DRAFT REPORT

with proposals to the Commission on citizenship and residence by investment schemes
(2021/2026(INL))

Committee on Civil Liberties, Justice and Home Affairs

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(Initiative – Rule 47 of the Rules of Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with proposals to the Commission on Citizenship and residence by investment schemes (2021/2026(INL))

The European Parliament,

– having regard to Article 225 of Treaty on the Functioning of the European Union,
– having regard to Article 4(3) and Article 49 of the Treaty on European Union,
– having regard to Article 21(2), Article 79(2), points (a) and (b), and Articles 80, 82, 87, 114, 311 and 337 of the Treaty on the Functioning of the European Union,
– having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 7, 8 and 20 thereof,
– having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 8,
– having regard to Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement \(^2\),
– having regard to the Copenhagen criteria and to the body of Union rules (the *acquis*) that a candidate country must adopt, implement and enforce to be eligible to join the Union, in particular Chapters 23 and 24 thereof,
– having regard to the Commission letters of formal notice of 20 October 2020 to Cyprus and Malta launching infringement procedures with respect to their investor citizenship schemes,
– having regard to the Commission letter to Bulgaria of 20 October 2020 highlighting

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\(^1\) OJ L 16, 23.1.2004, p. 44.


\(^3\) OJ L 141, 5.6.2015, p. 73.
concerns regarding an investor citizenship scheme and requesting further details,


– having regard to the Commission presentation 20 July 2021 of a package of four legislative proposals to strengthen the EU’s anti-money laundering and countering the financing of terrorism rules,

– having regard to its resolution of 16 January 2014 on EU citizenship for sale\textsuperscript{4}, of 18 December 2019 on the Rule of Law in Malta following the recent revelations around the murder of Daphne Caruana Galizia\textsuperscript{5}, of 10 July 2020 on a comprehensive Union policy on preventing money laundering and terrorist financing - the Commission Action Plan and other recent developments\textsuperscript{6}, of 17 December 2020 on the EU Security Union Strategy\textsuperscript{7}; of 29 April 2021 on the assassination of Daphne Caruana Galizia and the Rule of Law in Malta\textsuperscript{8},

– having regard to the study by the European Parliamentary Research Service of 17 October 2018 entitled ‘Citizenship by Investment (CBI) and Residency by Investment (RBI) schemes in the EU’,

– having regard to the study by the European Parliamentary Research Service of 22 October 2021 entitled ‘Avenues for EU action in citizenship and residence by investment schemes - European added value assessment’ (the ‘EPRS EAVA Study’),

– having regard to the study by Milieu Ltd of July 2018 for the Commission entitled ‘Factual analysis of Member States Investors’ Schemes granting citizenship or residence to third-country nationals investing in the said Member State – Study Overview’,

– having regard to the activities of the Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG), set up under its Committee on Civil Liberties, Justice and Home Affairs, on this matter, in particular its exchanges of views with inter alia the Commission, academics, civil society and journalists on 19 December 2019, 11 September 2020 and 4 December 2020, and its visit to Malta on 19 September 2018;

– having regard to Rules 47 and 54 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2021),

A. Whereas Commission President von der Leyen, prior to her confirmation by Parliament, pledged in the Political Guidelines for the next European Commission 2019-2024\textsuperscript{9} to

\textsuperscript{4} OJ C 482, 23.12.2016, p. 117.
\textsuperscript{5} OJ C 255, 29.6.2021, p. 22.
\textsuperscript{6} OJ C 371, 15.9.2021, p. 92.
\textsuperscript{7} OJ C 445, 29.10.2021, p. 140.
\textsuperscript{8} Texts adopted, P9_TA(2021)0148
support a right of initiative for Parliament and committed to respond with a legislative act when Parliament adopts resolutions requesting that the Commission submit legislative proposals;

B. Whereas Commission President von der Leyen in her State of the Union address on 16 September 2020 stated “Be it about the primacy of European law, the freedom of the press, the independence of the judiciary or the sale of golden passports, European values are not for sale.”;

C. Whereas several Member States operate citizenship by investment (CBI) and residence by investment (RBI) schemes that confer citizenship or resident status upon third-country nationals in exchange for primarily financial considerations in the form of ‘passive’ capital investments; whereas CBI/RBI schemes are characterised by having minimal to no physical presence requirements and offering a ‘fast track’ to residency or citizenship status in a Member State compared to conventional channels; whereas application processing times vary substantially between Member States

D. Whereas the existence of CBI/RBI schemes affects all Member States; whereas the operation of a CBI/RBI scheme by an individual Member State thus generates significant externalities on other Member States; whereas those externalities warrant regulation by the Union;

E. Whereas Union citizenship is a unique and fundamental status that is conferred upon citizens of the Union complementary to national citizenship and represents one of the foremost achievements of Union integration, conferring equal rights to citizens across the Union;

F. Whereas conferring national citizenship is the prerogative of the Member States which must, however, be exercised in good faith, in a spirit of mutual respect, transparently, in accordance with the principle of sincere cooperation and in full respect of Union law; whereas the Union has enacted measures to harmonise the pathways for legal migration to the Union and the rights attached to residence, such as the Long-Term Residence Directive;

G. Whereas the operation of CBI schemes lead to the commodification of Union citizenship; whereas such commodification of rights is not compatible with Union values, in particular equality;

H. Whereas Malta and Cyprus operate CBI schemes; whereas Cyprus announced on 13 October 2020 that it would suspend its CBI scheme, only processing applications received before November 2020;

I. Whereas Bulgaria, Cyprus, Estonia, Greece, Ireland, Italy, Latvia, Luxembourg, Malta, the Netherlands, Portugal and Spain currently operate RBI schemes with minimum investment levels ranging from EUR 60 000 (Latvia) to EUR 1 250 000 (the Netherlands);

J. Whereas the EPRS EAVA Study estimates that 42 180 applications under CBI/RBI schemes have been approved and more than 132 000 persons, including family

10 EPRS EAVA Study, table 9, p. 28-29.
members of applicants from third countries, have obtained residence or citizenship in Member States via CBI/RBI schemes with the total investment estimated at EUR 21.4 billion from 2011 to 2019\(^\text{11}\);

K. Whereas applications under CBI/RBI schemes are often processed with aid from commercial intermediaries who might receive a percentage of the application fee; whereas in some Member States commercial intermediaries have played a role in developing and promoting the CBI/RBI schemes;

L. Whereas the Commission has launched infringement procedures against Cyprus and Malta on the grounds that the granting of Union citizenship for pre-determined payments or investments without any link with the Member States concerned undermines the essence of Union citizenship;

M. Whereas CBI/RBI schemes pose a wide range of risks that include corruption, money laundering, security threats and tax avoidance; whereas those risks cannot be properly assessed because of a lack of transparency and are currently not sufficiently managed, resulting in weak vetting and a lack of due diligence with respect to applicants under CBI/RBI schemes in Member States;

N. Whereas CBI/RBI schemes tend to be located in Member States that are particularly prone to risks related to financial secrecy, such as tax avoidance and money laundering, and corruption; whereas financial secrecy impedes the transparency of CBI/RBI schemes and disrupts trust among Member States;

O. Whereas Member States do not always consult Union databases for background checks on applicants under CBI/RBI schemes; whereas Member States do not share the results of such checks and procedures systematically;

P. Whereas the Organisation for Economic Co-operation and Development (OECD) has issued guidelines on limiting the circumvention of the Common Reporting Standard through the abuse of CBI/RBI schemes\(^\text{12}\);

Q. Whereas the Commission initiative to establish a Group of Experts on Investor Citizenship and Residence Schemes was aimed at Member States’ representatives agreeing on a common set of security checks; whereas that group has not met since 2019;

R. Whereas some third countries included in Annex II of Regulation (EU) 2018/1806, whose citizens have visa-free access to the Union, operate CBI schemes with low or no residence requirements and weak security checks, particularly with respect to anti-money laundering legislation; whereas such CBI schemes are advertised as ‘golden passports’ with the express purpose of facilitating visa-free travel to the Union; whereas some candidate countries operate similar schemes with the added expected benefit of future Union membership;

S. Whereas the right of third countries to allow their citizens to change their name poses a

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\(^{11}\) EPRS EAVA Study.

\(^{12}\) Preventing abuse of residence by investment schemes to circumvent the CRS, OECD, 19 February 2018, and Corruption Risks Associated with Citizen- and Resident-by-Investment Schemes, OECD, 2019.
risk because third-country nationals could acquire citizenship of a third country under a CBI scheme and then change their name and enter the Union under that new name;

T. Whereas the Cypriot authorities on 15 October 2021 announced that they would revoke the citizenship of 39 foreign investors and six members of their families who had become Cypriot citizens under a CBI scheme; whereas just over half of the 6 779 passports issued by Cyprus under that scheme between 2007 and 2020 were issued without having carried out sufficient background checks on the applicants¹³;

1. Considers that schemes granting nationality or residence primarily on the basis of a financial investment (CBI/RBI schemes), also known as ‘golden passports’ or ‘golden visas’, are objectionable from an ethical and legal point of view;

2. Recalls its position that CBI/RBI schemes inherently present a number of serious risks and should be phased out by all Member States¹⁴; reiterates that ever since its Resolution of 16 January 2014 on EU citizenship for sale, insufficient action has been taken by the Commission and the Member States to counter those schemes;

3. Holds that CBI schemes undermine the essence of Union citizenship, which represents one of the foremost achievements of Union integration, granting a unique and fundamental status to Union citizens and including the right to vote in European and local elections;

4. Considers that Union citizenship is not a commodity that can be marketed or sold and has never been conceived as such in the Treaties;

5. Acknowledges that regulating the acquisition of nationality is primarily a Member State competence but stresses that that competence needs to be exercised in good faith, in a spirit of mutual respect, transparently, in accordance with the principle of sincere cooperation and in full respect of Union law¹⁵; considers that where Member States do not act in full compliance with those standards and principles, a legal ground for Union action arises; considers that a Union competence could also arise on the basis of Article 21(1) of the Treaty on the Functioning of the European Union (TFEU) with respect to certain aspects of Member State nationality law¹⁶;

¹⁴ Resolutions of the European Parliament of 18 December 2019 on the Rule of Law in Malta following the recent revelations around the murder of Daphne Caruana Galizia, of 10 July 2020 on a comprehensive Union policy on preventing money laundering and terrorist financing - the Commission Action Plan and other recent developments, of 17 December 2020 on the EU Security Union Strategy and 29 April 2021 on the assassination of Daphne Caruana Galizia and the Rule of Law in Malta.
¹⁶ EPRS EAVA Study, pp. 43-44.
6. Believes that the advantageous conditions and fast-track procedures set for investors under CBI/RBI schemes, when compared to the conditions and procedures for other third-country nationals wishing to obtain international protection, residence or citizenship, are discriminatory, lack fairness and undermine the integrity of the Union asylum and migration acquis;

7. Considers that CBI schemes need to be distinguished from RBI schemes because of the severity of the difference in the risks they pose and hence necessitate tailored Union legislative and policy approaches; acknowledges in that respect the link between RBI schemes and citizenship because acquired residence may ease access to citizenship;

8. Notes that two Member States have CBI schemes, namely Cyprus (currently only processing applications submitted prior to November 2020) and Malta, and that 13 Member States have RBI schemes, all with diverging amounts and options of investment and with diverging standards of checks and procedures; regrets that that could trigger a competition for applicants among Member States and risks creating a race to the bottom in terms of lowering vetting standards and decreasing due diligence to increase the uptake of the schemes;

9. Considers that the role of intermediaries in developing and promoting CBI/RBI schemes, as well as in preparing individual applications, often in the absence of transparency or accountability, represents a conflict of interest prone to abuse and therefore requires a strict and binding regulation of such intermediaries, beyond mere self-regulation and codes of conduct;

10. Deplores the lack of comprehensive security checks, vetting procedures and due diligence in Member States that have CBI/RBI schemes in place; regrets that Member States do not always consult the available Union databases and do not exchange information on the outcome of such checks and procedures, allowing for successive applications across the Union;

11. Regrets that the Group of Experts on Investor Citizenship and Residence Schemes, composed of Member State representatives, has not agreed on a common set of security checks as it was mandated to do by the end of 2019; finds that that shows the limits of adopting an intergovernmental approach as regards the matter and underlines the need for Union action;

12. Deplores the fact that residency requirements to qualify under the RBI/CBI schemes of Member States do not always include continuous and effective physical presence and are difficult to monitor, thereby potentially attracting bad faith applicants who purchase national citizenship purely for the access it grants to the Union without any attachment to the Member State in question;

13. Is concerned that where continuous and effective physical residence is not enforced by Member States, third-country nationals could obtain long-term residence status under the Long-Term Residence Directive without five years of continuous and legal residence, which is a requirement under that Directive;

17 EPRS EAVA Study, p. 57; Preventing abuse of residence by investment schemes to circumvent the CRS, OECD, 19 February 2018
14. Welcomes the infringement procedures launched in October 2020 by the Commission against Cyprus and Malta concerning their CBI schemes; calls on the Commission to advance those procedures and to initiate infringement procedures against Member States for RBI schemes, where justified;

15. Considers that Union anti-money laundering law is a crucial element to counter the risks posed by CBI/RBI schemes; welcomes the fact that the Commission’s package of legislative proposals of 20 July 2021 on anti-money laundering and on countering the financing of terrorism addresses RBI schemes, most notably by promoting the inclusion of intermediaries on the list of obliged entities; considers, however, that gaps will still remain, such as the fact that public entities that process CBI/RBI applications will not be included on the list of obliged entities;

16. Notes that applications under CBI/RBI schemes are particularly difficult to monitor and assess where they concern joint applications that include different family members; notes that family reunification rights under Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification apply after obtaining residency status in a Member State, thus allowing family members to enter the Union without further specific checks normally required under RBI schemes;

17. Notes that a risk stems from third countries that have CBI schemes and that benefit from visa-free travel to the Union because third-country nationals can purchase citizenship of that third country with the sole purpose of being able to enter the Union without any additional screening; stresses that risks are exacerbated for Union candidate countries that have CBI/RBI schemes because the expected benefits of future Union membership may be a factor;

18. Considers that, in light of the particular risks posed by CBI schemes and their inherent incompatibility with the principle of sincere cooperation, CBI schemes should be phased out fully across the Member States and requests that the Commission submit, in 2022, on the basis of Article 21(2), Article 79(2) and Article 114 TFEU, a proposal for an act to that end;

19. Believes that, as CBI/RBI schemes constitute free riding and produce severe consequences for the Union and the Member States, a financial contribution to the Union budget is warranted, also as a concrete expression of solidarity following from, inter alia, Article 80 TFEU; requests, therefore, that the Commission, in 2022, on the basis of Article 311 TFEU, submit a proposal for the establishment of a new category of the Union’s own resources, consisting of a ‘CBI & RBI Adjustment Mechanism’ that would place a levy of 50 % on the investments made in Member States as part of CBI/RBI schemes;

20. Considers that the contribution of the CBI/RBI schemes to the Member States’ real economy is limited and does not sufficiently add to job creation and growth because considerable amounts of investment are made directly into the real estate market or into funds; considers that the large investments associated with CBI/RBI schemes could impact financial stability, particularly in small Member States where inflows could

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19 Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis and Saint Lucia.
20 Serbia, Albania, Turkey, Montenegro and North Macedonia.
represent a large share of GDP or foreign investment\textsuperscript{21}; requests that the Commission submit, in 2022, on the basis of Article 79(2) and Articles 80, 82, 87 and 114 TFEU, a proposal for an act that would include Union-level rules on investments under RBI schemes in order to strengthen their added value to the real economy and provide links to the priorities for the economic recovery of the Union;

21. Requests that the Commission submit, in 2022, on the basis of Article 79(2) and Articles 80, 82, 87 and 114 TFEU a proposal for an act that would comprehensively regulate various aspects of RBI schemes with the aim of harmonising standards and procedures and strengthening the fight against organised crime, money laundering, corruption and tax evasion, covering, \textit{inter alia}, the following elements:

(a) increased due diligence and rigorous background checks;
(b) the regulation and limitation of the activities of intermediaries;
(c) obligations on Member States to report to the Commission regarding their RBI schemes and applications thereunder;
(d) minimum physical residence requirements as a condition for acquiring residence under RBI schemes;

22. Requests that the Commission include in its proposal targeted revisions of existing Union legal acts that could help to dissuade Member States from establishing harmful RBI schemes, such as further strengthening legal acts in the field of anti-money laundering, and targeted changes to the Long-Term Residence Directive;

23. Requests that the Commission exert as much pressure as possible to ensure that third countries that have CBI/RBI schemes in place and that benefit from visa free travel under Annex II to Regulation (EU) 2018/1806 abolish their CBI schemes and reform their RBI schemes to bring them in line with Union law and standards and that the Commission submit, in 2022, on the basis of Article 77(2), point (a), TFEU, a proposal for an act that would amend Regulation (EU) 2018/1806 in that regard; requests that specific attention in that regard be paid to candidate countries and proposes that it be included in the accession criteria;

24. Reminds the Commission President of her commitment to Parliament’s right of initiative and of her pledge to follow up on Parliament’s own-initiative legislative reports, contained in the Political Guidelines for the next European Commission 2019-2024; expects, therefore, the Commission to follow up on this resolution with concrete legislative proposals;

25. Considers that any financial implications of the requested proposals will be positive;

26. Instructs its President to forward this resolution and the accompanying proposals to the Commission and the Council.

\textsuperscript{21} EPRS EAVA Study, p. 36-39.
ANNEX TO THE MOTION FOR A RESOLUTION:
PROPOSALS FOR A COMPREHENSIVE LEGISLATIVE PACKAGE

Proposal 1: a Union-wide gradual phasing out of CBI schemes by 2025

- A Union-wide notification and quota system for the maximum number of citizenships to be acquired under CBI schemes across the Member States should be established with the number to be gradually lowered each year, reaching zero in 2025, thereby leading to the complete phasing out of CBI schemes. Such a gradual phasing out will allow those Member States maintaining CBI schemes to find alternative means to attract investment and sustain their public finances. Such a phasing out is in line with the previous position of Parliament expressed in several resolutions and is necessary in light of the profound challenge that CBI schemes pose to the principle of sincere cooperation under the Treaties (Article 4(3) TEU).

- This proposal could be based on Article 21(2) and Article 79(2) and, because CBI schemes also affect the single market, Article 114 TFEU.

Proposal 2: a comprehensive regulation covering all RBI schemes in the Union

- To address the specificities and widespread occurrence of RBI schemes across the Member States, a dedicated Union legal framework in the form of a regulation is necessary. Such a regulation will ensure Union harmonisation, limit the risks posed by RBI schemes and make RBI schemes subject to Union monitoring, thereby enhancing transparency and governance. The regulation is also meant to discourage Member States from establishing harmful RBI schemes.

- The regulation should contain Union-level standards and procedures for increased due diligence and rigorous background checks for applicants. A proposal for a regulation is more than warranted, especially in light of the fact that the Group of Experts on Investor Citizenship and Residence Schemes never made any progress as regards those elements. In particular, all applicants must be structurally crosschecked against all relevant national, Union (SIS, VIS, ECRIS-TCN, ETIAS) and international (Interpol) databases by the Member State authorities. There should also be an independent verification of documents submitted, a full background check of all police records and involvement in previous and current civil and criminal litigation, in-person interviews with the applicants and a thorough verification of how the applicant’s wealth was accumulated and its relation to the reported income.

- The practice of joint applications, where a main applicant and family members can be part of the same application, should be forbidden: only individual applications subject to individual and rigorous checks should be allowed, while taking into account the links between applicants.

- An important element of the regulation should be the regulation of intermediaries. The following should be included:

(a) a Union-level licensing procedure for intermediaries containing a thorough procedure with due diligence and auditing of the intermediary company, its owners and its related companies. The license should be subject to renewal every second
year and be featured in a public Union register for intermediaries. Where intermediaries are involved in applications, Member States should only be allowed to process such applications when prepared by Union-licensed intermediaries. Applications for licensing should be made to the Commission, to be supported by the relevant Union agencies, in particular the European Border and Coast Guard Agency (Frontex) and the European Union Agency for Law Enforcement Cooperation (Europol), in carrying out the checks and procedure.

(b) specific rules for the activities of intermediaries. That should include detailed rules concerning the background checks, due diligence and security checks that the intermediaries are to carry out on applicants, including the obligation for them to contract independent third parties to verify those checks.

(c) a Union-wide ban on marketing practices for RBI schemes. That should include prohibiting intermediaries processing applications under RBI schemes from using the Union flag on any materials, website or documents.

(d) clear rules on transparency of intermediaries and their ownership.

(e) anti-corruption measures to be adopted within the intermediary, including on appropriate staff remuneration, the two-person rule (that every step is checked by at least two persons) and provisions for a second opinion when preparing applications and carrying out checks on applications, and a rotation of staff members across the countries of origin of applicants under RBI schemes.

(f) a ban on combining the consultation of governments on the establishment and maintenance of RBI schemes with their involvement in the preparation of applications. Such a combination creates a conflict of interest and provides the wrong incentives. Consequently, a ban on public affairs lobbying or consulting is required for intermediaries and for affiliated industry representation organisations. Furthermore, intermediaries should not be allowed themselves to implement RBI schemes for Member State authorities. Intermediaries should only be allowed to act as intermediaries in individual applications and only when being approached by individual applicants.

(g) a monitoring, investigations and sanctions framework to ensure that intermediaries comply with the regulation. The Commission, Union agencies and Member State authorities should be able to conduct undercover investigations, posing as potential applicants. Sanctions should include fines of up to 25% of revenue and should, where infringements are established twice, lead to the revocation of the Union licence to operate.

- A duty for Member States to report to the Commission regarding their RBI schemes should be introduced. The Member States should submit a detailed annual report to the Commission on the overall institutional and governance elements of their schemes. They should also report on individual applications and on rejections and approvals of applications. The Commission should carry out, in cooperation with Europol (including through its liaison officers in third countries) and Frontex, Union-level final checks of applications against the relevant Union and international databases and should also carry out further security and background checks. On that basis, the Commission should issue an opinion to the Member State. The competence to grant residence or not under RBI
schemes should remain with the Member States. The Union-level final check will also help to highlight several unsuccessful applications by the same individuals.

- A system for prior notification to and consultation with all other Member States prior to granting residence under an RBI scheme should be set up. If a Member State does not object within 14 days, that will mean they have no objection to the granting of residence\(^1\). That will allow Member States to detect double or subsequent applications and will allow Member States to conduct checks in national databases that might not be available at Union level.

- Member States should be required to effectively check physical residence on their territory and to keep a record of it, which the Commission and Union agencies can consult. That should include at least biannual in-person reporting appointments and on-site visits to the domicile of the individuals concerned.

- To combat tax avoidance, specific Union measures to prevent and tackle the circumvention of the Common Reporting Standard through RBI schemes, in particular the enhanced exchange of information between tax authorities, should be introduced\(^2\).

- Rules on the types of investments required under RBI schemes should be introduced. 75% of the required investment should consist of productive investments in the real economy, in line with the priority areas of green and digital growth under the Recovery and Resilience Facility. Investment in real estate, investment or trust funds or in government bonds or payments directly into the Member State budget should not represent more than 25% of the invested amount. Furthermore, any payments directly into the Member State budget should not be eligible as revenue for the purposes of the Stability and Growth Pact.

- This Regulation could be based on Article 79(2) and Articles 80, 82 and 87 and, because RBI schemes also affect the single market, Article 114 TFEU.

**Proposal 3: a new category of the Union’s own resources, consisting of a ‘CBI and RBI adjustment mechanism’**

- As all Member States and the Union institutions are confronted with the risks and costs of the CBI and RBI schemes operated by some Member States, a common mechanism to offset the negative consequences of CBI and RBI schemes is justified. Moreover, the value of selling Member State citizenship or visas is inherently linked to the Union rights and freedoms that come with it. By establishing a CBI and RBI adjustment mechanism, the negative consequences borne by all Member States are compensated through that contribution to the Union budget. It is a matter of solidarity between the Member States having CBI and RBI schemes, the other Member States and the Union institutions. In order for that mechanism to be effective, the levy payable to the Union should be set at a minimum of 50% of the investment made.

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The mechanism could be established under Article 311 TFEU, which stipulates that “the Union shall provide itself with the means necessary to attain its objectives and carry through its policies”, including the possibility to “establish new categories of own resources or abolish an existing category”. Further implementing measures could be adopted in the form of a regulation. Something similar was done for the Plastics Own Resource that has been in place since 1 January 2021. That option does involve a rather lengthy process of formal adoption of an own resources decision, linked to the respective national constitutional requirements for approving it. This could be combined with the legal basis of Article 80 TFEU which stipulates “the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States”, including in the area of immigration.

Proposal 4: a targeted revision of legal acts in the area of anti-money laundering and countering the financing of terrorism

The Commission has made a welcome step by including RBI schemes prominently in its package of legislative proposals of 20 July 2021 to revise legal acts in the area of anti-money laundering and countering the financing of terrorism, especially where it concerns intermediaries. Two further elements should be included:

(a) public authorities engaged in processing applications under RBI schemes to be included on the list of obliged entities under legal acts in the area of anti-money laundering and countering the financing of terrorism, specifically in Article 3, point (3), of the proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (2021/0239(COD));

(b) greater exchange of information on applicants under RBI schemes between the Member State authorities under legal acts in the area of anti-money laundering and countering the financing of terrorism, specifically between the Financial Intelligence Units.

Proposal 5: a targeted revision of the Long-Term Residence Directive

The Commission should, when it comes forward with its expected proposals for the revisions of the Long-Term Residence Directive, limit the possibility of third-country nationals who have obtained residence under an RBI scheme from benefitting from more favourable treatment under that Directive. That could be achieved by amending Article 13 of the current Long-Term Residence Directive to narrow its scope of application by expressly excluding beneficiaries of RBI schemes.

The Commission should take the steps necessary to ensure that the legal and continuous residence of five years, required by Article 4(1) of the Long-Term Residence Directive, is not circumvented through RBI schemes, including by ensuring that the Member States enforce stronger controls and reporting obligations on applicants.

Proposal 6: ensuring that third countries do not administer harmful RBI/CBI schemes

Third-country CBI schemes should be included in Regulation (EU) 2018/1806 as a specific element to take into account when deciding on whether to include a particular third country in the annexes to that Regulation, i.e. as a factor to decide on the third
countries whose nationals are exempt from visa requirements. That should be embedded in the visa suspension mechanism set out in Article 8 of that Regulation and in the planned monitoring.

- A new article should be added to Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)\(^3\) on cooperation with third countries on phasing out their CBI schemes and bringing their RBI schemes in line with the new Regulation proposed under proposal 2 above. Such a new article could follow the logic of Article 25a of the current Visa Code, providing for positive and negative incentives for third countries, aiming to limit the risks of third-country CBI and RBI schemes.

- For candidate countries, the complete phase-out of CBI schemes and the strict regulation of RBI schemes should be a prominent part of the accession criteria.

Union citizenship is a bit like the surprise one finds in the BBC Antiques Roadshow: a seemingly worthless object turns out to be extremely valuable. Most Union citizens are unaware of the treasure sitting in their attic: Union citizenship. It is highly coveted not just by many across the world dreaming of working in the Union, but also by some of the world's richest people. Governments of Member States quickly recognised a business opportunity: by joining the Union, the value of their national passports suddenly skyrocketed. Even the trade in fast-track procedures to citizenship via residency, or acquiring citizenship of a third country that offers visa-free travel to the Union, proves to be very lucrative. In essence, governments are selling what is not theirs to sell: Union citizenship.

Although the schemes selling "golden passports" and "golden visas" are euphemistically called "Citizenship by investment" (CBI) and "Residency by investment" (RBI), in reality applicants have no genuine interest to invest. National schemes that do actually require investments in the real economy and have serious checks in place attract no or only few applicants. Applicants explicitly seek the CBI/RBI scheme with the lowest threshold, not the country with the best investment opportunities. As investigative journalists have exposed time and time again, CBI and RBI schemes have been linked to corruption and crime and can serve as a backdoor into the Union for dirty money and dodgy business. CBI/RBI schemes are a threat to security in Europe and a threat to our democracy. The contrast with the treatment of refugees or labour migrants, or of Union citizens with dual citizenship born in the Union, is staggering.

Since 2014, Parliament has been calling for a ban of CBI/RBI schemes, but so far the Commission has not put forward any proposals. Although the Commission claims it has no legal basis for legislative action, it did launch infringement proceedings against Cyprus and Malta in October 2020. In July 2019, before her election by the European Parliament, Commission President Von der Leyen took a commitment to respond to requests for legislative proposals by Parliament "with a legislative act in full respect of the proportionality, subsidiarity and better law-making principles". This legislative initiative of Parliament fully meets all those criteria.

The comprehensive set of measures will lead to the phasing out of golden passports, and it will regulate RBI schemes so that they will lose their attractiveness to crooks. The proposed measures will address different aspects of the matter: screening of the applicants, residency requirements, the type of investment, risks of money laundering and tax evasion. It also foresees for the proceeds of the sale of citizenship and residency rights to benefit the Union budget, given that they are based exclusively on the benefits of Union membership.

Thus far, the member states have been reluctant to address the matter, to the point of refusing to engage in talks. But the fact that granting citizenship as such is an exclusive national competence is no pretext for inaction when Union law and values are damaged. Union citizenship and residence are not a commodity. We all have a duty to protect it.