

Citizenship by investment (CBI) and residency by investment (RBI) schemes in the EU

Study at the request of the Special Committee on
Financial Crimes, Tax Evasion and Tax Avoidance
(TAX3)

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Executive summary

All of the EU Member States have various incentives in place to attract foreign investment from non-EU nationals. Most of them have citizenship by investment (CBI) or residency by investment (RBI) schemes (so-called 'golden passports' and 'golden visas'), characterised by the provision of access to residency or citizenship in exchange for specified investments and via a clear delineated process. A handful of Member States operate CBI schemes in addition to RBI schemes.

Despite having common features, these national CBI/RBI schemes vary greatly in terms of the requirements incumbent on the applicants and the rights granted in exchange. For the purpose of this study, a specific methodology has been designed to address the concerns of the European Parliament's Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) Committee (section 1). The methodology developed identifies the schemes that minimise the constraints incumbent on the investors while maximising the rights stemming from the acquisition of a residency status in or citizenship of an EU Member State, and that at the same time grant a right of entry to privileged tax regimes. According to these criteria, schemes offering easy access to a wide range of advantages are operated in Bulgaria, Cyprus, Estonia, Ireland, Italy, Latvia, Malta and Portugal. The schemes under scrutiny require none to very low physical presence on the territory to obtain residency or citizenship status. The necessary investments can be very low and of a purely passive nature (i.e., not requiring a business plan or job creation). Furthermore, obtaining a residence permit and/or citizenship through these schemes gives access to very favourable tax regimes (e.g., low level of tax on personal income or tax provisions that exempt taxation on foreign income). While all of the schemes under scrutiny grant residency status, three of them offer de facto EU citizenship (Bulgaria, Cyprus and Malta). Of course, other similar schemes operated across the EU may also raise challenges or concerns.

National RBI and CBI schemes in particular have triggered debate and controversy in the last few years, notably in relation to the general question of fairness; the EU principle of sincere cooperation; and the genuine link criteria (section 2). Such schemes have been widely perceived as opening a distinct and privileged path for the richest third country nationals (TCNs), at the same time as the general tendency in the EU moves towards tighter immigration laws. For CBI schemes, it has moreover been stressed that, even though the acquisition of national citizenship is not governed by EU law, naturalisation decisions adopted by one Member State are 'not neutral' with regard to the EU as a whole. Indeed, granting citizenship in one Member State gives access to rights stemming from EU citizenship. Related to this, controversy has greatly evolved around the criteria of 'genuine link', i.e. the relationship between a person and the country granting citizenship. However, these legitimate concerns should not supersede other concerns related to the risks these schemes could have on the integrity of the internal market.

Indeed, CBI/RBI schemes undoubtedly carry several risks (section 3). For CBI schemes, this includes a devaluation of EU citizenship. Such schemes not only put a price tag on EU citizenship: it has been argued that they also undermine its fundamental values. The increasing trend towards forms of marketisation of both CBI and RBI schemes is confirmed by a growing business specialised in 'residence and citizenship planning' for wealthy investors, advertising the benefits of a second passport or alternative residence worldwide. Other significant and related risks include the potential for corruption, money laundering and tax evasion. In recent years, and even more so in recent months, news reports and/or new criminal investigations have shed light on dubious practices and scandals surrounding CBI/RBI schemes. These have pointed to the vulnerabilities of these schemes. While in

principle, checks on criminal records are included in the legal framework governing these schemes, their accuracy is questionable. The adequacy of the checks performed on the applicants and the origin of the funds invested is also questionable. In addition, tax-related incentives provided by CBI/RBI schemes constitute an important factor driving demand. In that regard, the schemes offering access to special tax regimes have been deemed particularly risky. From a tax transparency perspective, even though the schemes do not themselves offer a solution to escaping reporting standards (and notably the common reporting standards – CRS), they enable false statements to be made on residency and can thereby undermine due diligence procedures.

The study then looks at the impacts of CBI/RBI schemes on the EU, the Member States, and EU citizens (section 4). At the economic level, in the short term these schemes can provide a positive contribution to the states that receive the specified investments. However, spill over effects attributed to them, including their impact on tax revenues and job creation, are uncertain. Large investment inflows related to CBI/RBI schemes can also adversely impact financial stability in small states and make them particularly vulnerable to a decrease in demand for these schemes, exacerbating macroeconomic vulnerabilities. In addition, CBI/RBI schemes have a significant impact on the real-estate sector in Member States operating schemes that rely heavily or totally on that sector, which can face high demand pressures leading to an increase in property prices. At social level, increased property prices can make access to housing more difficult for low-level income sections of the population. Another social impact is an erosion of security and justice for EU citizens. As recently recalled by the EU Commissioner for Justice, Věra Jourová, if one Member State does not apply the necessary security and criminality checks, this can affect all Member States. These social impacts are supplemented by possible hindrance to the mobility of EU citizens. As policies related to visa-waivers and visa-free travel agreements between countries mainly rely on the assumption that their citizens are safe to admit, poorly conceived CBI/RBI schemes in terms of security checks and deemed as 'risky' could jeopardise these agreements. Besides, allowing the richest TCNs to obtain fast-track citizenship or residency can rightly be perceived as discriminatory in nature.

At the political level, the allegations related to the integrity of the CBI/RBI schemes can harm confidence in institutions, and a possible additional erosion of mutual trust between Member States. As citizenship becomes a commodity, the perception of citizenship itself could also be affected. Finally, from a policy perspective, the lack of available data on the costs and benefits of these schemes at Member State level and the uncertainties that they carry over the long term for the economy and society, constitute an important obstacle for the design and the conduct of long term sustainable policies.

In light of these findings, the study concludes with an exploration of the potential for EU action (section 5), which could bring benefits to the EU as a whole. To mitigate the macro-economic vulnerabilities, specific recommendations on prudential regulation related to the pace of inflows (i.e., fiscal buffers) could be integrated into the European Semester exercise. To ensure the integrity of the EU single market, the proper implementation and application of due diligence standards enshrined in EU law must furthermore be monitored rigorously and continuously. Finally, consistent collection of data as regards CBI/RBI schemes should be encouraged at EU level. This is not only critical to forecasting vulnerabilities induced by CBI/RBI schemes, it would also strengthen their reputation and sustainability over the long term. Should CBI/RBI schemes be maintained, their accompanying policy design should assesses their economic benefits carefully, balancing them against the risks they present and their impact on public opinion. Striking the right balance here is key to preventing distrust and maintaining social justice.