

KYC360

Case study: EU investigation into “golden passports” reveals money laundering, tax evasion risks

The European Commission has published the findings of its investigation into EU members’ citizenship and residency schemes which revealed financial crime risks, such as money laundering and tax evasion, associated with the programmes.

There exists a lack of transparency in how the schemes are operated and a lack of cooperation among member states further exacerbates these risks, the probe found.

Following the study, the Commission has urged member states to ensure that applicants for investor citizenship and residency, dubbed “golden passports” and “golden visas” respectively, comply with EU anti-money laundering rules.

Here’s an outline of some of the facts and issues pertaining to the schemes and the study, or a Q and A, sourced from the European Commission:

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 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 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.

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 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. 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.

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.

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.