

EUROPE'S GOLDEN DOORS

Lack of progress in stopping the criminal and corrupt accessing Europe via golden passports and visas

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Executive Summary

Over the past decade, the EU has witnessed a **growth in the number of citizenship-by-investment (CBI) and residence-by-investment (RBI) schemes**. Golden passports and golden visas, as these schemes are informally known, offer fast-track citizenship and/or residence to foreign nationals in exchange for their substantial investment. As revealed by the report *European Getaway: Inside the Murky World of Golden Visas*¹ and a recent European Commission analysis,² these schemes are widely abused. **This exposes the whole of the EU to significant money laundering, tax evasion and corruption risks, as well as threatening its security.**

The potential for high-risk business operators and oligarchs to misuse, abuse, and exploit golden passport and visa schemes is huge, as a result of insufficient monitoring, weak governance, and the lack of transparency with which they operate. *European Getaway*, the report published jointly by Global Witness and Transparency International in October 2018, outlined how these schemes operate, the problems associated with selling citizenship and residency, and how they could be addressed. It also examined the well-established golden passport and visa schemes currently in operation in three EU Member States: Cyprus, Malta and Portugal.

Since the report's publication, the EU's CBI and RBI programmes have been scrutinised and found to be risky. However, **actions so far proposed by the European Commission and adopted by individual Member States fall short of effectively addressing the risks created by selling EU citizenship and residence.**

This briefing explores the main efforts taken in the past year to tighten and regulate EU golden passport and visa schemes at EU level and by the three Member States. What we found is that, although welcome, the measures currently in place do not adequately address the significant money laundering and corruption risks these schemes pose.

Last December, the Council of the EU reiterated that the fight against money laundering and terrorist financing remains a high priority.³ If the EU is serious about this, it must adopt EU-wide legislation to regulate golden passport and visa schemes with a view to phasing them out completely.

RECOMMENDATIONS

- The European Commission should **propose legally binding EU rules** to ensure the **phasing out** of golden passport and visa schemes as part of a new, comprehensive approach to **fighting money laundering and the financing of terrorist activities**.
- The EU Member States and the European Parliament should support the adoption of **legally binding** EU requirements to ensure the **phase-out of EU golden passport and visa schemes**.
- The European Commission should, without delay, initiate **enforcement actions** against Member States offering golden passport and visa schemes that contravene existing EU law and undermine the principle of sincere cooperation and the collective security of EU nations.
- Member States should put in place measures to **rigorously review all citizenships and residence permits granted** through golden passport and visa schemes, to ensure that none have been granted to individuals associated with money laundering or terrorism finance. For any that are found to have these risks Member States should ensure their citizenship and rights to residence are immediately revoked.

CYPRUS

Cyprus boasts one of the **most lucrative and prolific golden passport and visa regimes in Europe**, having sold passports to approximately 4,000 foreign nationals since 2013. This has garnered more than €7bn for the country. Its rejection rates have always been extremely low (only 2% between 2013-2018) and remained low in 2019 (around 4%),⁴ despite attempts in 2018 and 2019 to tighten the scheme.

The Cypriot programme has **attracted a lot of negative publicity**, with numerous scandals surrounding highly questionable recipients of the passports. Most recently, investigations by Reuters⁵ and Politis News⁶ alleged that relatives of Cambodia's rulers, and Malaysian financier Jho Low, a central figure in the 1MDB corruption scandal, gained access to the EU via the Cypriot golden passport programme. Since then, Cyprus's scheme has been criticised by MONEYVAL, a European money laundering watchdog, for not properly mitigating money laundering risks associated with the sale of passports.⁷

Cyprus has **responded by introducing and announcing further changes to the operation of its programme**, which its Minister of Interior Nicos Nouris insisted had made the Cypriot programme the strictest in Europe.⁸ Yet serious concerns remain that these measures are just a tokenistic response to public scandal, and will not prevent the Cypriot scheme being abused by more money-launderers and crooks in future.

ACTIONS BY THE CYPRIOT GOVERNMENT

- **Changes to the scheme:** In addition to changes introduced in 2018 – including the capping of applications to 700 and the obligatory registration of private sector agents – the Cypriot government put in place additional changes to the scheme in 2019⁹:
 - > **Changes relating to required investments:** as well as a core investment of a minimum €2 million, an applicant must pay two donations of €75,000 each to state agencies whose job is to promote innovation/research and foster accessible housing (though an exemption is possible, if 20% of the main investment is put into a Cypriot company, including those operating in the fields of research, technology, education, health and renewable energy). Some new investment options were introduced, such as in the shipping industry, but it is no longer possible to invest in government bonds.
 - > **Changes relating to eligibility:** Politically exposed persons (PEPs), persons under investigation (even if they have not been charged) and individuals under UN sanction are now excluded from applying. Similarly, an applicant whose citizenship application was rejected by another EU country is no longer eligible for a Cypriot passport. All applicants must also possess a Schengen visa.

- > **Other relevant changes** include requirements for investment transactions to be carried out by a Cypriot bank, not in cash, and for applicants to keep the bulk of their investment in Cyprus for five years instead of the previous three.

➤ **Enhanced due diligence:** In April 2019, the House Finance Committee released €1.4 million¹⁰ to hire specialised firms to perform due diligence on people applying for Cypriot golden passports. In August, three firms were contracted to perform these checks, Sterling Diligence, S-RM Intelligence and Risk Consulting and Kroll.¹¹

These changes are welcome, but it remains to be seen how rigorously they will be enforced. The historic and current practice of Cypriot authorities does not inspire confidence. For example, guidelines on advertising the scheme are contained in a Code of Conduct¹² that has been in place since 2018. Despite this, several agents, including Henley & Partners¹³ and Arton Capital,¹⁴ still refer in their promotional materials to EU citizenship as a benefit of a Cyprus golden passport. The Code of Conduct forbids promotion of EU citizenship, and yet these agents appear to be doing so openly without being sanctioned.¹⁵

Moreover, enhanced due diligence will only apply to new citizenship applications filed as of December 2019.¹⁶ It is also questionable whether the funds allocated for this purpose will be sufficient to enable suitably in-depth checks.

Discussions in the Cypriot Parliament indicate that the processing of any new applications submitted after 31 January 2020 have been halted until such time as the government presents new rules governing the scheme before the Parliament.¹⁷ However, no immediate effect is expected from this impasse – reports suggest that the 700 passport quota for 2020 has already been fulfilled¹⁸ and the Government has announced¹⁹ that it will consider any application submitted by the end of January 2020.

➤ **Retrospective checks:**

- > In November last year, following negative publicity, the Cyprus government announced its intention to **revoke 26 golden passports**,²⁰ recognising that criteria under which the passports were granted were flawed.²¹ However, due to a legal loophole the revocation process is currently stalled.²²
- > The government also claims to be carrying out a **second round of checks on cases of naturalisation** that were finalised before the new rules came into effect in 2018.²³ However reports suggest that they are yet to identify any cases as concerning,²⁴ which raises questions as to how thoroughly these checks are being performed.
- > The government also set up an ad hoc **committee tasked with among other things examining passports granted up until 2018, including problematic naturalisations**, and submitting a report to the cabinet.²⁵ However, the committee lacks an investigative function²⁶ and has been criticised by the opposition for being no more than a whitewashing exercise.²⁷

MALTA

Since the EU took an enhanced interest in EU golden passport and visa schemes in early 2019, the Maltese authorities have **made no changes to its Individual Investor Programme (IIP)**. But **controversy surrounding the programme has not abated**. There have been several reports of Maltese golden passport holders being accused of money laundering, fraud or tax dodging crimes throughout 2019.²⁸

‘New’ Maltese citizens include a businessman, Anatoly Hurgin, who has been charged with fraud in the US and with fraud, smuggling and money laundering in Israel;²⁹ Liu Zhongtian, an aluminium billionaire indicted in the US on allegations of avoiding nearly \$2 billion in American tariffs;³⁰ Boris Mints, a billionaire facing fraud charges in the UK;³¹ Pavel Melnikov, another billionaire, who is being investigated by Finnish judicial authorities for money laundering and tax fraud, with nearly EUR 2.4 million frozen by the Finnish Courts;³² and Mustafa Abdel-Wadood, who pleaded guilty to conspiracy and fraud charges in the US.³³ The response of Malta’s golden passport authority (Identity Malta) has been weak: only in the case of Mustafa Abdel Wadood and his dependents could we find any evidence that they have started the process of revoking their Maltese citizenship.³⁴

Another scandal revealed a lawyer from a leading citizenship-selling law firm, Chetcuti Cauchi Advisors Ltd, boasting to a prospective applicant about his connections with top Maltese government officials in a video recorded by undercover journalists, which resulted in the firm’s licence being suspended.³⁵ The regulator of Malta’s golden passport scheme (Office of the Regulator of the Individual Investor Programme) later concluded that there was no “indication of collusion between the Agent and the responsible Minister”.³⁶

These incidents raise questions as to whether the scheme is as rigorous as the Maltese authorities try to portray it.³⁷ At the end of 2019, the European Parliament again called on Malta to terminate its investor citizenship and residence scheme.³⁸ Voices of concern have also been heard from within Malta. In October 2019, Malta’s largest bank, the Bank of Valetta as part of a de-risking exercise closed accounts of clients seeking to acquire Maltese citizenship through the golden passport scheme,³⁹ indicating that it considers foreign nationals seeking to buy a Maltese passport as high risk for money laundering. In January 2020, the Maltese Chamber of Commerce called on the new Prime Minister, Robert Abela, to temporarily suspend the scheme,⁴⁰ and a survey conducted by MaltaToday in autumn 2019 revealed that the majority of Maltese people do not support the programme.⁴¹

ACTIONS BY THE MALTESE GOVERNMENT

➤ Changes to the scheme:

- The **legislation** regulating Malta’s golden passport scheme **is currently being reviewed.**⁴² No changes have yet been introduced.

- > In its most recent annual report from October 2019, **the Regulator of Malta’s investor citizenship and residence programme proposed** that the government introduces minor changes to the programme.⁴³ This includes amending parts of the law relating to discretionary powers of Identity Malta to consider applicants even when they are officially ineligible.⁴⁴

In reality, it is possible that the government will refuse all of these proposals. More importantly, the proposed changes are merely cosmetic – they would simply enshrine the existing situation into law. The Regulator of Malta’s Individual Investor Programme itself acknowledged that an element of risk would remain whatever level of due diligence was adopted.⁴⁵ In our view the only way to eliminate inherent risks would be to end the scheme. However, this does not seem to be the plan of the **current government**, given that Prime Minister Abela⁴⁶ and Parliamentary Secretary for Citizenship, Alex Muscat,⁴⁷ have made it clear that they **intend to renew the programme** and that the results of a public consultation process (concluded in spring 2018) on extension of the programme and its regulatory reform have still not been made available.⁴⁸

PORTUGAL

Although there was a drop in the number of golden visas issued in 2019 compared to previous years, Portugal **remains one of the Member States to have granted the most EU golden visas** to investors and their families, with more than 22,000 residence permits sold since 2012.⁴⁹ This likely ranks Portugal among the top earners in EU’s golden visa market, with €5 billion raised over the course of the programme.⁵⁰ **The low refusal rate** (around 5%)⁵¹ and **the lack of robust checks**⁵² makes the Residence Permit for Investment (ARI) one of the most popular golden visa programmes in the world.

The scheme hasn’t been immune to criticism. Reports suggest that the golden visa scheme contributes to skyrocketing house prices and rising rents for locals in the two main cities, Lisbon and Porto.⁵³ More than 90% of investments through the golden visa scheme go into the property market.⁵⁴ Yet, although the Portuguese government has recently taken some steps to address the pressure on the property market, it has not taken any action to address the money-laundering and corruption risks inherent in the scheme.

ACTIONS BY THE PORTUGUESE GOVERNMENT

➤ Changes to the scheme:

- > In February 2020, the Portuguese Parliament approved **changes to the State Budget**, giving the government a **mandate to reform Portugal’s golden visa scheme**.⁵⁵ The main measures envisaged include:

- Stopping golden visa applicants from purchasing property in big cities such as Lisbon and Porto, and restricting eligible investments to the low-density regions of the interior of the country and the autonomous regions of Madeira and the Azores;
- An increase in the minimum value of investments and the number of jobs to be created through them;
- Encouraging investment in urban regeneration, cultural heritage, activities of high environmental or social value, productive investment and job creation.

As property investments in Lisbon and Porto currently account for about two-thirds of property purchases by golden visa holders, these changes could have a significant impact on the scheme.⁵⁶ But they will require further governmental action to become effective, and as the measures have been delayed until 2021,⁵⁷ there are concerns that little will change.

Furthermore, the proposed measures do not even attempt to directly address the corruption and money laundering risks that are associated with the programme.⁵⁸ There are no plans to tighten the scheme through enhanced due diligence, operational integrity or transparency.

> In January 2019 the government **extended the golden visa programme with an additional ‘green visa programme’** the aim of which is to enable foreign investors to obtain a green visa by investing €500,000 or more in organic agriculture, ecotourism, renewable energy and other environmental projects that help to cut carbon emissions.⁵⁹ At the same time, lawmakers rejected proposals to end the golden visa programme. This indicates that Portugal is not heeding the inherent risks posed by their golden visa programme which suggests phase out is a better path to pursue.

> **Calls for increased transparency of the Portugal’s golden visa scheme:** In November 2019, the Administrative Court of Lisbon upheld a subpoena filed by Transparency International Portugal to force the Ministry of Internal Affairs to disclose public interest data about the golden visa programme.⁶⁰ This includes information on the number of applications rejected since the beginning of the programme, broken down by applicants’ country of origin, and the number of jobs created by beneficiaries of the programme. Transparency International Portugal says they have received some but not all of this information.

DEVELOPMENTS AT THE EU LEVEL

The EU golden passports and visas industry is still going strong, despite efforts in early 2019 by the European Commission to raise the awareness of the risks, and the European Parliament's calls for a phase-out of all existing EU schemes. No Member State has ended its investor citizenship or investor residence schemes – in fact, some have hit new highs in terms of the number of applications approved.⁶¹ In Spain⁶² and Greece,⁶³ for example, 2019 saw the highest number of golden residence permits ever sold to wealthy investors. Greece was even considering joining Cyprus, Malta and Bulgaria in setting up a golden passport (citizenship by investment) programme in 2020,⁶⁴ though this idea seems to have been dropped for now, following the scandal that met the Cypriot programme at the end of last year.⁶⁵ We could not find any evidence that Bulgaria has done anything to end its investor citizenship programme,⁶⁶ despite announcing its intention to do so in January 2019.⁶⁷

These developments indicate that the **measures** that have been **proposed and taken by EU institutions fall short** of addressing the level of risk that the Commission itself identified as being associated with these schemes.

RESPONSE OF THE EUROPEAN COMMISSION

➤ **Serious concerns expressed by the European Commission over golden passport and visa schemes in relevant reports:**

- In January 2019, the EC published its **first ever report dedicated to investor citizenship and residence schemes**.⁶⁸ This:
 - confirmed that golden passports and visas pose risks to the EU as a whole, particularly in terms of security, money laundering, corruption, and the circumvention of EU rules on tax evasion and avoidance;
 - outlined how shortcomings in the governance of the schemes and the lack of transparency with which they operate exacerbate these risk; and
 - most importantly, identified that risks are “inherent” to these schemes and “not always sufficiently mitigated by the measures taken by Member States”.⁶⁹

The report included actions of a non-legally binding nature, the most significant being the establishment of a group of Member States experts⁷⁰ to develop a common set of ‘security checks’ and guidance on the operation of golden passport and visa schemes. The Commission also committed to consider taking enforcement action where issues of compliance with EU law arise.

- In July 2019, the EC for the first time **included golden passport and visa schemes in its two-yearly Supranational Risk Assessment** of EU money laundering and terrorism financing risk:

- It highlighted golden passports and visas as a ‘new product or sector’ posing money laundering and terrorist financing risks to the EU,⁷¹ and
- It identified them as posing ‘significant’ to ‘very significant’ levels of threat and vulnerability for money laundering and terrorist financing.⁷²

➤ **High-level commitments to fight against golden passport and visa schemes:** Both the Commissioner for Justice, Didier Reynders, and Vice-President for Values and Transparency, Věra Jourová, recognised the money laundering and corruption risks of golden passport and visa schemes, and expressed their commitment to fight against the market in European citizenship.⁷³ While Vice-President Jourová agreed that it is time to phase out the schemes, she suggested that EU competence to act in this area is limited. During the European Parliament discussion on the Rule of Law in Malta last December, however, Commissioner Reynders discussed the possibility of introducing legislation.⁷⁴

➤ **Action against individual Member States:** Having criticised the schemes in its January 2019 report, eleven months later and following several scandals the European Commission sent letters to Malta and Cyprus about their schemes, asking for a response by 6 January 2020.⁷⁵ Both countries have responded and the Commission is currently analysing their replies.

RESPONSE OF THE EUROPEAN PARLIAMENT

➤ In March 2019, in its **Report on financial crimes, tax evasion and tax avoidance**, the European Parliament called on Member States to phase out all existing golden passport and visa schemes.⁷⁶ Meanwhile, the Commission was called upon to rigorously monitor the implementation of due diligence on applicants and ensuring better data collection and information exchange among Member States.

➤ In December 2019, the European Parliament **called again on Malta** to terminate its investor citizenship and residence scheme.⁷⁷

RESPONSE OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

➤ In its **opinion on EU golden passport and visa** schemes, adopted on 30 October 2019, the European Economic and Social Committee reiterated that EU citizenship should not be for sale, called on Member States to phase out the schemes and urged the EC to monitor the schemes closely and to enforce EU rules where applicable.⁷⁸

RESPONSE OF THE EU MEMBER STATES (COUNCIL OF THE EU)

➤ On 5 December 2019, the EU finance ministers (ECOFIN Council) recognised the findings of the Commissions supranational risk assessment, and tasked Member States with referring to these

findings while carrying out the risk assessments required by the EU anti-money laundering directive.⁷⁹

Germany, one of the few Member States that does not have a golden passport or visa scheme, has already put this into action – its **first national risk assessment** of money laundering and terrorism financing risks, published in October 2019, identified golden passport and visa schemes, specifically referencing those run by Malta and Cyprus, as money laundering risks for Germany.⁸⁰

➤ The **group of Member States experts** set up by the Commission in April 2019 met four times last year but failed to adopt any policies, despite having a clear deadline of the end of 2019 to do so.⁸¹ As any guidance produced by the group would not be legally binding and could only include suggestions for Member States to follow, we are not hopeful that it will have much of an impact.

CONCLUSION

Golden passport and visa programmes are a weak point in the defence of the European Union against global money laundering and terrorist financing. While there is tough talk about phasing out these money-for-passport schemes, little concrete action has followed, allowing criminals and the corrupt to escape justice in other parts of the world and to buy their way in to lucrative European-wide markets.

Cyprus, Malta and Portugal are three of the most vulnerable EU Member States, all rocked by scandals surrounding their golden passport and visa schemes, all scrutinised by EU bodies and directed to clean up their acts, yet none of them has yet taken decisive action to shut down these programmes.

It is time for the EU to act and ensure that all Member States end a practice that rolls out the red carpet for the super-rich and corrupt.

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