



Resolution 2355 (2020)¹

Investment migration

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the European Parliament's Resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance, and emphasises that national programmes of member States for the award of citizenship, residence permits and tax domiciles to foreign investors (hereinafter: investment migration) must respect the legal standards set by the Council of Europe, as well as relevant international legal standards designed to prevent corruption, money laundering and the financing of terrorism. Fugitive criminals, beneficiaries of financial proceeds from crime and individuals seeking to evade their tax obligations should not be allowed to benefit from immigration schemes which lawfully attract foreign investors. The acquisition of nationality should continue to be based on the traditional grounds of birth (*ius sanguinis* or *ius soli*) or long-term legal residence. Legal residence status which, over time, may evolve into citizenship could, however, continue to be granted in order to allow a person to manage a legitimate business investment in the country concerned.

2. The Assembly considers that citizenship should not be for sale. "Golden Passport" schemes have proven to be dangerous gateways for corruption, organised crime, money laundering, the financing of terrorism, tax evasion and foreign interference in political and social processes. Sale of citizenship also violates the principle of equality before the law and undermines social cohesion by weakening the traditional link between a person's citizenship and the rights and duties attached to it. Finally, such schemes have pushed up housing costs for local populations, who find themselves priced out of the market by rich, often largely absent newcomers.

3. The Assembly points out that granting citizenship or residency status to persons endangering public order and safety in one European Union member State (in particular, one belonging to the Schengen area of free movement without border checks) also places the interests of all other European States at risk. These countries have a common interest in the proper functioning of legal instruments designed to prevent corruption, money laundering and the financing of terrorism.

4. The Assembly recalls the European Convention on Nationality (ETS No. 166) as well as the Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality and its protocols (ETS Nos. 43, 95, 96 and 149) and reminds member States that the award and withdrawal of national citizenship should follow established rules. While a State Party to the European Convention on Nationality shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory, the acquisition of another nationality can lead, *ex lege* or at the initiative of a State Party, to the loss of the original nationality. The acquisition or even accumulation of sham citizenships for undue purposes should thereby be prevented.

5. Aware that beneficiaries of the proceeds from crime logically seek to hide those proceeds from law enforcement by transferring them abroad, the Assembly recalls the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) as well as the work of the Committee of Experts on the Evaluation of Anti-Money

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 4 December 2020 (see [Doc. 15127](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Aleksander Pocij; and [Doc. 15182](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur Mr Pieter Omtzigt).

See also [Recommendation 2191 \(2020\)](#).



Laundering Measures and the Financing of Terrorism (MONEYVAL) and the Financial Action Task Force (FATF). Member States should do their utmost to ensure that investment migration does not become a tool for international money laundering.

6. The Assembly recalls the European Convention on Extradition and its protocols (ETS Nos. 24, 86, 98 and CETS Nos. 209 and 212), the European Convention on Mutual Assistance in Criminal Matters and its protocols (ETS Nos. 30, 99 and 182) as well as the European Convention on the International Validity of Criminal Judgments (ETS No. 70). The Assembly emphasises that member States should not become complicit in crime by harbouring fugitive criminals and awarding them citizenship and residence permits in order to evade law enforcement in another country.

7. The Assembly welcomes the work of the non-governmental organisation (NGO) Tax Justice Network and the Organisation for Economic Co-operation and Development (OECD) standards on transparency and exchange of information for tax purposes and recalls the Convention on Mutual Administrative Assistance in Tax Matters and its protocol (ETS No. 127 and CETS No. 208) as well as the European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters (ETS No. 100). Member States should not attract investment migration by offering an undue tax shelter for assets and revenue generated abroad.

8. Aware of reports by the NGOs Organized Crime and Corruption Reporting Project and Transparency International about so-called “golden visas”, the Assembly recalls the Criminal Law Convention on Corruption (ETS No. 173) and the Civil Law Convention on Corruption (ETS No. 174) as well as the work of the Group of States against Corruption (GRECO). Member States should ensure that immigration is not based on corrupt practices by domestic administrations and that any conflicts of interest are avoided in the process of selecting and advising immigration applicants, vetting them and deciding whether to grant residence status or citizenship. Citizenship, residence permits and tax domiciles must not be awarded as a result of corruption because this would undermine the rule of law and the democratic stability of a State.

9. Conscious that investment migration might be a means of reducing visa requirements for travel, the Assembly welcomes the bilateral treaties between member States or with third States which waive visa requirements for the citizens of those countries. The Assembly invites member States to use the European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe (ETS No. 25) to facilitate travel between signatory States which are outside the Schengen area.

10. During the Covid-19 pandemic, national and regional authorities have banned the entry of foreigners to their territories as well as the use of second homes. Mixed nationality families have been particularly affected by such bans, as some were granted entry while others were not. Therefore, the Assembly emphasises the importance of protecting private and family life under Article 8 of the European Convention on Human Rights (ETS No. 5, the Convention), as well as property under Article 1 of the Protocol to the Convention (ETS No. 9), even during a health emergency.

11. The Assembly calls on member States which still have investment migration schemes to phase them out as soon as possible and, in the meantime, to take all necessary precautions in order to prevent the entry of persons posing a threat to public order, and to ensure the departure of any such persons who have already entered the country under such schemes. Member States should, in particular:

11.1. subject applicants to rigorous due diligence checks, avoiding conflicts of interest and opportunities for bribery; ensure complete transparency of the investment migration process, including by publishing the policy and procedure applied, as well as regular, detailed, nominative information on successful applications; and institute effective, independent oversight mechanisms and robust whistle-blowing mechanisms through which concerns may be reported;

11.2. sign and ratify without further delay the above-mentioned Council of Europe conventions, if they have not yet done so;

11.3. comply with the respective recommendations contained in country reports by GRECO and MONEYVAL as well as the recommendations by the FATF, and inform their national parliament thereof;

11.4. inform relevant member States, when citizenship or a residence permit is awarded to their nationals, with due regard to the protection of personal data; cases of multiple citizenship and residence permits should be known to the countries where these persons hold citizenship;

11.5. ensure that any investment, especially if it comes from abroad and occurs in the context of investment migration, is made with the highest levels of transparency and traceability, including identification of the natural or legal persons on whose behalf or in whose name(s) such investment is made, as well as identification of the origin or source of the investment;

11.6. refrain from awarding citizenship or residence permits to foreign investors, where such investment is effectuated in goods or funds with little or no transparency, such as anonymous funds, beneficial ownership schemes, investments held by trustees or third parties, cryptocurrency funds, art or other movable property; investment in real estate should become more transparent through mandatory public land registers, which allow such real estate to be seized by the competent authorities if the illegality of an investment is established;

11.7. co-operate closely with other member States where it is established that proceeds from crime have been used for investment migration and ensure that any unlawful investment is returned to the legitimate owner or State;

11.8. pursue concerted action with other member States against tax evasion through investment migration, which delocalises assets and revenue from where they have been generated;

11.9. set up domestic rules and procedures for the withdrawal of citizenship, where it has been awarded through corruption or the investment of proceeds from crime, or where it is used as an unlawful shield against law-enforcement action by another member State, unless such withdrawal would lead to statelessness.

12. The Assembly invites the European Parliament and the Council of the European Union to prepare the accession of the European Union to the above-mentioned conventions of the Council of Europe, if the European Union is not yet a signatory.