



GLOBAL IMMIGRATION UPDATE - FEBRUARY 2025

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FEATURE ARTICLE

CLAWBACK CLAUSES: AN OVERVIEW – This article provides an update on clawback clauses in several countries.

COUNTRY UPDATES

EUROPEAN UNION – This article takes a look at the European Union's (EU) stance on citizenship by investment, and temporary protection permits for Ukrainian nationals.

ITALY – This article discusses what constitutes a "business" for visa purposes and what activities are permitted on a business visa. Also, an expiration date has been added to postal receipts for residence permit applications.

UNITED KINGDOM – The Home Office has announced application fee increases and automatic grants of settled status. Also, Skilled Worker sponsor guidance has been updated.

Feature Article

CLAWBACK CLAUSES: AN OVERVIEW

This article provides an update on clawback clauses in several countries.

Australia

Employer-nominated permanent residence (PR) cases

If the employer organization decides to fund any part of the PR process, the employee can be asked to repay an amount, for example, by way of authorized salary deduction or by way of a "costs claw-back clause" in the employment agreement should the employee leave the organization with, for example, two

years (on a pro-rated basis).

Employer-sponsored work permits (subclass 482 Temporary Skill Shortage or Skills In Demand) cases

However, under the 482 work permit regime, sponsors cannot request visa holders/applicants to cover costs associated with a sponsorship or nomination, including associated immigration lawyer costs, the Skilling Australians Fund levy, or costs relating to the recruitment of the person. Also, these costs cannot be clawed back upon termination of the employment agreement.

Italy

Clawback clauses are permitted in Italy, but they are typically included in the employment contract rather than the job offer. These clauses may require the employee to reimburse the company for the costs of a training course if the employee leaves before an agreed-upon date. Once the employment relationship is established, the company can deduct the amount from any payments owed to the employee.

Regarding the possibility of including a clause in which a job offer recipient agrees to reimburse the company for the costs of obtaining a work permit and visa, while theoretically possible, several factors need to be considered: (1) In Italy, government fees for obtaining a work permit and visa are generally only a few hundred euros; (2) enforcing the reimbursement of external legal or consultancy fees would be difficult in practice, as the company cannot deduct these amounts from any payments due until the employment contract is in force, and the company would have no legal means to enforce the refund unless the individual voluntarily agrees to do so; and (3) the clause should clearly outline the conditions under which the individual would be liable, ensuring it is not punitive or unduly burdensome.

United Kingdom

UK Visas and Immigration (UKVI) made some changes to its Skilled Worker sponsor guidance on December 31, 2025. The changes appear to be focused primarily on new sponsor license applications. The more notable changes for existing sponsors related to clawback provisions are:

- Sponsors can no longer claw back from sponsored workers any sponsor license fees or Certificate of Sponsorship (CoS) fees for CoS assigned on or

after December 31, 2024.

- It has always been prohibited to claw back the Immigration Skills Charge from a worker, but for those assigned a CoS on or after December 31, 2025, any clawback agreements with the worker should also not include the CoS fee (which is usually £239).

See *United Kingdom*, below, for additional details.

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Country Updates

EUROPEAN UNION

This article [takes a look](#) at the European Union's (EU) stance on citizenship by investment, and temporary protection permits for Ukrainian nationals.

Citizenship by Investment: Debate in the EU

Obtaining citizenship by investment (CBI) is far from a modern idea. The practice of selling citizenship dates back to antiquity. For example, the Romans used it as a method to generate revenue, and a well-known biblical account highlights this tradition. In Acts 22:22-23:11, a Roman centurion who detained Saint Paul the Apostle stated, "I had to pay a lot of money for my citizenship."

CBI schemes, or "golden passports," have sparked debate in the EU due to concerns over security, money laundering, and tax evasion, among other things. While EU institutions largely oppose these programs, citing, for example, risks to the single market, proponents highlight financial benefits, including €25 billion in foreign direct investment.

The European Commission's Position

The European Commission has consistently opposed CBI schemes, citing risks related to security, money laundering, tax evasion, and corruption. In January 2019, the Commission published a report highlighting these concerns and called for increased transparency and oversight of such programs. In September 2022, the Commission referred Malta to the European Court of Justice (ECJ) over its CBI scheme, arguing that granting EU citizenship in return for predetermined payments or investments "without a genuine link" to the Member State is incompatible with EU principles. The ECJ's final ruling is pending and may have significant implications for the future of CBI programs.

within the EU. (More about this below.)

The European Parliament's Position

In March 2022, the European Parliament issued a resolution proposing that Member States phase out CBI schemes and implement stringent checks on investor residence programs, emphasizing that CBI schemes are objectionable from an ethical, legal, and economic point of view and pose several serious security risks for EU citizens, such as those stemming from money-laundering and corruption.

The EU Council's Position

The Council does not have a favorable position regarding CBI schemes either. For example, in March 2024, the Council agreed to start negotiating on a draft regulation to update the mechanism for suspending visa-free access for third countries under specific circumstances. One such circumstance includes the operation of investor citizenship schemes, where citizenship is granted in exchange for predetermined payments or investments without any genuine link to the country in question.

The ECJ's Position

The ECJ has been involved in assessing the legality of CBI programs within the EU. In October 2024, Advocate General Anthony Michael Collins issued an opinion advising the ECJ to dismiss the European Commission's case against Malta's CBI program. He argued that EU law does not define or require the existence of a "genuine link" for acquiring or retaining nationality, thereby supporting Malta's discretion in determining its citizenship criteria. While the Advocate General's opinion is influential, it is not binding; the ECJ's final ruling is expected in early 2025.

Is the practice of CBI really so bad?

Some authors defend the sale of citizenship, arguing that it is less arbitrary and more transparent than other methods of acquiring citizenship, such as those based on the principles of *jus soli* (right of soil, or birthright citizenship), *jus sanguinis* (right of blood), or discretionary naturalization.

Traditional criteria for granting citizenship are, in fact, arbitrary: *Jus soli* relies on an accident of birth within particular geographical borders, while *jus sanguinis* depends on the sheer luck of descent. Why should those who have citizen

parents or who were born within a State's territory have a stronger moral claim to citizenship than foreigners who are willing to pay or invest? Furthermore, monetary investment could be seen as a way to contribute to the common good of a political community.

As noted above, the sale of citizenship dates back to ancient times. Similar practices continued during feudal times, where the link between money and membership in the polity often served a dual purpose: to exclude certain groups while granting additional rights and privileges to the wealthy.

CBI schemes have raised concerns about certain inherent risks, particularly regarding security, money laundering, tax evasion, and corruption. Many scholars have equated CBI/RBI schemes with a form of commodification of citizenship. Some say that placing a price tag on citizenship, regardless of the amount, has a corrosive effect on non-market relationships, eroding the bonds that connect us and reshaping our understanding of what it means to belong to a political community.

At minimum, each EU Member State and its competent authorities should exercise due diligence in carrying out robust background checks and ensuring compliance with the highest standards.

Temporary Protection Permits for Ukrainian Nationals

Decree-Law No. 202 of December 27, 2024, extends residence permits for temporary protection granted to Ukrainian refugees under Implementing Decision (EU) 2024/1836 until March 4, 2026. Holders of residence permits issued under the temporary protection regulation may apply for renewal by submitting a request to the competent authorities. However, such permits may be revoked before their expiration if temporary protection is terminated, as stipulated by the EU.

The decree also confirms the possibility of converting these permits into work residence permits, based on the activities carried out.

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ITALY

This article discusses what constitutes a "business" for visa purposes and what activities are permitted on a business visa. Also, an expiration date has been added to postal receipts for residence permit applications.

Which activities can you do if you enter Italy with a business visa?

Business (*affari*) is defined by Decree 850/2011 as:

- Making contacts;
- Conducting economic or commercial negotiations;
- Learning about or verifying the functioning of machinery purchased or sold under commercial or industrial cooperation agreements with an Italian company or for relevant professional refresher training;
- Visiting an Italian company's facilities; or
- Participating in exhibitions and trade fairs in Italy.

A definition of what can be considered "business" is in the EU Directive 2021/1883 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment. "Business activity" means a temporary activity directly related to the business interests of the employer, including attending internal or external business meetings, attending conferences or seminars, negotiating business deals, undertaking sales or marketing activities, exploring business opportunities, or attending and receiving training.

Expiration Date Added to Postal Receipts for Residence Permit Applications

The immigration authorities have introduced updates to the residence permit application process, effective November 11, 2024. These updates apply to applications submitted through *Poste Italiane* counters and aim to reduce errors and improve document management by postal staff.

One key change is the addition of an expiration date (*data di scadenza*) on the postal receipt for the residence permit application (Form 22AO). The expiration date is calculated automatically and set to a maximum of nine months from the date the application is accepted. As a result, postal receipts now have a validity of nine months. The new postal receipt model is being introduced gradually, however. Not all post offices throughout Italy currently issue receipts with an expiration date.

This is expected to encourage Immigration Police Offices to adhere to the legal timeline of 60 days for issuing residence permits—although this timeline is rarely met, with appointments for fingerprints issued in some cases after one year or more from the time of application. If the deadline is not respected, an

applicant may face challenges when traveling or proving legal status in the country while the application is still pending.

There is no clear guidance on what actions applicants should take if the receipt expires before the residence permit is issued. According to the circular letter announcing the change, applicants with receipts close to expiration may need to request a new appointment at the Immigration Police Office. Unfortunately, securing appointments can be difficult, as authorities are often unresponsive.

Another possible solution could involve submitting a new application at the post office to obtain a fresh postal receipt. However, this could create confusion and an unnecessary administrative burden, as a new application would generate a different case number for the same user and the same request, potentially complicating the processing of the residence permit.

UNITED KINGDOM

The Home Office has announced application fee increases and automatic grants of settled status. Also, Skilled Worker sponsor guidance has been updated.

Application Fee Increases

On January 16, 2025, the Home Office [announced](#) that certain application fees will increase. It is not yet clear when the fee increases will occur. Practitioners recommend submitting applications as soon as possible to avoid the increases.

The main fee increases will include:

- **Certificate of Sponsorship (CoS) fees.** CoS fees must be paid when sponsoring a Skilled Worker or a Senior/Specialist Worker (ICT). The CoS fee is increasing from **£239 to £525**.
- **Naturalization as a British citizen.** Generally, once someone has held indefinite leave to remain for 12 months, they may be eligible to naturalize as a British citizen. The naturalization fee is increasing from **£1,500 to £1,605**.
- **Electronic Travel Authorisation (ETA).** The [ETA](#) is the United Kingdom's (UK's) equivalent of the US ESTA scheme. It means that people visiting the UK visa-free need to apply for authorization before traveling. The ETA fee is increasing from **£10 to £16**.

Automatic Grants of Settled Status

The Home Office also made an unrelated [announcement](#) in relation to the European Union (EU) Settlement Scheme.

EU/European Economic Area/Swiss nationals in the UK before the end of 2020 could apply for the EU Settlement Scheme to be granted permission to stay post-Brexit. If they have been in the UK for less than five years, pre-settled status is granted, and if they have been in the UK for five years or more, settled status is granted. Pre-settled status holders approaching the end of their permission who have not applied for settled status have been granted automatic extensions for five years (previously two years).

The announcement confirms that some eligible people with pre-settled status will now automatically be granted settled status without needing to apply for it. The [updated Home Office guidance](#) confirms that settled status will be granted automatically in cases where the person has a UK national insurance number and HM Revenue and Customs, and Department for Work and Pensions, records show the person has been in the UK for at least five years.

Changes to Skilled Worker Sponsor Guidance

As noted above in the feature article on clawback provisions, UK Visas and Immigration (UKVI) made some changes to its Skilled Worker sponsor guidance on December 31, 2025. The changes appear to be focused primarily on new sponsor license applications. The more notable changes for existing sponsors are:

- Sponsors can no longer claw back from sponsored workers any sponsor license fees or Certificate of Sponsorship (CoS) fees for CoS assigned on or after December 31, 2024.
- It has always been prohibited to claw back the Immigration Skills Charge from a worker, but for those assigned a CoS on or after December 31, 2025, any clawback agreements with the worker should also not include the CoS fee (which is usually £239).
- Sponsors cannot sponsor workers to work for someone in a personal capacity, for example, when a company might sponsor the nanny of a worker—UKVI's guidance states that this is not allowed.

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