estate and gift taxes may contribute to a tax shift, this does not form part of the criteria for determining whether there is scope for a tax shift.

Source: Commission services.

Know how?

**Know where**

# Know how? Better to know where

Missing a specific notion – missing the delivery of a specific outcome



Understanding mechanism

I know

Where to find

Who could help me

Improve professional policies and **long run sustainability**

A red ink stamp with a double-line border, containing the text "Taxes Due" in a serif font. The stamp is slightly tilted and has a textured, ink-like appearance.

Taxes  
Due

# Tax in EU database

[http://ec.europa.eu/taxation\\_customs/tedb/taxSearch.html](http://ec.europa.eu/taxation_customs/tedb/taxSearch.html)

The screenshot shows the search interface of the European Commission Tax in Europe Database v3. At the top, there is a navigation bar with the European Commission logo and the text "EUROPEAN COMMISSION". To the right, there are links for "Legal Notice" and "Contact", and a language dropdown menu set to "Italiano (it)". Below the navigation bar, there is a breadcrumb trail: "European Commission > Taxation and Customs > Taxes in Europe Database v3". A secondary navigation bar contains links for "About us", "Online Databases", "Tenders & Grants", "FAQ", "Subscribe to newflash", "What's new?", and "Sitemap".

The main search area is titled "Search Tax (Simple)". It features a sidebar on the left with "Home Page" and two search options: "Simple Search" (selected) and "Advanced Search". The search form includes the following fields:

- Tax Type(s)**: A dropdown menu with "Other Direct" selected.
- Member State(s)**: A dropdown menu with "BG - Bulgaria, RO - Romania" selected.
- Time period from**: A text input field with a calendar icon.
- To**: A text input field with a calendar icon.
- Keyword(s)**: A text input field with a help icon.

At the top right of the search form, there are "Search" and "Reset" buttons. At the bottom of the page, there is a footer: "Last Update : 24/01/2017 10:19 | v3.6.9 | [Top](#)".

# Infringements

[http://ec.europa.eu/taxation\\_customs/infringements/infringement-cases-press-releases/infringement-cases-country\\_en](http://ec.europa.eu/taxation_customs/infringements/infringement-cases-press-releases/infringement-cases-country_en)  
[http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&noncom=0&decision\\_date\\_from=&decision\\_date\\_to=&active\\_only=0&DG=TAXU&title=&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&noncom=0&decision_date_from=&decision_date_to=&active_only=0&DG=TAXU&title=&submit=Search)



European Commission at work

Commission > .. > Applying EU law > Infringements > Infringement decisions

Infringement number	<input type="text" value="yyyyyynn"/>
Type of infringement	All <input checked="" type="radio"/> Non-communication cases <input type="radio"/> Other <input type="radio"/>
Decision date from	<input type="text" value=""/> <input type="calendar"/> to <input type="text" value=""/> <input type="calendar"/>
Status	All <input checked="" type="radio"/> Active infringement cases <input type="radio"/> Closed infringement cases <input type="radio"/>
Member state	<input type="text" value=""/>
Policy area / Department in charge	<input type="text" value="x Taxation and Customs Union"/>
Title	<input type="text" value=""/>
Decision type	<input type="text" value=""/>

Showing records 1 - 50 of 3293 records Page 1 of 66





## Contact

### Questions about the EU

Questions about the EU? Europe Direct can help.

Europe Direct does not comment on EU policy issues or positions, or handle or forward complaints (though it can tell you who to contact).

For help or legal advice on specific EU laws, check out the [EU rights guide for individuals and businesses](#).

#### Telephone >

Call Freephone **00 800 6 7 8 9 10 11**

- from anywhere in the EU
- weekdays 09:00 – 18:00 CET
- in any official EU language

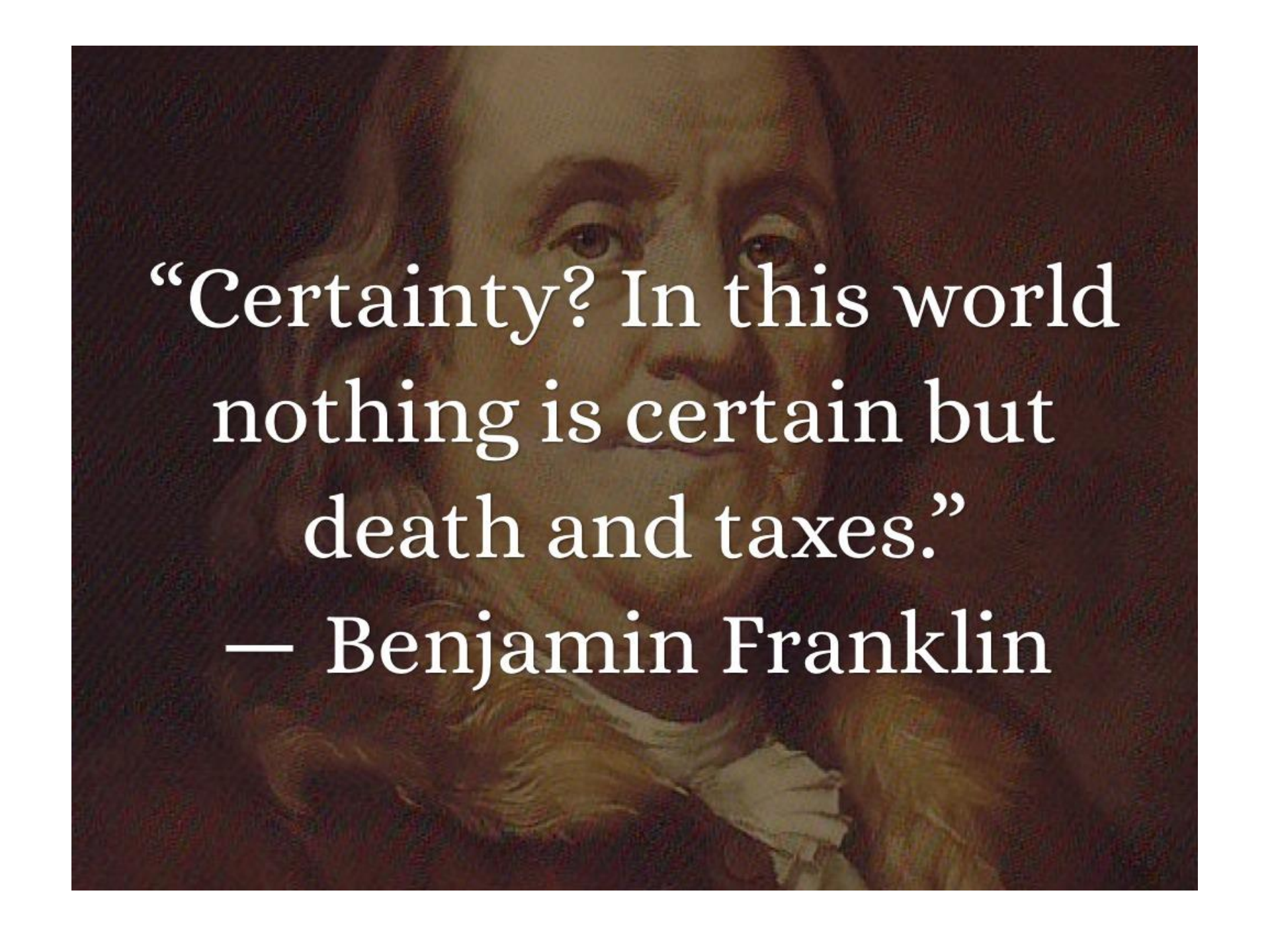
#### Write to us >

Receive an answer in 3 working days – though more complex questions may take longer.

#### Contact points in your country >

Find a Europe Direct centre near you for information or to



A portrait of Benjamin Franklin, showing his face and upper torso. He has long, wavy, light-colored hair and is wearing a dark coat with a white cravat. The background is dark and textured.

“Certainty? In this world  
nothing is certain but  
death and taxes.”

— Benjamin Franklin

# ENN CNUE Tools

<http://www.successions-europe.eu/>



## Succession in Malta

↻ 23-11-2015



Anticipate



Prepare



Inherit



Taxation

1

How are succession duties calculated?

# ENN & handbooks

# Règlement (UE) n°650/2012 sur les **successions** **transfrontalières**

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Livret pratique  
à l'usage des notaires

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**RNE**  
Réseau Notarial Européen

Cofinancé par  
l'Union européenne



JUST/2013/JCIV/DG/4059

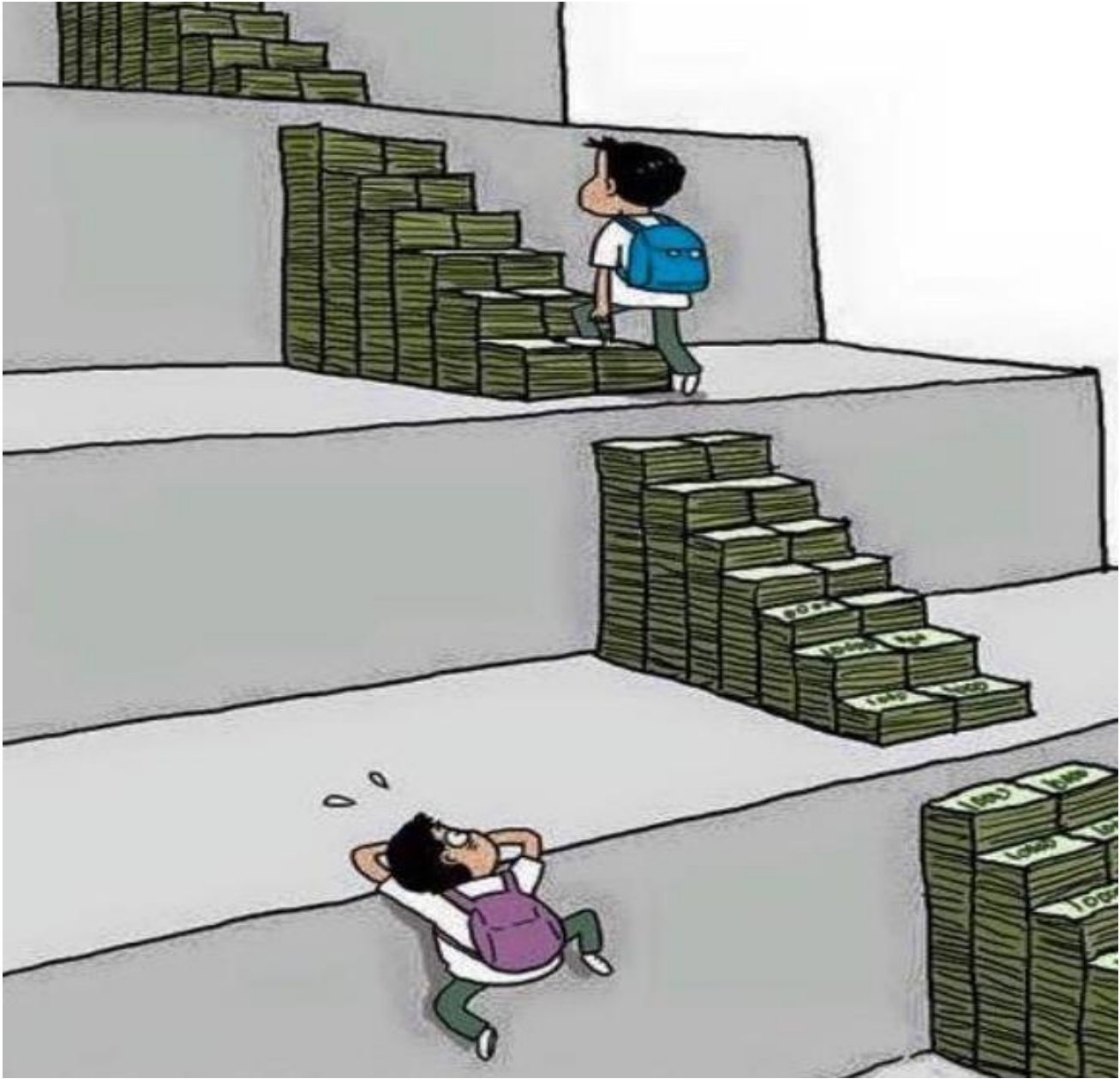


# household



# Marcoeconomic level

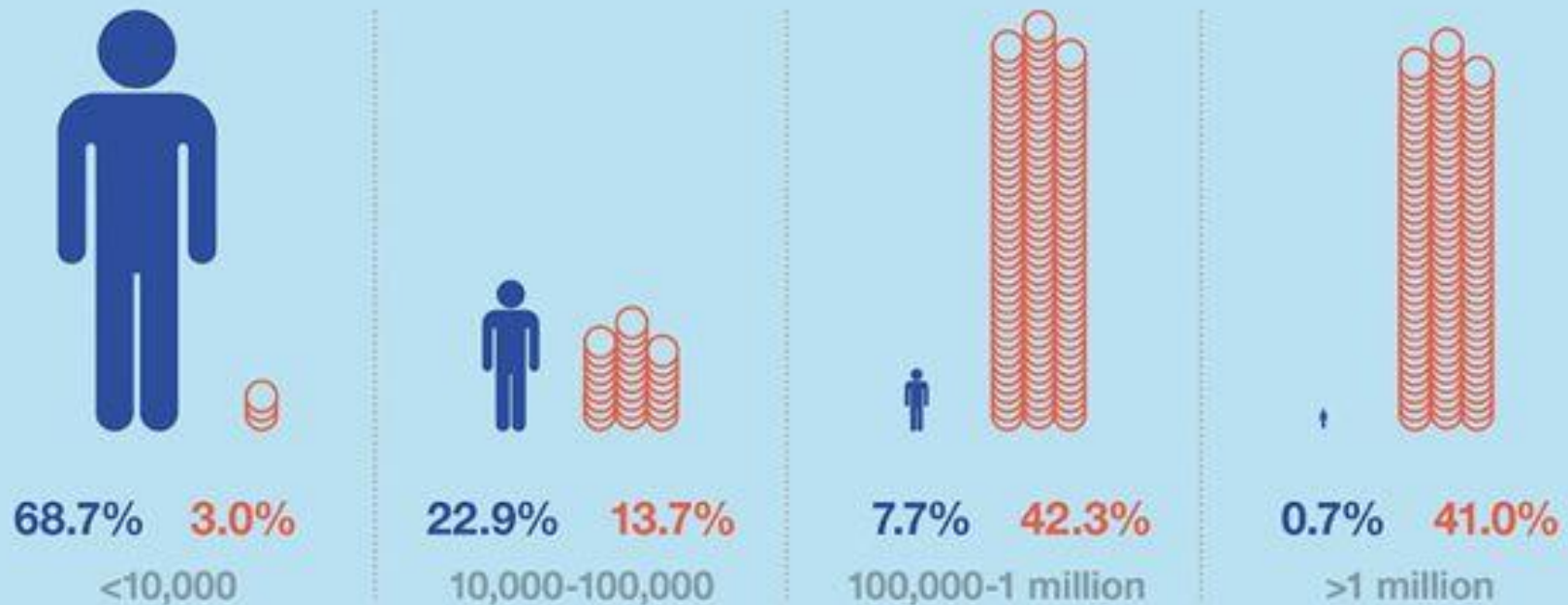






# How is the **world's wealth** shared amongst its population?

 % of the world's population     % of the world's wealth

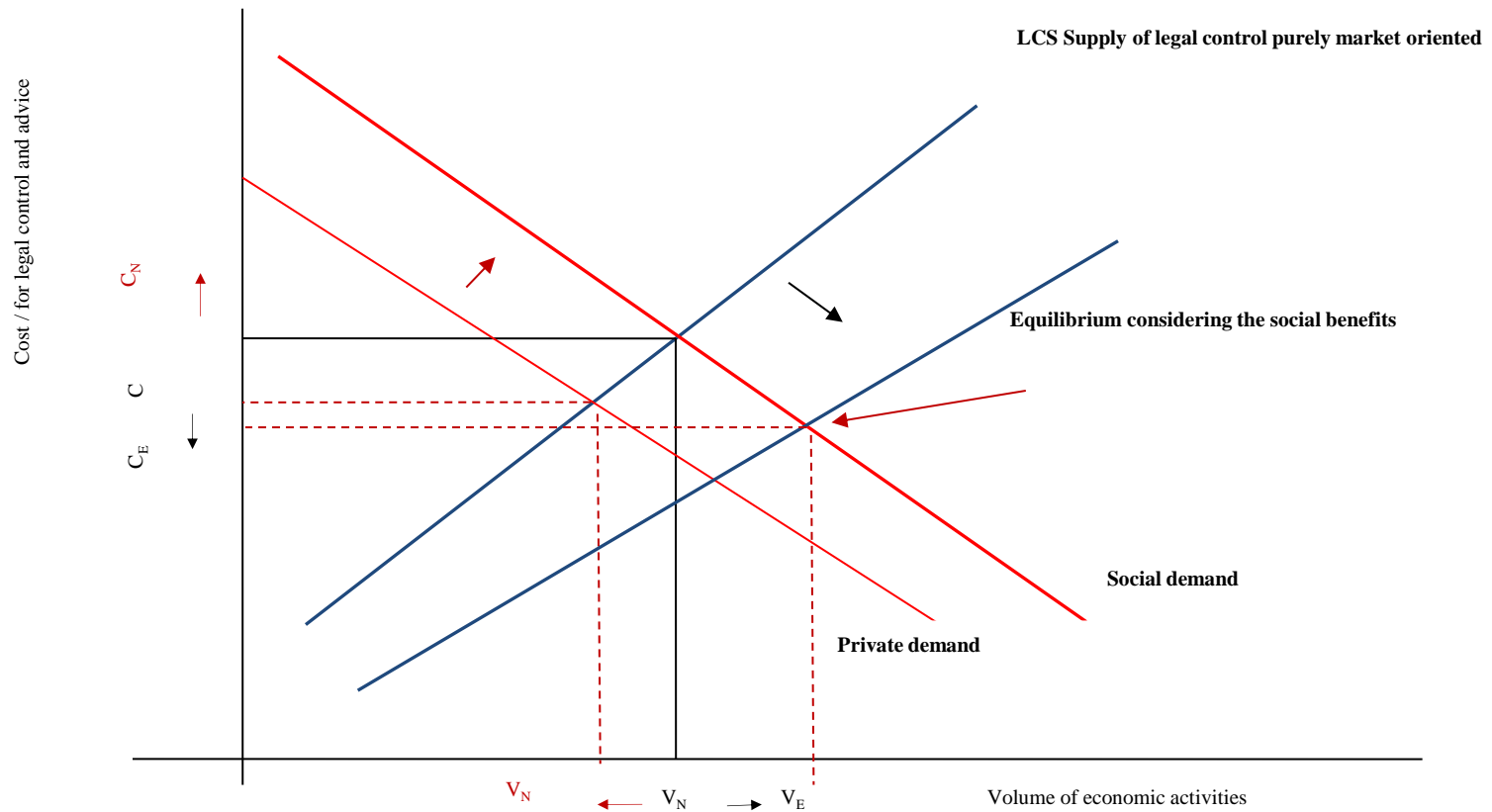


"Wealth" is defined as the marketable value of financial assets plus non-financial assets (principally housing and land) owned by an adult, less debts  
Source: Global Wealth Report 2013, Zurich: Credit Suisse

Wealth (USD)

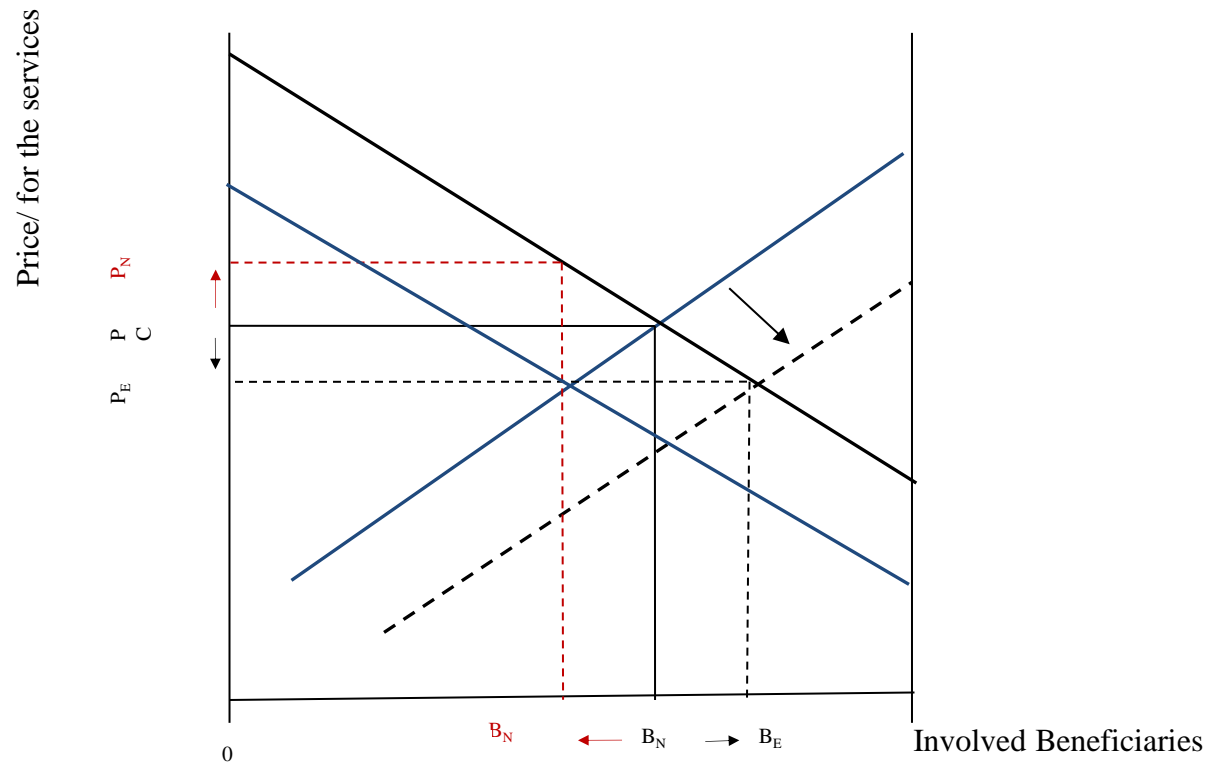
Read the report [#Outlook2015](#)

# Supply of public good and State intervention to meet the social demand

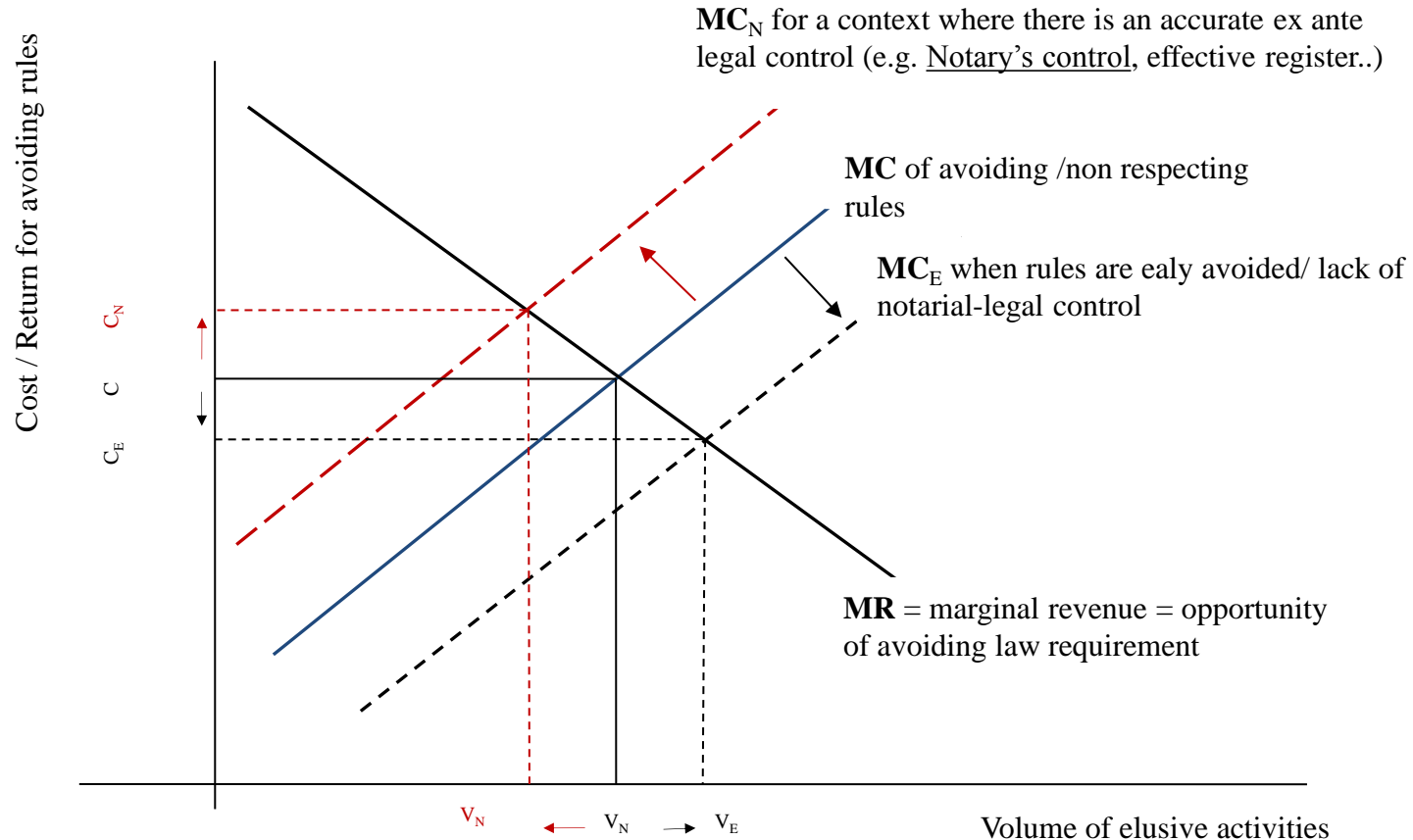


# Internalities and State intervention to reach the social utility

State intervention in order to reach the suitable social utility

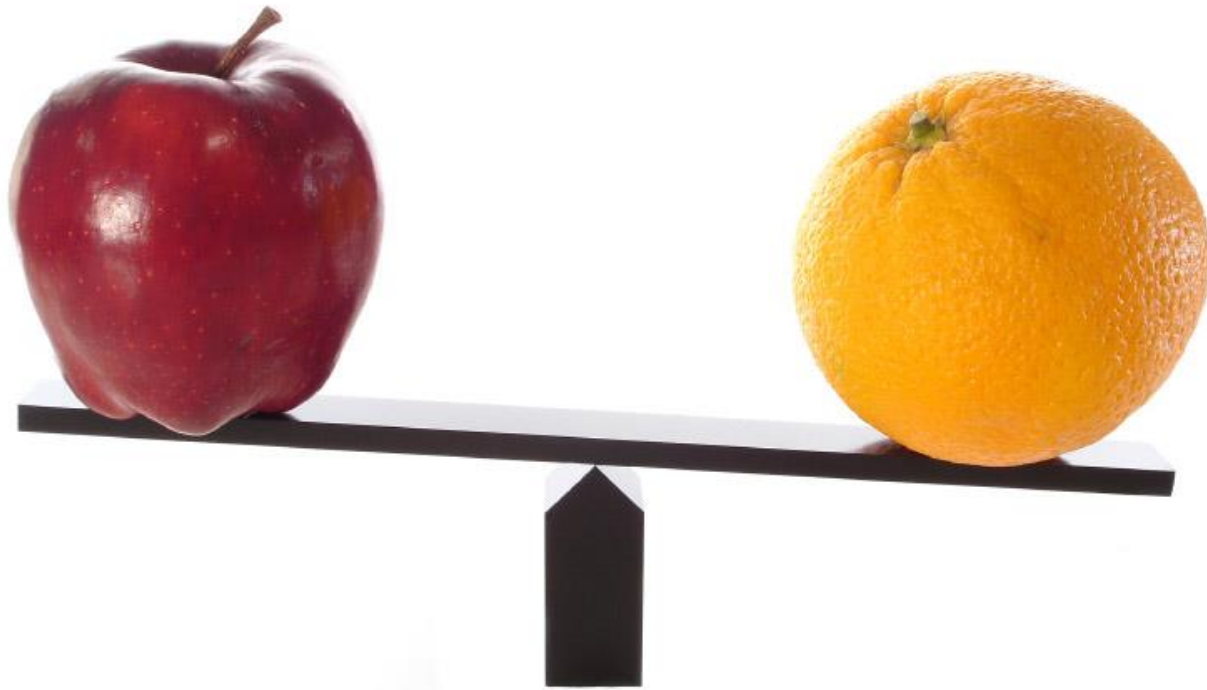


# Effects of the reduction of compulsory legal control



*Policy options*

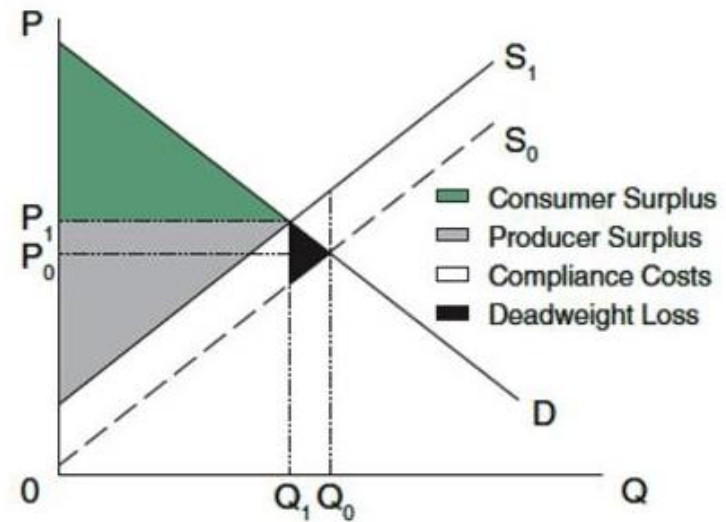
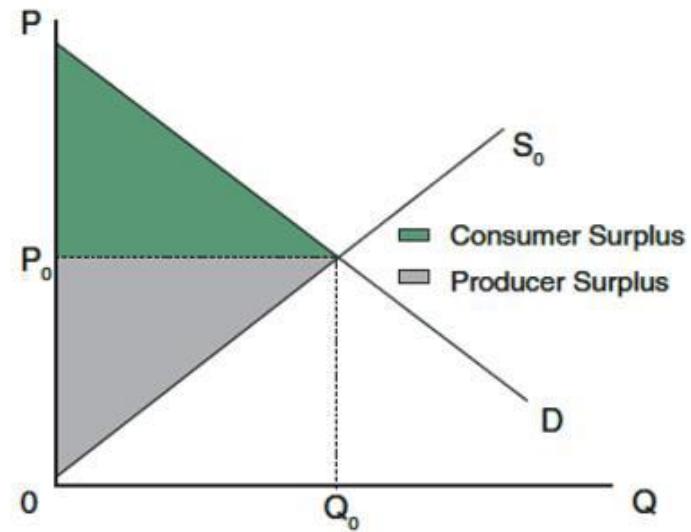
**Compare the options**



# EU toolbox

An important factor to be considered, more than the legal system differences, is how the policy makers assess the risks

# Possible effects of a policy measure on the consumers



# policy options for problems caused by national legislative differences concerning successions with transnational elements (Policy Option A)

## *EU legislative action*

ÿ Policy Option A.2: Harmonisation of jurisdiction rules and introduction of rules on automatic recognition and enforcement of judgments, other decisions and authentic acts/deeds

ÿ Policy Option A.3: Harmonisation of conflict of law rules

ÿ Policy Option A.4: Harmonisation of conflict of law rules and introduction of a European Certificate of Heir and Executor / Administrator in transnational successions

ÿ Policy Option A.5: Harmonisation of conflict of law rules and jurisdiction rules

ÿ Policy Option A.6: Harmonisation of conflict of law rules and jurisdiction rules, and introduction of rules on automatic recognition and enforcement of judgments, other decisions and authentic acts/deeds (A.2 plus A.3)

ÿ **Policy Option A.7:** Harmonisation of conflict of law rules and jurisdiction rules, and introduction of rules on automatic recognition and enforcement of judgments, other decisions and authentic acts/deeds, and introduction of a Certificate of Heir and Executor / Administrator in transnational successions (**A.2 plus A.4**)



# Definition of policy options that address problems of identifying wills abroad (Policy Option B)

## *EU level action (legislation and funding)*

ÿ Policy option B.2: Commission Recommendation on the establishment of interconnected national registers of wills and organisation of information campaigns.

ÿ Policy option B.3 Compulsory establishment of interconnected national registers of wills.

ÿ Policy option B.4 Establishment of **a central EU Register of wills.**

## *Non-legislative action*

ÿ Policy Option B.5: Creation of a webpage on existing registers of wills and national rules.

ÿ Policy Option B.6: National information campaigns on wills (legislation and existing / forth-coming instruments)

Table 1 – Comparison of ratings of policy options A

Objective/costs	Policy Option A.1 (Status quo)	Policy Option A.2 (Jurisdiction rules & recognition)	Policy Option A.3 (C-O-L rules)	Policy Option A.4 (C-O-L rules & certificate)	Policy Option A.5 (C-O-L rules & jurisdiction rules)	Policy Option A.6 (A.2 plus A.3)	Policy Option A.7 (A.2 plus A.4)	Policy Option A.8 (Database)	Policy Option A.9 (National information campaigns)
To achieve a situation where parallel proceedings do not occur and where different substantive laws are not applied to the same international succession	0	√√	√√√√	√√√√√√	√√√√√√√√	√√√√√√√√	√√√√√√√√√√	√	√
To provide a (limited) choice of law for the testator	0	0	√√√√√	√√√√√√	√√√√√	√√√√√√√√	√√√√√√√√√√	0	0
To ensure the recognition of:									
(i) Judgments, other decisions and authentic acts / deeds on international successions;	0	√√√√√	√√	√√√√√√	√√√	√√√√√√√√	√√√√√√√√√√	0	0
(ii) The powers of administrators/executors; and,									
(iii) The status as an heir									
To increase the accessibility of information on the existence of wills abroad	0	0	-	-	-	-	-	0	0
<b>Total score:</b>	<b>0</b>	<b>7</b>	<b>11</b>	<b>18</b>	<b>10</b>	<b>25</b>	<b>30</b>	<b>1</b>	<b>1</b>
Economic effects	Present: 4 bn euro/year; potential doubling of costs in 10 years.	Costs savings: Max 10%	Costs savings: Max 15%	Costs savings: Max 15%	Costs savings: Max 15%	Costs savings: Max 20%	Costs savings: Max 30%	Costs savings: Insignificant	Costs savings: Insignificant

**Table 2 – Comparison of ratings of policy options B**

Objective/costs	Policy Option B.1 (Status quo)	Policy Option B.2 (EC Recommendation on interconnected national registers & info campaigns)	Policy Option B.3 (Compulsory establishment of national registers of wills that are interconnected)	Policy Option B.4 (EU central register of wills)	Policy Option B.5 (Webpage on national registers of wills and national rules)	Policy Option B.6 (National information campaigns)
To achieve a situation where parallel proceedings do not occur and where different substantive laws are not applied to the same international succession	0	√√	√√√	√√√√	√	√
To provide a (limited) choice of law for the testator	0	0	0	0	0	0
To ensure the recognition of:						
(i) Judgments, other decisions and authentic acts / deeds on international successions;	0	√	√	√	0	0
(ii) The powers of administrators /executors; and,						
(iii) The status as an heir						
To increase the accessibility of information on the existence of wills abroad	0	√√	√√√	√√√√	√	√
<b>Total score</b>	<b>0</b>	<b>5</b>	<b>7</b>	<b>9</b>	<b>2</b>	<b>2</b>
Economic effects	Present: 4 bn euro/year; potential doubling of costs in 10 years.	Costs savings: Max 1-2%	Costs savings: Max 1-2%	Costs savings: Max 2%	Costs savings: Insignificant	Costs savings: Insignificant



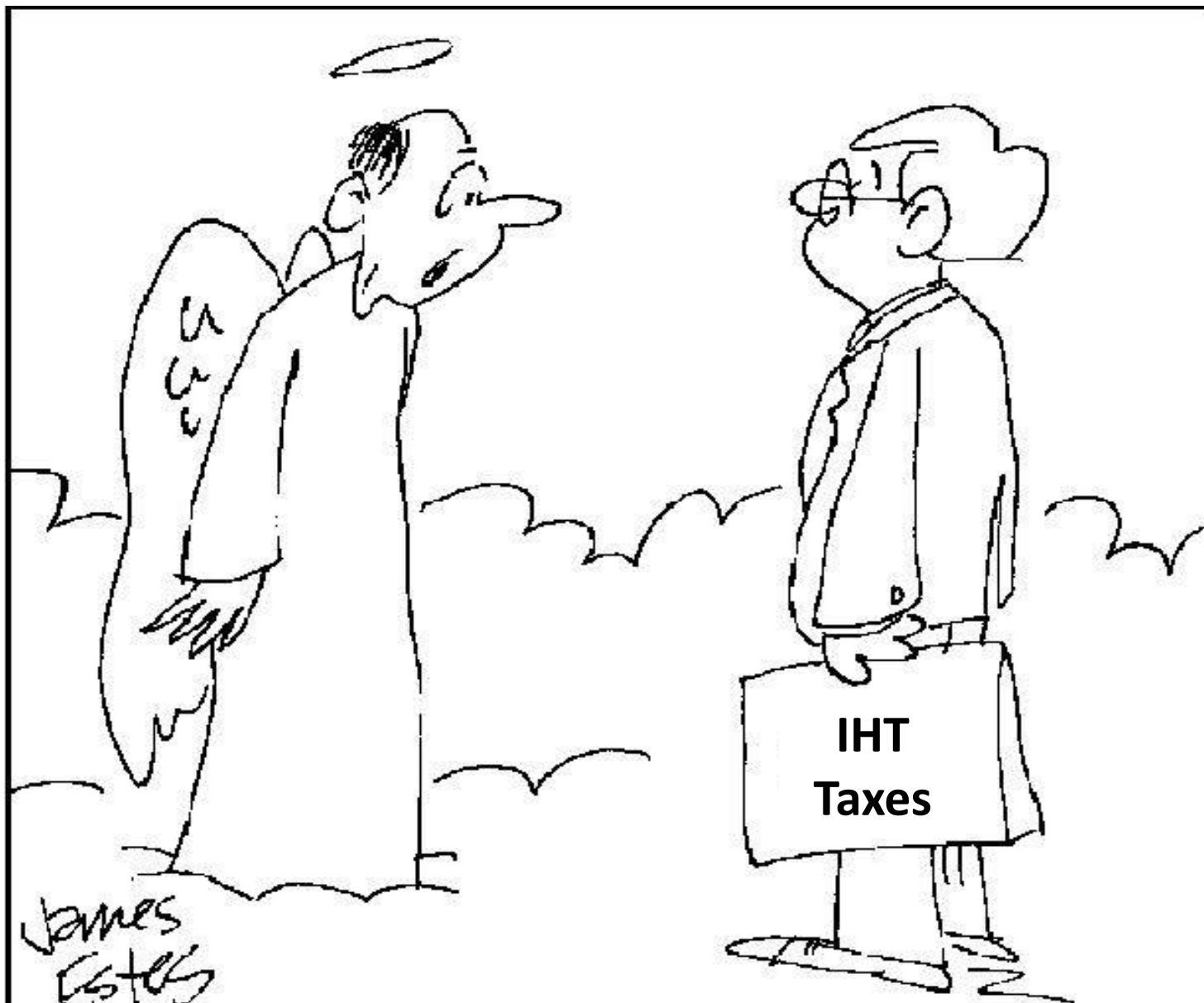
WILL FORM 2 - RESIDUE TO CHILDREN  
LAST WILL & TESTAMENT

# Inheritance Tax Fact



LAST WILL & TESTAMENT  
WILL FORM 2 - RESIDUE TO AN ADULT

is payable on the  
tax year is £  
calculated at  
an indi  
empt fro  
ut



"You're kidding! I always assumed  
that death would *end* taxes!"

A Belgian citizen, who lives in Spain, inherits a dwelling in Belgium and units of a Hungarian investment fund from an uncle, who was a resident in Belgium. Belgium will apply its inheritance tax (68% without allowance) both to the immovable property and to the Hungarian investment fund because the deceased was a Belgian resident, and the immovable property was located on the Belgian territory. Spain will apply the inheritance tax (20% with allowance) to the heir because he is a resident in Spain. On the other hand, Hungary will apply its inheritance tax (36%) to the investment fund because it is located on its territory. Absence of conventions against double taxation between these countries, shall determine effective taxation of 124% such that the heir will, in all probability, waive the succession. (source: Muritano 2016)



**Heir (Spanish resident)**



**Deceased Uncle (Belgian resident)**

## Location of IHT Assets



# BELGIUM IHT TAXES

68% (deceased)



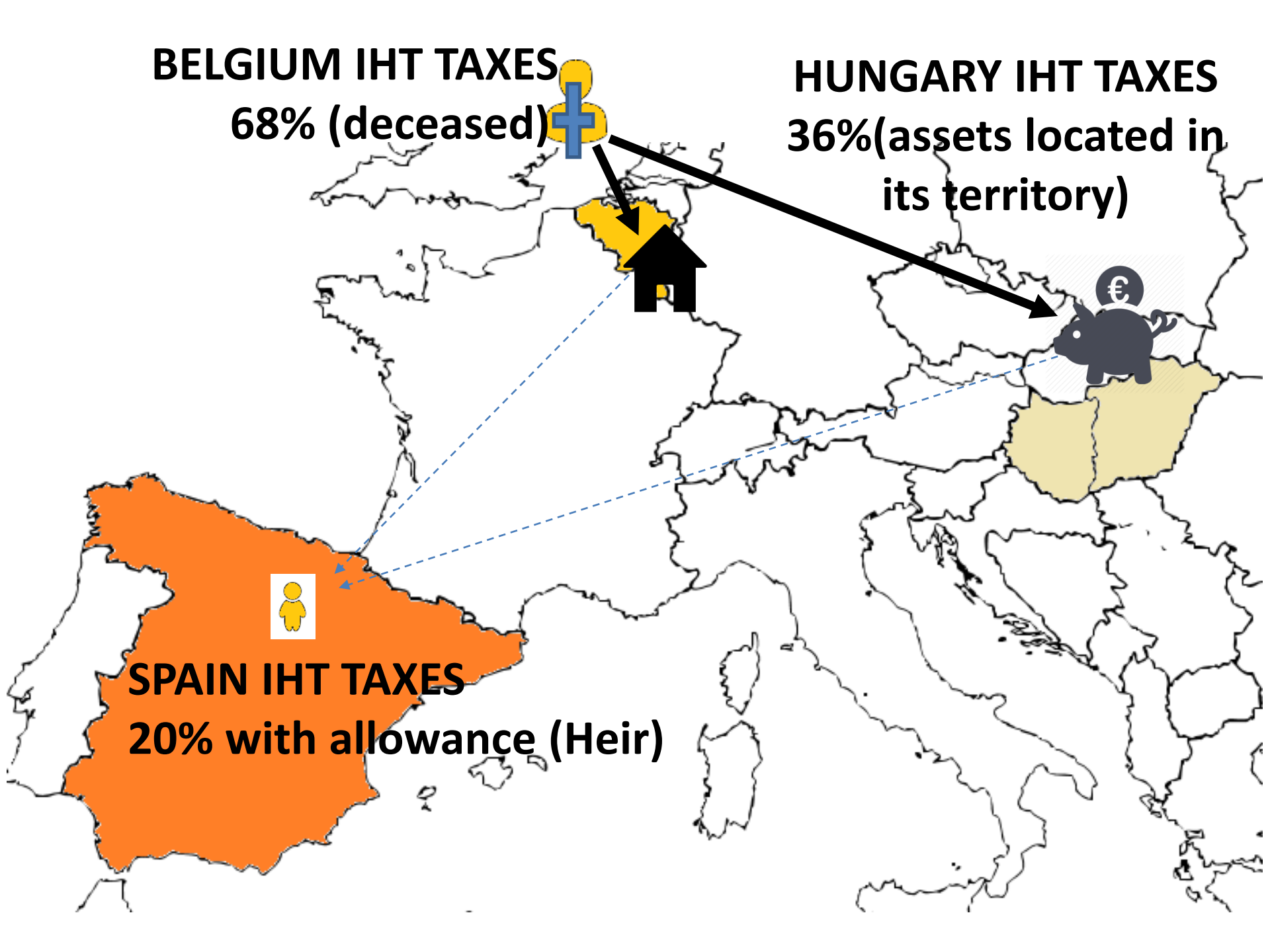
# HUNGARY IHT TAXES

36% (assets located in its territory)



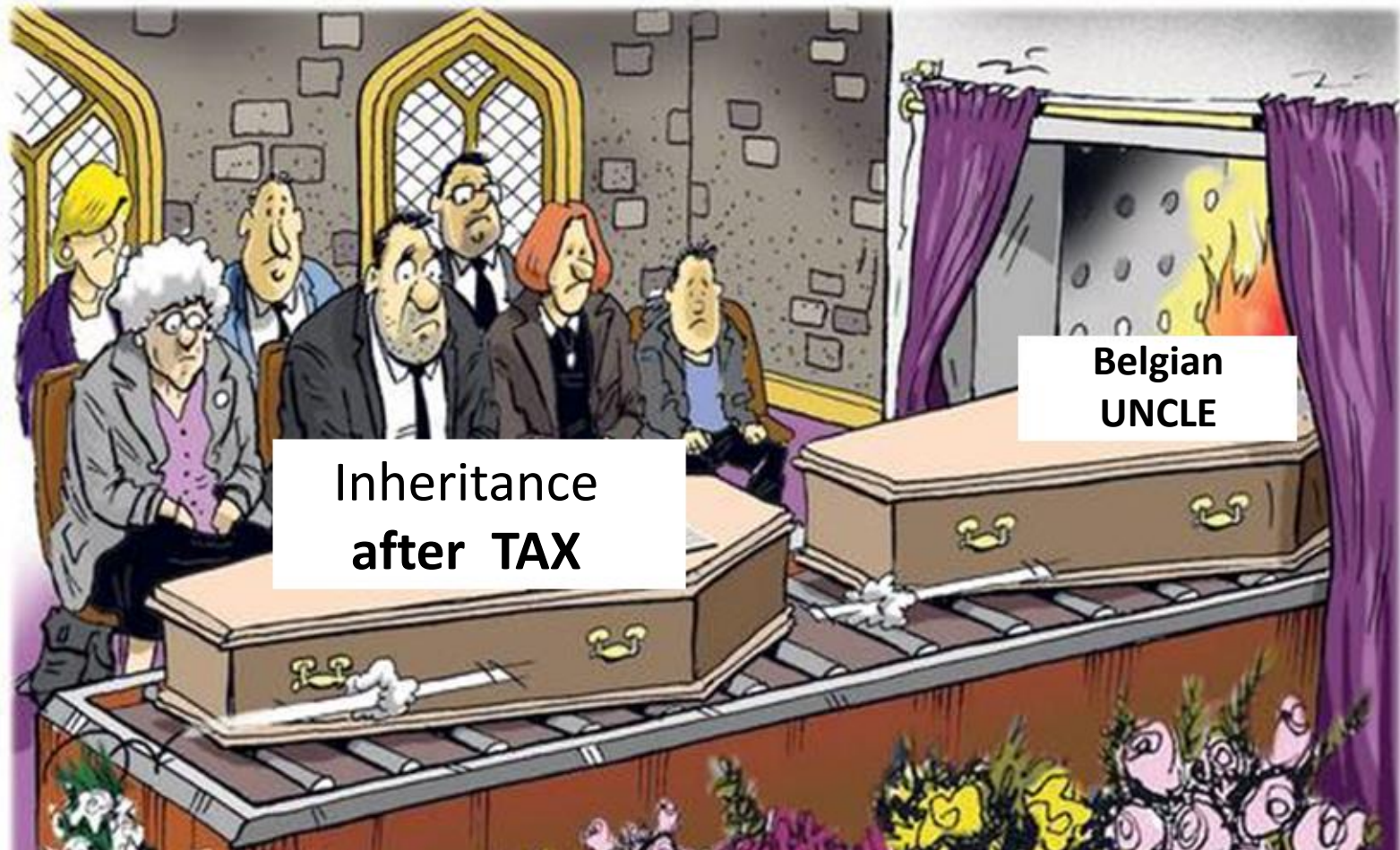
# SPAIN IHT TAXES

20% with allowance (Heir)





# Final result: Heavy multiple taxation



## Case n 2

A Polish citizen resident in Poland inherits assets from a stranger deceased in France, and he pays an inheritance tax of 60% on the value of the assets of the estate in France because the deceased was a resident in France. As the Polish heir lives in Poland, he will have to pay again the inheritance tax (5% with partial allowance) on the same assets. Absence of conventions against double taxation between these countries, shall determine effective taxation of 65%.



**Heir (Polish Citizen and resident)**



**Deceased stranger (French resident)**

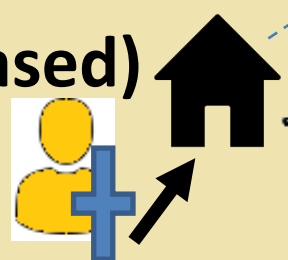
## **Location of IHT Assets**





**Polish IHT TAXES**  
**5%**  
**with allowance (Heir)**

**French IHT TAXES**  
**60% (deceased)**



## Case n 3

A Finnish citizen, living in Finland inherit an apartment in Belgium from his uncle who lived in Finland at the time of death. Belgium, where the immovable property is located, will apply its tax (60%). On the other hand, Finland, will apply its tax (13%) because the deceased was a resident in Finland. Absence of conventions against double taxation between these countries, shall determine effective taxation of 73%.



**Heir (Finnish Citizen and resident)**



**Deceased Uncle (living in Finland at the time of his death)**

## Location of IHT Asset



**Finnish IHT TAXES**

**13 %  
with allowance (Heir)**



**Belgium IHT TAXES**

**60% (deceased)**

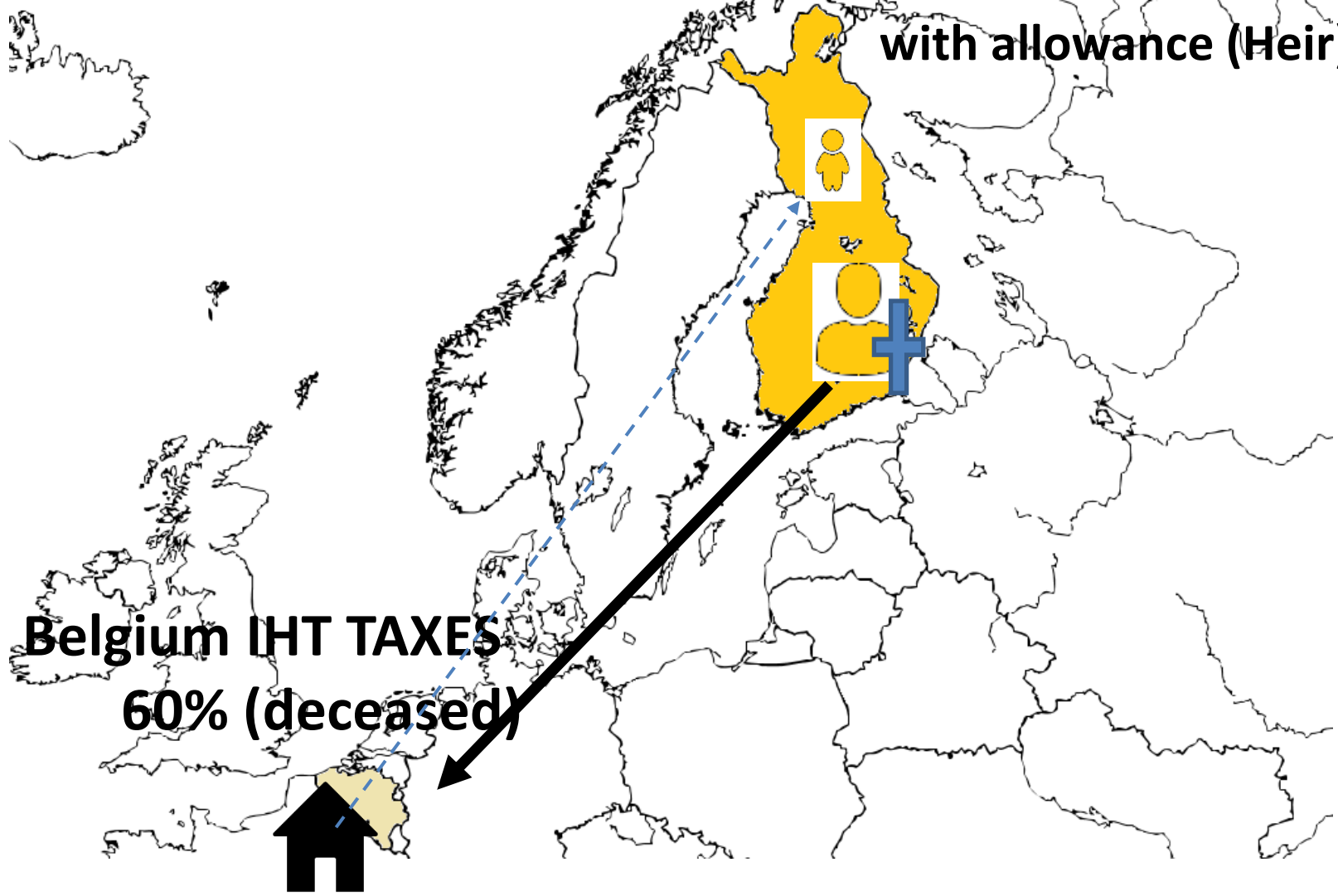
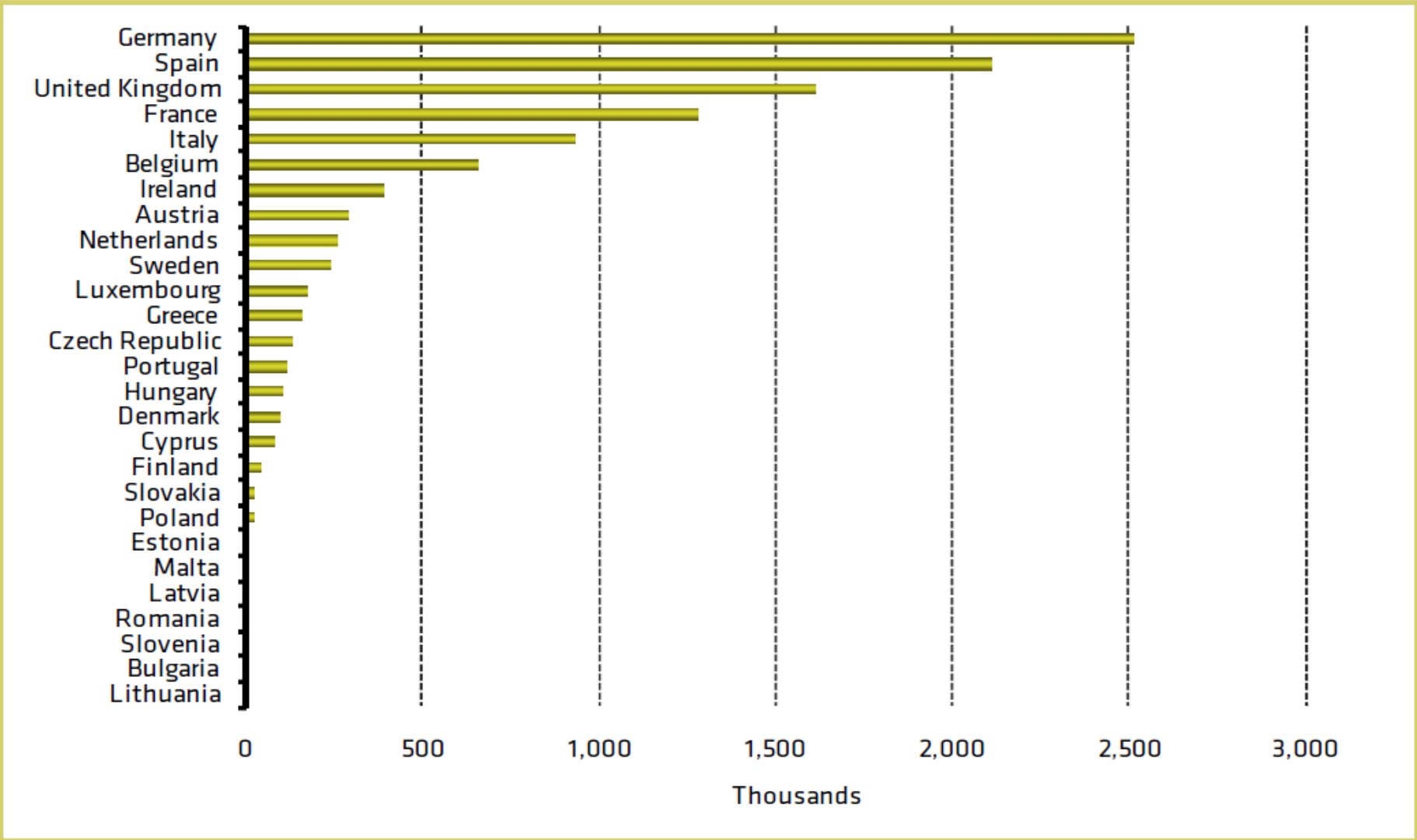


Figure 4.3: Number of non-nationals but citizens of other EU-27 Member States in 2008

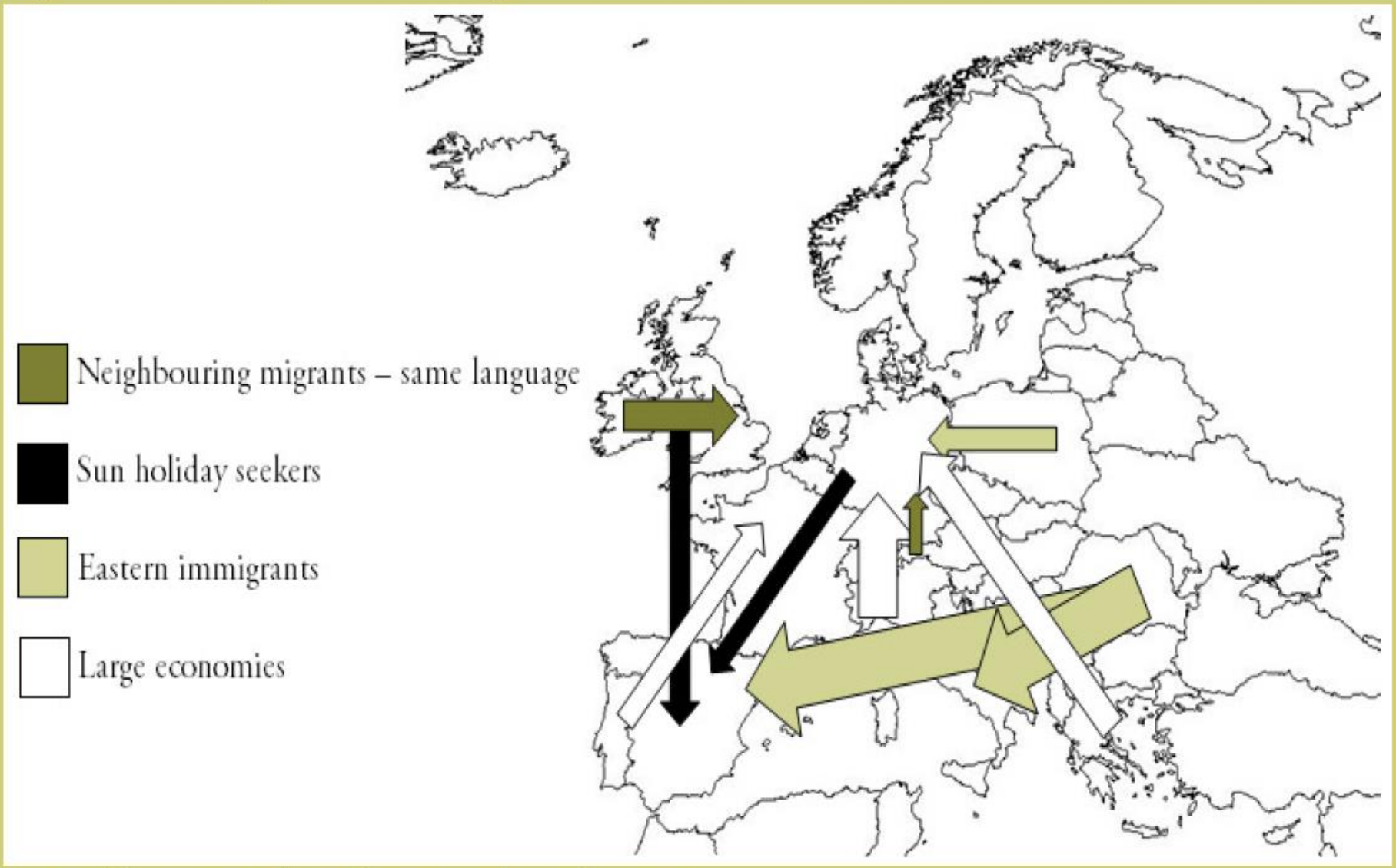


*Note: Composition of usually resident population by country of birth. Population is the number of people with a place of legal or registered residence.*

*Source: Copenhagen Economics based on statistics from Eurostat.*



Figure 4.4: Four patterns of migration in EU



*Note: The arrows indicate direction and size of migration.*

*Source: Copenhagen Economics and Eurostat.*

Table 5.1: Expected winners and losers if different tax principles are implemented

	<b>Southern Member States</b>	<b>Northern Member States</b>
Nationality rule	Losers	Winners
Domicile rule	Losers	Winners
Residence rule	Winners	Losers
Source rule	Winners	Losers

*Source: Copenhagen Economics.*



I TOLD YOU YOUR  
COSTUME WAS  
TOO SCARY!

Property  
Tax

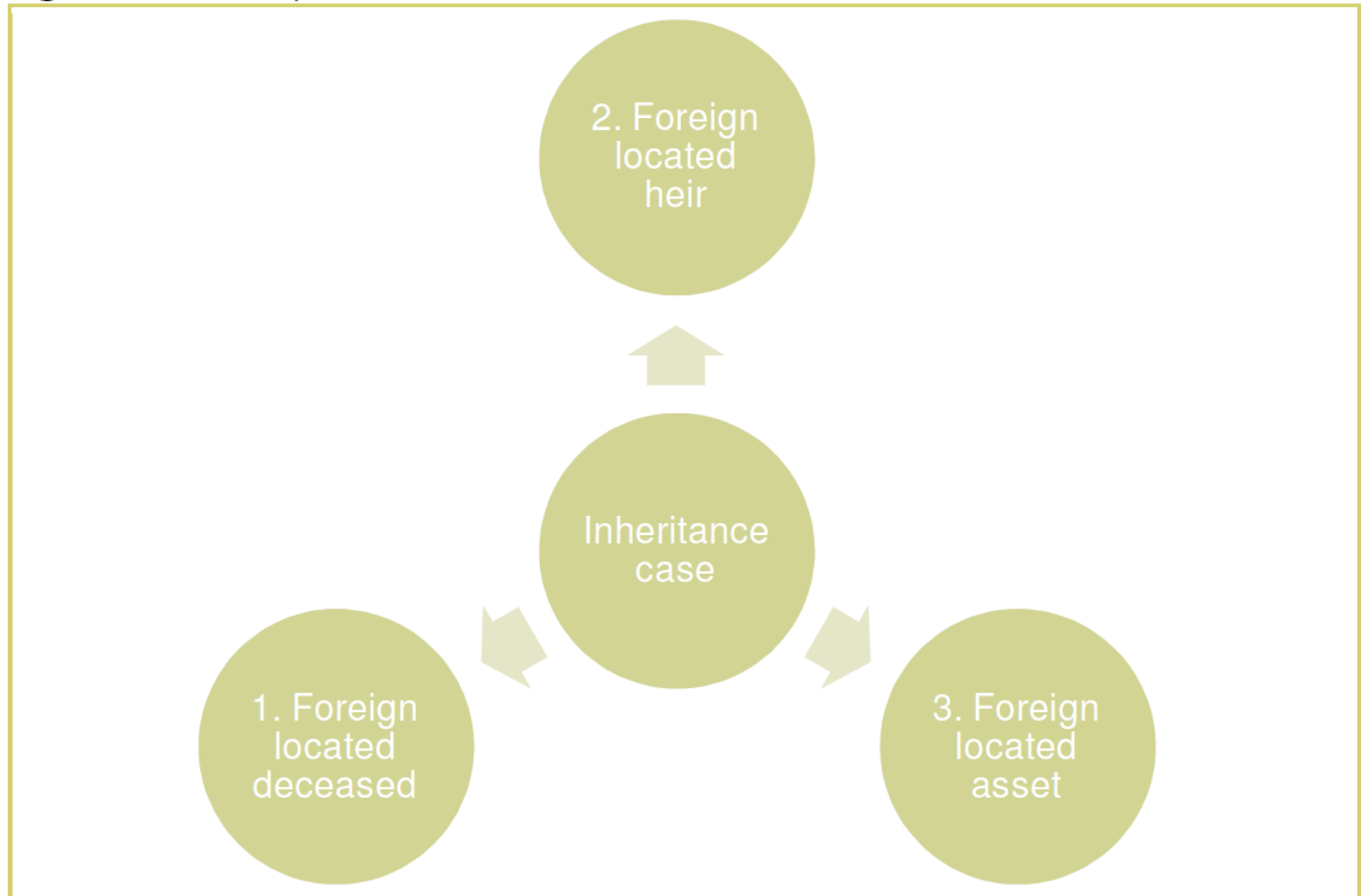
TRICK  
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TRICK  
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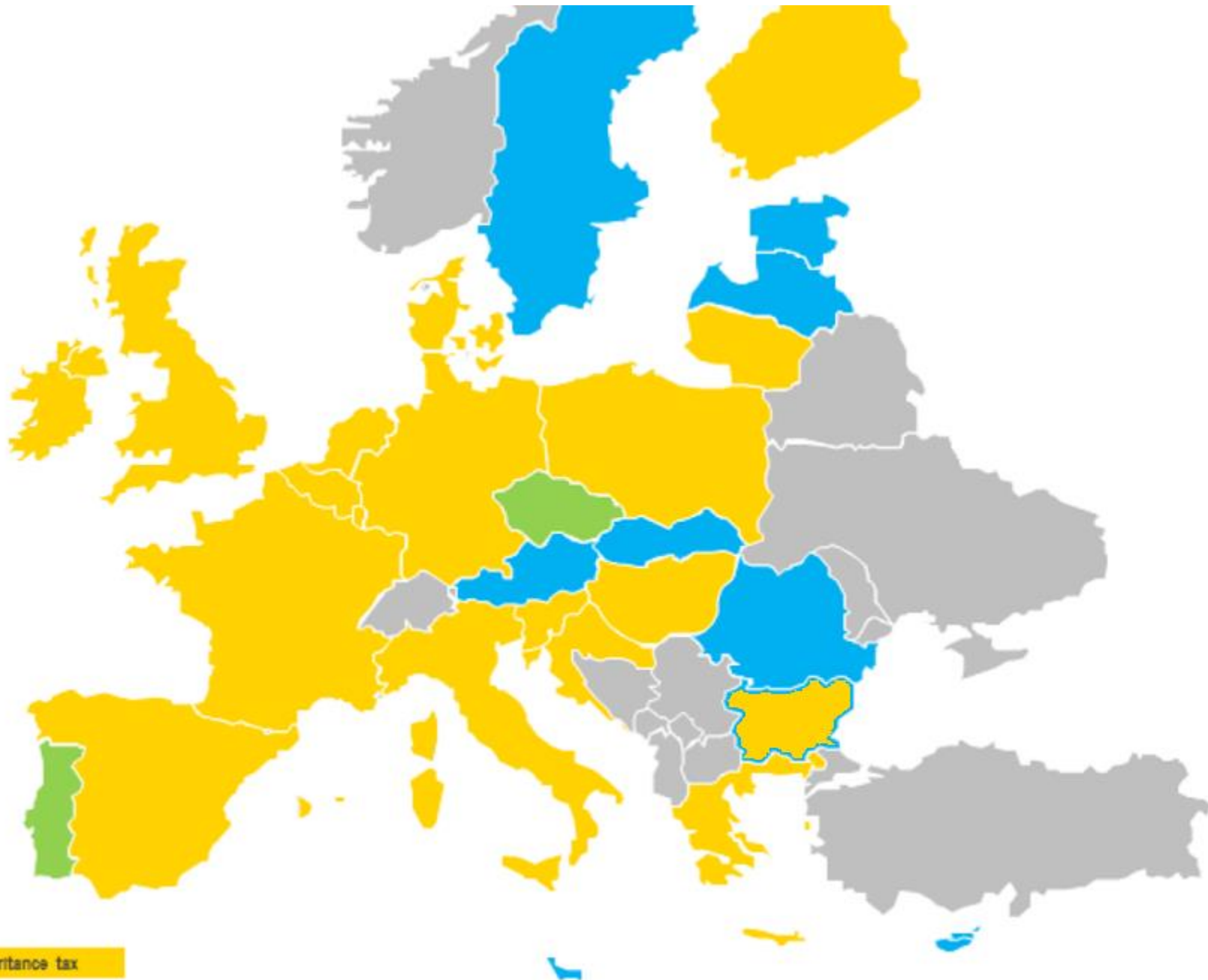
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**Relief for  
double taxation  
EC recommendations  
and  
IA**

Figure 4.10: Three possible sources of cross-border inheritance cases



Source: Copenhagen Economics.



- Inheritance tax
- Provision in other tax
- No inheritance tax

# Enormous variety of rules in Member States' inheritance tax systems

**Table 1: Inheritance and estate taxes in the 27 Member States**

	No. of Member States	Member States
<b>Inheritance tax</b>	16	Bulgaria, Czech Republic, Denmark*, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia, Spain.
<b>Estate tax</b>	3	Belgium, Denmark*, United Kingdom**
<b>No inheritance or estate tax</b>	9	Austria, Cyprus, Estonia, Latvia, Malta, Portugal, Romania, Slovakia, Sweden

\* Denmark is double counted because the Danish tax is effectively both an estate and an inheritance tax.

\*\* The United Kingdom tax on inheritance is called an 'inheritance tax', but is de facto an estate tax.

Source: IFA General Report (2010), AGN International (2010), Global Property Guide, Copenhagen Economics

# Principles

**Table 2: Principles for determining the personal nexus of the deceased or heir(s)**

Principle	Member States using principle
<b>Residence principle</b>	Belgium, Czech Republic,* Denmark, Finland, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia, Spain.
<b>Domicile principle</b>	France, Germany, Greece, United Kingdom.
<b>Nationality principle</b>	Bulgaria, Czech Republic, Greece, Hungary, the Netherlands, Poland.

\* Czech Republic refers to 'permanent address'. Details on the applied personal nexus rules are contained in Annex 3  
 Only Member States with an estate tax and/or inheritance tax are included in this table.

Source: Copenhagen Economics based on Global Property Guide and IFA General Report (2010).



# Scope of the taxations

**Table 3: Scope of location rules in the domestic tax rules on inheritance**

Scope of taxations	Member States
<b>All assets</b>	Czech Republic, France, Greece, Ireland, Italy, Lithuania, Slovenia, Spain, United Kingdom.
<b>Real estate (immovable assets) only</b>	Belgium, Bulgaria, Denmark*, Germany**, Finland, Hungary, Luxembourg, Poland.
<b>No taxation based only on the location of the inherited property</b>	The Netherlands

*Only Member States operating an estate tax and/or inheritance tax are included in this table.*

*\* The Danish location rule also applies to 'movable assets pertaining to permanent establishments'.*

*\*\*The German source rule does not apply to bank account in German banks.*

*Source: Copenhagen Economics based on IFA General Report (2010) and Global Property Guide.*

**Table 5: Types of conflicts that may result in double taxation**

Type of conflict	Description of conflict
<b>Personal nexus - Situs</b>	The same bequest is taxed twice, first by the Member State where it is located under its 'situs rule', and then in the Member State where deceased or the beneficiary (or both) have their personal nexus. A frequently occurring example would be where a testator had a home both in the Member State in which he lived and died and in another Member State. Both Member States could tax the holiday home, one on the basis of personal nexus and the other on the basis of situs.
<b>Personal nexus-personal nexus</b>	Differences in the personal nexus rules or in taxation of the estate v taxation of the beneficiary mean that the same deceased or heir is taxable in two Member States or the deceased is taxed in one country and the beneficiary is taxed in the other.
<b>Situs-Situs</b>	Diverging rules for determining the location of an asset mean that the same asset is taxed by more than one Member State. Problem most likely for intangible assets such as shares.

*Source: based on information in Rohatgi (2005) and Copenhagen Economics /*

**Table 6: Unilateral relief for international double taxation on inheritances provided by Member States applying inheritance taxation**

Method	All foreign located assets*	Subset of foreign located assets**
<b>Credit method</b> Crediting inheritance taxes paid in another Member States against the domestic inheritance tax due.	Finland, France, Germany*, Ireland, Italy, Lithuania, Spain, UK, the Czech Republic***	Belgium (real estate), Denmark (real estate and business assets attributable to a permanent establishment), Greece (movable assets), the Netherlands (real estate and business assets attributable to a permanent establishment)
<b>Exemption method</b> Exemption from the tax base of the assets located in another Member State	Hungary, Slovenia	Bulgaria (real estate), Luxembourg (movable property)
<b>No unilateral relief</b>	Poland****	

\* The definitions of foreign located assets differ. This has been highlighted with regard to Germany as a result of the Block case – see below. Unilateral relief is not normally given in cases where the assets in question would not be taxed under the location rules of the Member State concerned, if they were situated in that Member State.

\*\* The brackets indicate which assets are covered by unilateral relief

\*\*\* The Czech Republic does not have a formal unilateral relief, but the domestic rules provide the possibility to deduct foreign taxes in the domestic tax.

\*\*\*\* The Polish Minister of Finance has a general competence to decide to refrain from collecting taxes for a specified group of taxpayers.

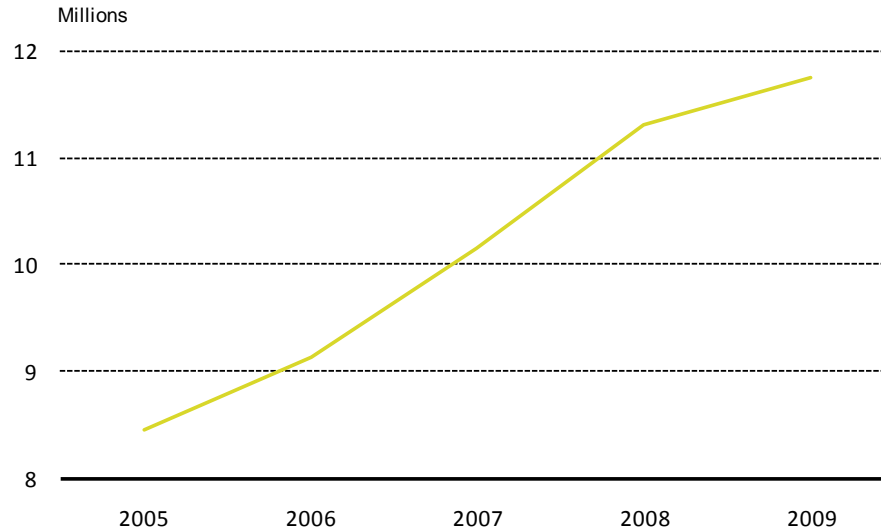
Source: Rohatgi (2005), Copenhagen Economics, IFA General Report

**Table 9: Top 10 migration streams in the EU-27.**

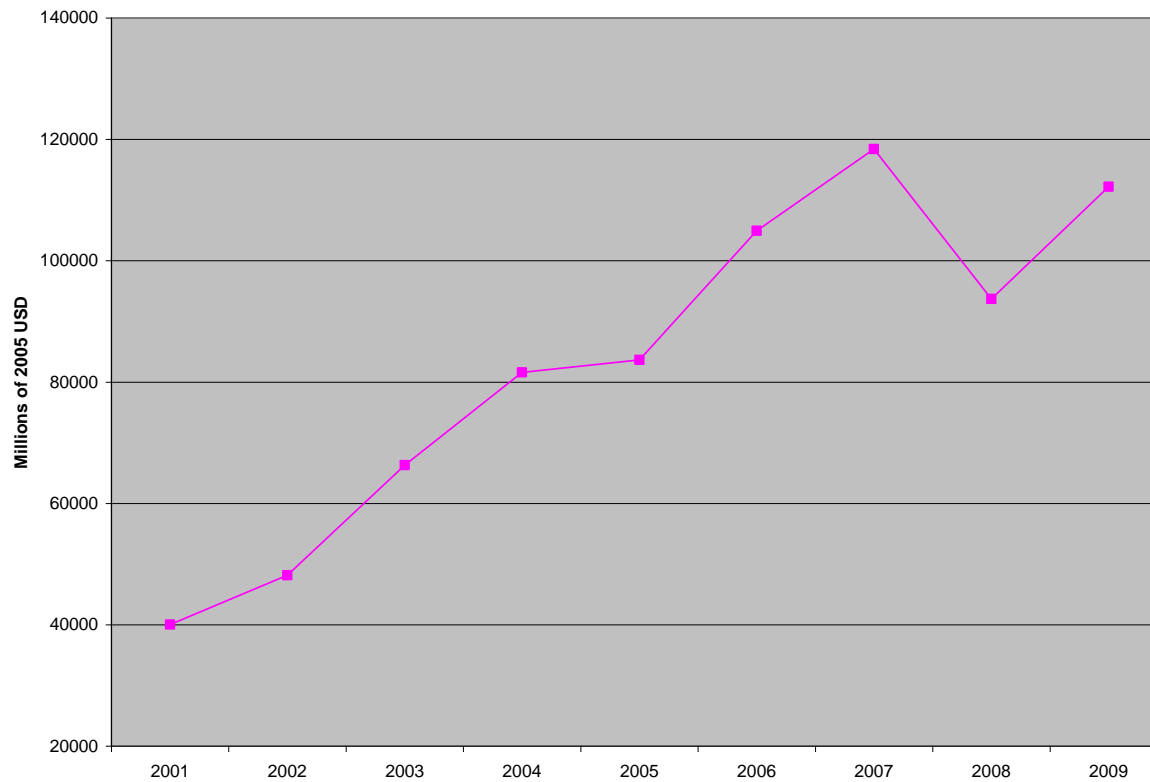
Case#	Citizenship of migrant	Member State of residence	Double taxation treaty present	No. of migrants
1	Romania	Spain	No	799 225
2	Romania	Italy	No	796 477
3	Italy	Germany	No	560 364
4	Portugal	France	Yes	491 983
5	Poland	Germany	No	419 555
6	UK	Spain	No	375 856
7	Ireland	UK	Yes	369 470
8	Greece	Germany	No	306 402
9	Germany	Spain	No	191 080
10	Austria	Germany	No	190 150
<b>Total</b>				<b>4 500 062</b>

Source: Eurostat and Copenhagen Economics.

# Chart 1: Citizens of EU-27 resident outside their Member State of citizenship



## Chart 2: Cross-border portfolio investments within EU-27



# Definition of policy options

**Option A** that address problems caused by tax discrimination of cross-border inheritances

- Policy Option A1: No change. Continuation of current regime (baseline scenario)
- Policy Option A2: - Publication of principles for non-discriminatory inheritance tax systems
- Policy Option A3: Compulsory rules on abolishing discriminatory features of Member States' domestic inheritance tax legislation

## options B that address problems

caused by unrelieved double taxation of cross-border inheritances

- Policy Option B1: No change. Continuation of current regime (baseline scenario)
- Policy Option B2: Addressing the problem by means of national legislation: Commission recommendation regarding **(unilateral) national provisions designed to relieve double taxation of inheritances**
- Policy Option B3: Commission recommendation regarding relief of double taxation through bilateral treaties between Member States designed to relieve double taxation of inheritances
- Policy Option B4 – Binding rules governing bilateral arrangements: Adoption into EU law of a) a single basis for determining the tax liability, such as the location of assets or the residence of the deceased, etc in bilateral relations or b) minimum standard common rules for bilateral conventions
- Policy Option B5– EU- wide multilateral double tax convention
- Policy Option B6: Binding EU-wide rules on relief from double taxation and even on taxation of inheritances



## Comparison of policy options A that address problems caused by tax discrimination of cross-border inheritances

+

Criteria	A1 – no change	A2 – publication of a set of principles	A3 - legislation
Incentive to change law	0	+	+
Effectiveness	0	+	+
Proportionality	+	+	0
Efficiency	-	+	0
Flexibility	n/a	+	0

□

**Table 11 – Comparison of policy options B that address problems caused by unrelieved double taxation of cross-border inheritances**

<b>Criteria</b>	<b><u>B1</u></b> no change	<b><u>B2</u></b> improved unilateral relief	<b><u>B3.b</u></b> Inheritance tax treaties based on EU Model	<b><u>B3.c</u></b> Income tax treaties with inheritance provisions	<b><u>B6.b</u></b> Binding common definitions and basis	<b><u>B6.c</u></b> Binding relief plus dispute settlement	<b><u>B6.d</u></b> B6.b + B6.c
Effectiveness	-	+	+	+	++	++	++
Proportionality	0	+	+	+	--	-	--
Efficiency/ease implementation	0	++	--	--	--	-	--
Flexibility	n/a	++	-	-	--	-	--

## ANNEX II. EU MEMBER STATES' DOUBLE TAX CONVENTIONS ON INHERITANCES

	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK	
BE									√																	√		
BG																												
CZ																			√*									
DK					√						√														√	√		
DE				√				√		√*																√	√	
EE																												
IE																												√
EL					√				√		√														√			
ES								√		√	√																	
FR	√				√*				√	√	√								√		√				√	√	√	
IT				√				√		√	√															√	√	√
CY																												
LV																												
LT																												
LU																												
HU																			√								√	
MT																												
NL																			√*						√	√	√	
AT			√*							√					√			√*								√	√	
PL																												
PT										√																		
RO																												
SI																												
SK																												
FI				√				√		√								√								√		
SE	√			√	√					√	√				√			√	√						√			√
UK							√			√	√							√								√		

**Note:** √ means in force since before 1 January 2000; √\* means new since 1 January 2000. The treaties between the Nordic countries are part of a multilateral agreement signed by the Nordic countries in 1983: Nordiska skatteavtalet (Nordic convention), signed in Helsinki on 22 March 1983. In the matrix each treaty is shown twice, e.g. a treaty between UK and SE is marked for both SE-UK and UK-SE.

**Source:** Copenhagen Economics based on IBF, Tax treaties database.

$$C_{n,k} = \frac{D_{n,k}}{P_k} = \frac{n!}{k!(n-k)!} = \binom{n}{k}$$

**How many bilateral  
conventions to avoid  
double taxation**

**- Overall EU?**

Country	Belgium	Bulgaria	Croatia	Denmark	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Lithuania	Luxembourg	Netherlands	Poland	Slovenia	Spain	UK
Belgium						1960												
Bulgaria																		
Croatia																		
Denmark					1989	1997					1968							
Finland				1989		1959								1955				
France	1960				1959		2009				1995						1963	1963
Germany				1977		2009		1953										1963
Greece							1953				1976						1920	
Hungary															1931			
Ireland																		1978
Italy				1968		1995		1976										1968
Lithuania																		
Luxembourg																		
Netherlands					1955													1980
Poland									1931									
Slovenia																		
Spain						1963		1920										
UK					1963	1963				1978	1968			1980				

EU MEMBER STATE	Residence deceased	Residence heir	Domicile deceased	Domicile heir	Nationality deceased	Nationality heir	Situs	Territoriality
Belgium	✓						✓	
Bulgaria	✓						✓	
Denmark			✓				✓	
Germany			✓	✓			✓	
Ireland	✓	✓					✓	
Greece	✓				✓		✓	
Spain		✓					✓	
France	✓	✓					✓	
Croatia								✓
Italy	✓						✓	
Lithuania		✓					✓	
Luxembourg			✓				✓	
Hungary							✓	✓
Netherlands	✓							
Poland	✓	✓			✓	✓	✓	
Slovenia								✓
Finland	✓	✓					✓	
United Kingdom			✓				✓	

# EC Recommendation

C(2011) 8819

regarding relief for double taxation of inheritances

## General Objective

The recommended measures aim at resolving cases of double taxation, so that the overall level of tax on a given inheritance **is no higher than the level that would apply if only the Member State with the highest tax level** among the Member States involved had tax jurisdiction over the inheritance in all its parts.



Such treaties as exist may be established on the basis of **historical** or **geographical** links rather than **economic relations**.

*For example, **Belgium** has treaties with France and with **Sweden** from where **Queen Astrid**, who died In 1935, originated*



**Poland** does not have IHT treaties with Germany or the United Kingdom, although a not insignificant number of its citizens live there.

**Spain** and the **United Kingdom** do not have a treaty in relation to IHT.

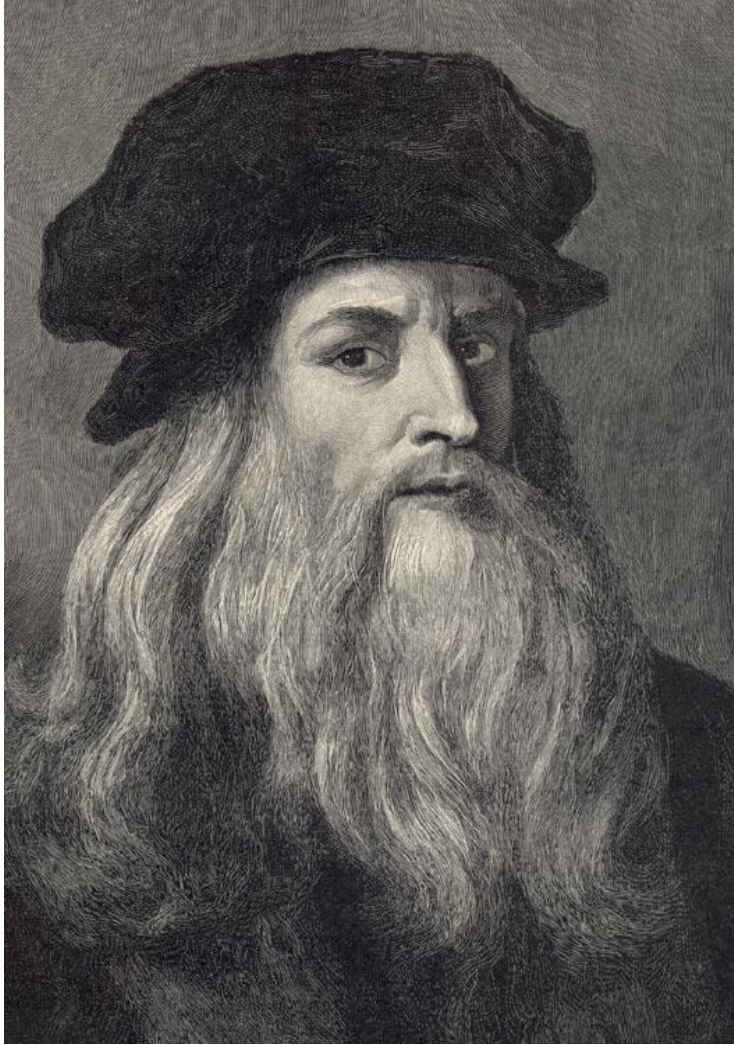
Treaties between these countries would be highly desirable given the economic relations between their citizens.

**What kind of solutions should be considered?**

**(i) Changes in law or changes in administration?**

**(ii) Bilateral action or action at the EU level?**

**What kind of EU action?**



“Simplicity is the  
ultimate sophistication.”  
— Leonardo da Vinci

What should the proposal for EU  
legislation contain?

One inheritance — one inheritance tax

# **Doing Business**

**case studies of Doing Business**

# **Risk of Bias in the Research**

## **Socio-Cultural Background**

- **Environment**
- **Institutional culture**

# Risk of Bias in the Research and Problem Solving

own mindset

*“Everybody is strange except you and me, and even you  
look a bit strange to me”*

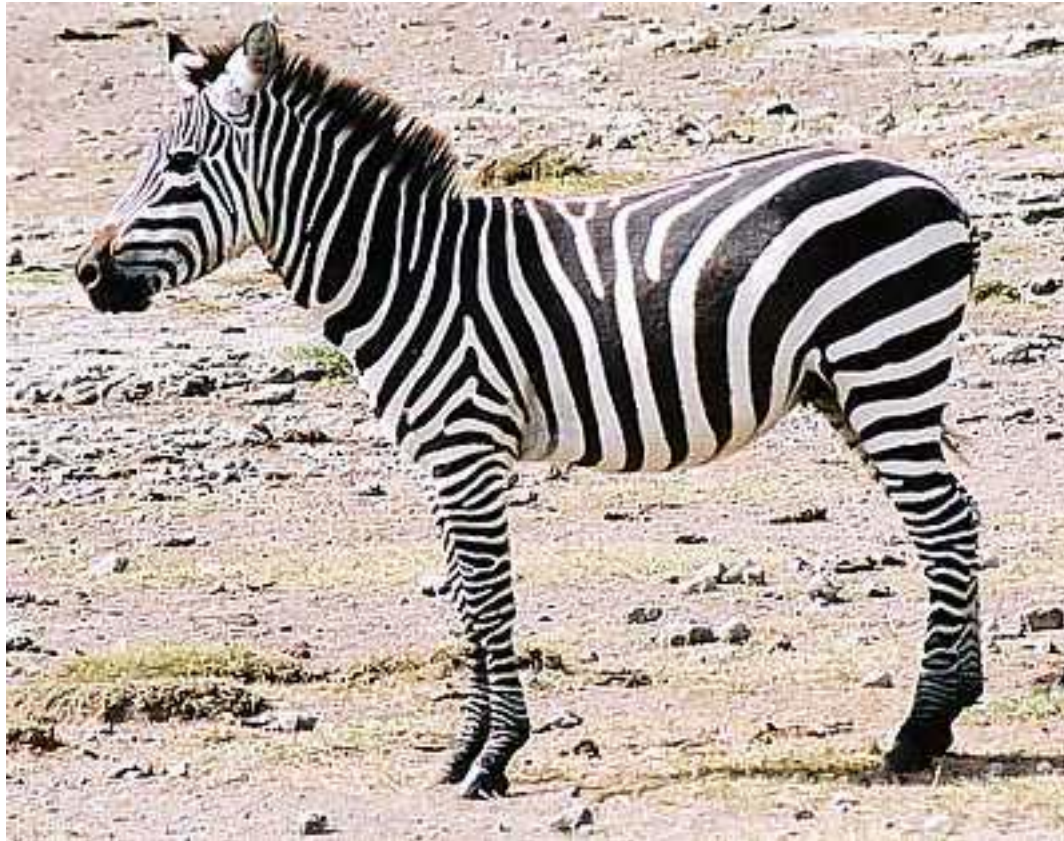
R. Owen

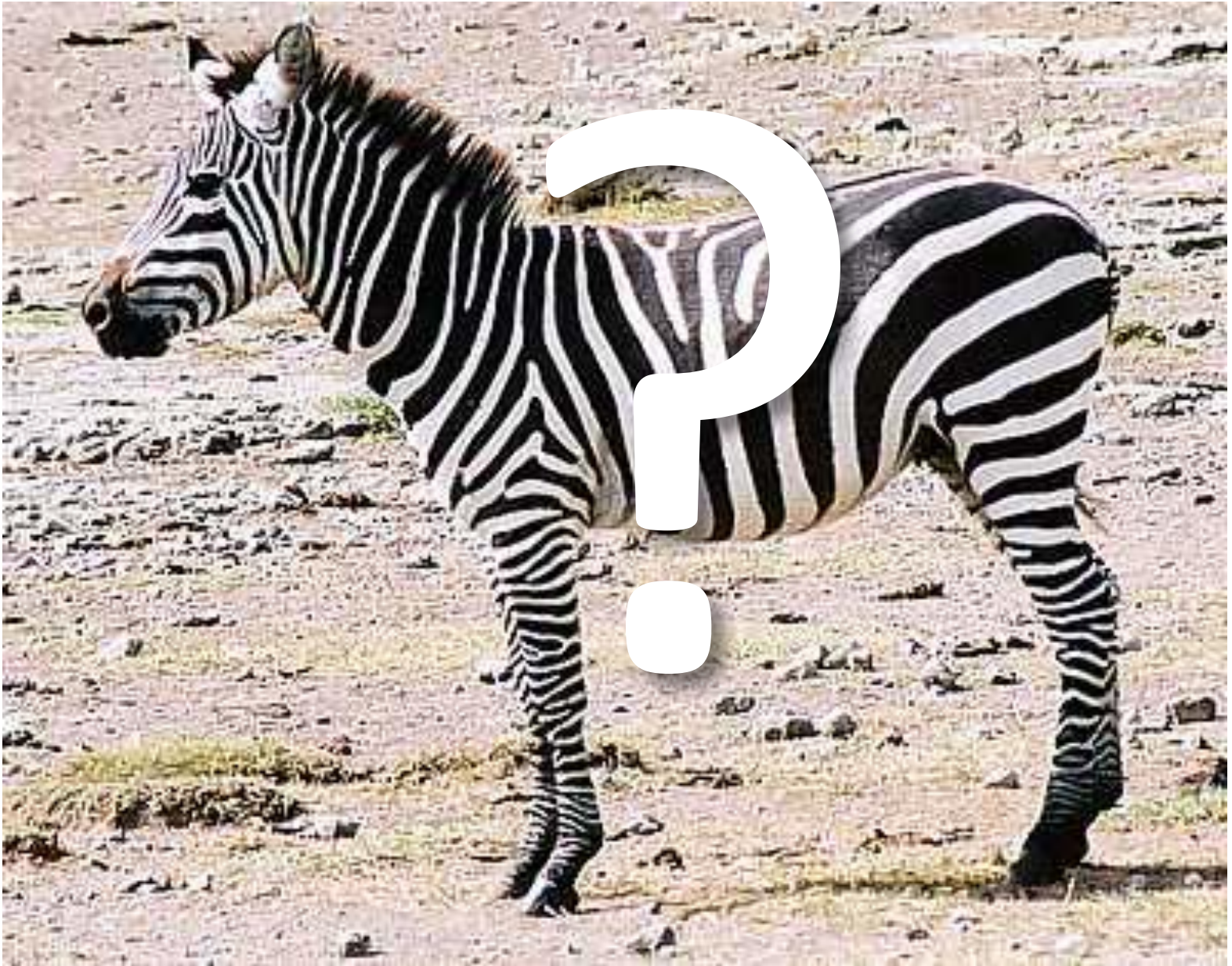
(1771 –1858)





# Risk of Bias in the Research environment and culture





# Thanks

Antonio Cappiello

[cnn.acappiello@notariato.it](mailto:cnn.acappiello@notariato.it)