

The New Practice (TNP)

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Citizenship By Investment: A Progressive Step?

resided in Nigeria for a continuous period of at least fifteen (15) years, or an aggregate of fifteen (15) years in the last twenty (20) years preceding their application.⁴

As such, for CBI to be validly and legally implemented in Nigeria the Constitution must be amended to include the same.

Proposed Constitutional Amendments to Implement CBI

The Bill proposes to alter Chapter 3 of the Constitution which provides for Citizenship by the inclusion of a new Section 28A aimed to provide for the acquisition of Nigerian citizenship by qualified foreign investors.

The Bill also proposes that a foreigner seeking citizenship under the new Section 28A shall submit an application to the appropriate ministry, accompanied by evidence of investment in the Nigerian economy.

It also goes on to propose that the investment referred to under the section must exceed a specified financial threshold or be in specific strategic sectors deemed critical to the development of Nigeria, and as determined by the ministry responsible for granting citizenship in Nigeria.

Challenges and Key Considerations

While CBI programmes globally offer significant economic benefits, at the same time they also come with challenges that must be carefully managed. Issues such as security risks, economic dependence, and governance concerns have sparked debate over the long-term sustainability of these initiatives. We have identified some of the challenges and loopholes in the Bill below:

Globally, governments are deliberate in implementing policies to achieve specific objectives. In Nigeria, the House of Representatives, a legislative arm of government, recently introduced a Bill for an Act to alter the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (the "Constitution") to include Citizenship by Investment ("CBI"), as one of the classes of citizenship in Nigeria (the "Bill").

In recent weeks, conversations in the legal space have focused on the Bill which was introduced by the Deputy Speaker of the House of Representatives seeking to expand the channels for acquiring Nigerian citizenship to include CBI.

This article explores the socio-economic impact of including CBI as a way to acquire Nigerian citizenship, and the requirement for a constitutional amendment.

Citizenship in Nigeria – the current framework

CBI is not a new trend and definitely not peculiar to Nigeria, countries like Canada, Austria, the United States of America, Turkey, the United Kingdom, and in Africa - Mauritius all provide for CBI as a channel to becoming a citizen.

Presently, the Nigerian Constitution recognizes three (3) ways to citizenship:

- Citizenship by Birth¹**, which applies to every person:
 - born in Nigeria before or after the date of independence², either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria or is a citizen of Nigeria; and
 - born outside Nigeria but having a parent who is a citizen of Nigeria.
- Citizenship by Registration**, this is applicable to women who are, or have been married to a Nigerian citizen, and people of full age and capacity born outside Nigeria, but whose grandparents were citizens of Nigeria. This is not automatically applicable and is only granted at the satisfaction of the President to a person who is of good character, who has shown clear intention to be domiciled in Nigeria and has taken the Oath of Allegiance prescribed in the Constitution.³
- Citizenship by Naturalisation**, is for foreigners who have, among other requirements, legally

fit and proper persons. However, the Bill as drafted appears to suggest the only requirement to meet is the investment (unspecified threshold) into a strategic sector (unspecified). If the Bill remains in its current form, we need to ask ourselves whether Nigerian citizenship is now for sale – purely a commodity in a business transaction, and whether without any due diligence, national security now takes the back seat when compared to "revenue generation and economic stimulation".

As the Bill gains traction (it has passed its Second Reading at the House of Representatives), it is essential for the National Assembly to collaborate with the relevant Ministry responsible for citizenship – the Ministry of the Interior – and relevant stakeholders to ensure that:

- the Bill does not create a loophole where national security is concerned (as this is the government's primary responsibility);
- the Bill is evaluated to ensure that the same is cohesive with all current relevant laws and sections of the Constitution; and
- the right procedure for its introduction is adopted. This should involve a constitutional amendment, as earlier stated. By virtue of section 9(2) of the Constitution, this category of amendment must be approved by at least two-thirds (2/3) majority of members of both Houses of the National Assembly (the Senate and the

House of Representatives), and then supported by a resolution of two-thirds of the Houses of Assembly of each state, before being presented to the President for the final presidential assent.

Recommendations

To maintain credibility and effectiveness, Nigeria must implement strong vetting procedures.

The Nigerian Constitution is a jealous wife – it does not permit dual citizenship, except for persons who are citizens by birth. So, any person holding a Nigerian passport (not being a Nigerian citizen by birth), who acquires the citizenship of another country, automatically forfeits their Nigerian citizenship. Indeed, a citizen of another country (again, not being a citizen of such country by birth), who becomes naturalised or is registered as a citizen of Nigeria, is required to renounce their citizenship of such other country within twelve (12) months of the grant of citizenship, failing which their Nigerian citizenship is automatically forfeited.

The sponsors of the Bill will need to critically consider this option and confirm whether their intention is for foreign investors who apply for Nigerian citizenship by investment, can do so, whilst holding multiple citizenships. Where this is not the case, Section 28(2) of the Constitution may need to be amended. Whatever the intention is, it is critical to consider the viability of the proposed channel vis-à-vis Nigeria's existing constitutional and policy framework.

Conclusion

We recognize that CBI if properly implemented, will present a promising opportunity to attract foreign capital, create jobs, and fund critical development projects and sectors that could result in immediate economic growth. However, transparent and accountable systems must be put in place prior to formal enactment to ensure effective implementation. It will also need to be introduced in a proper manner, bearing in mind all relevant provisions of extant laws and the Constitution.

A well-executed citizenship by investment framework has the potential to complement Nigeria's efforts in diversifying its portfolio and economy. It can also unlock new job opportunities, fund infrastructure development and other opportunities that will elevate Nigeria's reputation as a top investment hub globally.

While the introduction of CBI may be a step in the right direction, our call is for the right procedure to be followed, and all relevant matters including national security be well considered.

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¹ Section 25
² 1960
³ Section 26
⁴ Section 27

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