



Questions and Answers on the Report on Investor Citizenship and Residence Schemes in the European Union

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1. Investor citizenship ("golden passport") schemes

What are investor citizenship schemes?

Investor citizenship schemes are often referred to as "citizenships for sale" or "golden passports". They allow foreigners to be naturalised as a citizen of a country in return for an investment, provided certain criteria are fulfilled. Bulgaria, Cyprus, and Malta operate such schemes, where investors are required to invest between EUR 800,000 to EUR 2 million.

What is the EU's competence in the area of nationality law?

It is for each Member State to lay down the conditions for the acquisition and loss of its nationality. However, these schemes are of common EU interest since every person holding the nationality of a Member State is at the same time a citizen of the Union. The European Court of Justice has found that, while it is for every Member State to lay down the conditions for the acquisition and loss of nationality, they have to do so with due regard to Union law. Member States must therefore take into account all rules that form part of the EU legal order, including international law, which requires a "genuine connection" between the State in question and the person that is granted citizenship.

The Commission's report focusses on the naturalisation schemes that are classified as investor citizenship schemes, which are a new form of naturalisation that systematically grant citizenship based on an investment.

What is the problem with investor citizenship schemes?

Investor citizenship schemes create a range of risks for Member States and for the Union as a whole: in particular, security risks, risks of money laundering and corruption and tax evasion. Such risks are exacerbated by the cross-border rights associated with citizenship of the Union.

The report found that applicants are often granted citizenship without any physical residence in the Member States concerned and without any genuine link to them. The report also identifies concerns that the security checks applied to applicants for investor citizenship may not be robust enough and that Member States do not consult each other on applicants for investor citizenship, and do not inform each other of rejected applicants. The report found certain grey areas in the application of anti-money laundering legislation, since agencies operating these schemes do not fall under the EU's anti-money laundering requirements.

In addition, the transparency surrounding investor citizenship schemes is very limited: it is not always clear who applies for these schemes, who obtains the citizenship (and hence EU citizenship) and how the money raised by such schemes is spent.

How can such schemes pose money laundering risks?

The 4th [Anti-Money Laundering Directive](#) requires financial institutions and other entities ("obliged entities") in the EU to perform customer due diligence checks. The [5th Anti-Money Laundering Directive](#), which entered into force on 9 July 2018, introduced an amendment requiring enhanced customer due diligence on nationals from third-countries who apply "for residence rights or citizenship in the Member State in exchange of capital transfers, purchase of property or government bonds, or investment in corporate entities in that Member State". Member States must transpose the Directive by 10 January 2020 at the latest and the Commission is working with them to ensure correct full and correct transposition.

Member States also have to ensure that the application of the EU rules on anti-money laundering are not circumvented under investor citizenship or residence schemes: Member States should ensure that funds paid by investor citizenship and investor residence applicants are channelled through bodies that qualify as "obliged entities" under the Anti-Money Laundering Directive.

In addition, Member States are encouraged to take into account the potential risks of money laundering linked to investor citizenship and residence schemes in their national risk assessments carried out under the EU anti-money laundering rules and take the necessary mitigating measures.

What has the Commission proposed as next steps regarding investor citizenship schemes?

The Commission will set up a group of experts from Member States that will work to address the specific risks posed by investor citizenship schemes. It will also address the transparency of investor citizenship schemes and of discretionary naturalisation procedures, which permit acquisition of citizenship based on investment. The group of experts shall put in place procedures for the exchange of information and statistics on such schemes, including the exchange of information concerning applicants whose applications for citizenship have been turned down in one Member State on grounds of posing a security risk. Finally, the group should develop by the end of 2019 a common set of security checks for investor citizenship schemes, including risk management processes that take into account security, money laundering, tax evasion and corruption.

Is there a link between investor citizenship and residence schemes?

In some cases, investor residence schemes may facilitate the acquisition of citizenship. In particular, a residence permit acquired by investment can be used under some Member States' ordinary naturalisation procedures to provide fast-track access to permanent residence and then citizenship. In countries which have both citizenship and residence investor schemes, the investment required for the residence scheme may be taken into consideration to qualify for the investor citizenship scheme.

In addition, both schemes pose similar risks in terms of security, money laundering and tax evasion.

2. Investor residence ("golden visa") schemes

What are investor residence schemes?

Investor residence schemes – often referred to as "golden visas" – grant a right of residence on a Member States' territory to third country nationals on the basis of investment in the country. They are issued at national level, and therefore do not entitle the permit holder to reside outside the issuing Member State. They do entitle the holder, however, to travel freely within the Schengen zone for a maximum of 90 days in any 180-day period. Currently, 20 Member States run such schemes: Bulgaria, Croatia, Cyprus, Czechia, Estonia, France, Greece, Ireland, Italy, Latvia, Malta, the Netherlands, Poland, Portugal, Slovakia, Spain and the United Kingdom.

What is the EU's competence as regards investor residence schemes?

Residence permits for foreign investors are not regulated at EU level and remain governed by national law. EU law regulates the entry conditions for specific categories of non-EU nationals (for example students and researchers, seasonal workers and intra-corporate transferees).

What type of investments are required under these schemes?

Residence investor schemes have very different features, particularly as regards the nature and amount of investment. Investment amounts can range from EUR 13,500 to over EUR 5 million in the form of capital investment, investment in immovable property, investment in government bonds, or donations to an activity contributing to the public good charity or one-time contributions to the national budget. These options are not mutually exclusive, and some Member States allow for different types of investment and their combination.

What are the main risks of investor residence schemes identified by the Commission?

- **Security risks:** In a Schengen area without internal border controls, it is particularly important to ensure that the commonly agreed security checks are fully implemented, for example through centralised information systems such as: the Schengen Information System (SIS); the Visa Information System (VIS); EURODAC and the newly established Entry/Exist system (EES); and the Electronic Travel Information and Authorisation System (ETIAS). Member States must ensure that investor schemes do not undermine and jeopardise these security efforts by allowing them to circumvent these security checks. The Commission's report has identified both a lack of available information and an important level of discretion in the way Member States approach security checks. For these reasons, the Commission will closely monitor compliance of existing investor residence schemes with EU law to ensure that all obligatory existing border and security checks are systematically and effectively carried out by Member States.
- **Money laundering:** Member States should ensure that funds paid by investor citizenship applicants are assessed according to the EU anti-money laundering rules. This includes enhanced customer due diligence checks on non EU-nationals who apply for residence rights and, as with other higher risk financial transactions or activities, full transparency around the residence schemes to ensure the integrity of funds entering the Union financial system. Member States

should also ensure that authorities running investor residence schemes have an obligation to check the origin of funds in investors' schemes.

- **Impact on EU law on legal migration:** Residence permits obtained by investment but with limited or no required physical presence of the investor in the Member State in question could have an impact on the application of and rights associated with the EU Long-Term Residence Status. In the absence of an effective monitoring of continuity of residence, investors considered to be residing in a Member State on the basis of a national permit for five years could acquire EU Long Term Resident status and subsequent rights, in particular mobility rights, without fulfilling the actual condition of continuity of residence for five years. This would not be compliant with the Long-Term Residence Directive.
- **Fast-track to citizenship:** Sometimes, a residence permit obtained by investment and without requiring any physical presence may provide fast-track access or a link to permanent residence and then citizenship. In Member States that have both investor citizenship and residence schemes, the investment required for the residence scheme may be taken into consideration to qualify for the investor citizenship scheme.
- **Tax evasion:** There is a risk that the use of investor residence schemes may facilitate abuse as the documentation issued under some of these schemes can make it difficult for financial institutions to correctly identify the legitimate place of tax residence. This is why Member States should make use of the available tools in the EU framework for administrative cooperation in the context of tax avoidance, in particular for exchange of information.

What has the Commission proposed as next steps regarding investor residence schemes?

The Commission will monitor compliance by Member States with EU law, in particular, with existing EU legal migration and family reunification rules, as well as existing rules regarding the use and implementation of the EU's migration, border and security information systems.

What are the risks of investor citizenship schemes run by third countries that have a visa-free regime with the EU? How can they be mitigated?

Acquiring the citizenship of a third country, which has visa-free access to the EU for short stays, can permit nationals who require a visa to enter the EU to circumvent the regular Schengen visa procedure and the in-depth assessment of individual migratory and security risks it entails.

However, since April 2017 such risks are mitigated as all travellers, including those that do not require an EU visa, are checked at the EU's external borders as to whether they fulfil the entry conditions, including by carrying out checks in the Schengen Information System and Member States' national databases. If there are indications that a traveller could pose a risk to internal security or public policy of any of the Member States, entry could be refused. New information systems such as the European Travel Information and Authorisation System (ETIAS), and the Entry/Exit System (EES) will further contribute to enhancing effective checks of non-EU travellers.

In addition, in March 2017, a revised and strengthened visa suspension mechanism entered into force. It provides for new grounds for the temporary suspension of visa liberalisation, including where the third country in question by its actions – or inaction – is endangering the public policy or internal security of the EU Member States. It applies horizontally to all third countries whose citizens enjoy visa-free access to the Union. The Commission will monitor the impact of investor citizenship schemes implemented by visa-free countries as part of this mechanism.

What will the Commission do to mitigate the risks of investor residence and investor citizenship schemes operated by candidate countries and potential candidates?

In view of the risks inherent in investor citizenship schemes, the Commission will monitor citizenship investor schemes as part of the EU accession process. The countries concerned will be expected to have robust monitoring systems in place, including systems to counter possible security risks such as money laundering, terrorist financing, corruption and infiltration of organised crime linked to any such schemes.

What will the Commission do to mitigate the risks of investor residence and investor citizenship schemes?

The Commission will **monitor wider issues of compliance with EU law** raised by investor citizenship and residence schemes and it will take necessary action as appropriate. For this reason, Member States need to ensure, in particular, that:

- All **obligatory border and security checks** are systematically carried out;
- The **requirements of the Long-Term Residence Permit Directive** and the **Family Reunification Directive** are properly complied with;

- Funds paid by investor citizenship and residence applicants are assessed according to the **EU anti-money laundering rules**;
- In the context of **tax avoidance risks**, there are tools available in the EU framework for administrative cooperation, in particular for exchange of information.

The Commission will monitor steps taken by Member States to address issues of transparency and governance in managing these schemes. It will establish a **group of experts from Member States** to improve the transparency, governance and the security of the schemes. That group will be tasked, in particular, with:

- Setting up a system of exchange of information and consultation on the numbers of applications received, countries of origin and on the number of citizenships and residence permits granted/rejected by Member States to individuals based on investments;
- Developing a common set of security checks for investor citizenship schemes, including specific risk management processes, by the end of 2019.

Finally, concerning third countries setting up similar schemes, which may have security implications for the EU, the Commission will monitor investor citizenship schemes in candidate countries and potential candidates as part of the EU accession process. It will also monitor the impact of such schemes by EU visa-free countries as part of the visa-suspension mechanism.

What are the risks of tax evasion linked to these schemes?

While the underlying study did not look into tax aspects related to investor citizenship and residence schemes, it seems that very few of the schemes include provisions with the explicit purpose of avoiding or evading tax. That said, a risk of potential aggressive tax planning and evasion can be created when individuals partaking in the schemes are abruptly granted new or additional citizenships which may help to obscure the actual tax residence of the individual, leading to the tax rules in their original country to be circumvented. Schemes in countries which do not tax the income, or tax it at a very low rate, carry a greater risk of account holders hiding evidence of the real state of residence and thereby evading tax. In particular, some EU citizens may deliberately evade taxation in their EU State of residence by acquiring citizenship and declaring themselves tax resident in countries where enforcement of certain requirements is less strict than in others. EU financial institutions may be less familiar with schemes in place outside the EU in order to evaluate their relevance. Documentation issued under some of these schemes may also make it very difficult for financial institutions to identify correctly the legitimate places of tax residence.

What can be done to limit these tax risks?

EU countries that offer investor citizenship and residence schemes are already subject to strict EU transparency rules that came into force in 2014 and which ensure that all Member States exchange information with each other on the financial accounts held by EU citizens from other countries. These transparency rules have in recent years been significantly extended to include a wealth of other information. Most recently, the rules have been supplemented with [new reporting provisions for tax intermediaries \(factsheet\)](#) who offer advice that could lead to tax evasion or fraud. At the same time, EU level networks of fraud investigators have also been strengthened to enable professionals from all Member States to exchange more information and best practices.

However, there are a number of actions could be taken outside of the EU's tax transparency framework to minimise the risk of tax evasion when it comes to citizen investorship schemes such as considering the issues they raise for tax purposes in the work being carried out by Member States in the Council to reform the Code of Conduct for business taxation and whether the risks posed merit the inclusion of these issues in the criteria on which the [EU's list of non-cooperative tax jurisdictions](#) is based.

For more information

[Press release](#)

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