

E-residency—how does it work?

23/05/2017

Immigration analysis: Around 1,000 British citizens have applied to be e-residents of Estonia since 2015. Merit Lind, attorney-at-law and head of law firm Deloitte Legal Estonia, explains how e-residency works and clarifies the legal aspects involved.

What is e-residency and how does it work?

E-residency is an Estonian government-issued digital identity, which anyone in the world can obtain. It is a digital identity, which gives its owner access to the online services provided by the Estonian Government as well as the private sector alongside the possibility to conclude transactions fast and conveniently by using legally binding digital signatures. A trust services provider ensures the identification, authentication and verification of the e-resident and its signatures on documents.

The main concept of **e-residency** is giving any person in the world the possibility to apply for a secure digital residency in Estonia without actually living there.

One can apply for **e-residency** online by filling in a form, adding a scan of a national passport and a photograph, and describing a reason for applying. The reasoning behind the application does not have a significant impact on whether **e-residency** will be issued or not. One also needs to pay a state fee of EUR 100 upon applying for **e-residency**. If granted, an e-resident smart ID card will be issued, which can be picked up at the nearest chosen Estonian embassy. After picking up the e-resident smart ID card the person is ready to use it to benefit from any of the required Estonian e-government or private sector online services.

What rights does it entail? Are there any immigration law benefits in being an e-resident?

E-residency will effectively give people the opportunity to be part of Estonia, and for third-country residents an opportunity to be part of the EU, without actually living here. This is a significant development for entrepreneurs. For example, post-Brexit, by using Estonian **e-residency**, start-ups and other undertakings originating from the UK could consider creating a secondary establishment and thus set up as well as operate their businesses in Estonia to retain their operations in the EU internal market. Also, people from non-EU Member States can also establish and operate their businesses in the EU by using the Estonian **e-residency** card to set up their company in Estonia. Estonian **e-residency** as a tool effectively works as a gateway to the European Union for third-country residents.

The **e-residency** Dashboard reveals that the Finnish people have been the most active in applying for an Estonian **e-residency** amounting to 2,896 applicants, which makes up 15,33% of the total Estonian e-residents. However, people from Russia (7.63%), the US (5.89%) and Ukraine (5.76%) follow closely. The UK is on the fifth place in terms of where the applicants' come from with 999 UK originated applicants amounting to 5.29% of the total Estonian e-residents (data collected 19 April 2017).

With regard to immigration law, **e-residency** is neutral. It does not change the e-residents' actual residency, citizenship or right of entry to Estonia or the European Union. It is not a visa or residence permit. However, to facilitate the **e-residency** programme, a few changes were introduced to Estonian immigration law at the beginning of 2017. The aim of the amendments was to facilitate and simplify the temporary stay, residence and employment of talented and entrepreneurial people in Estonia. From the **e-residency** perspective, a few important amendments were the relieving of immigration rules for start-up entrepreneurs coming to Estonia and Estonian start-ups recruiting foreign labour as well as for large investors.

Does it apply to legal or natural persons (or both)?

E-residency applies only to natural persons, however, in most cases **e-residency** is being applied for with the intention of setting up a company in Estonia. Nearly 1,500 new businesses have been established by e-residents and almost 3,000 companies are owned by e-residents.

Does it entail any EU passporting rights?

To be clear, **e-residency** does not grant nor change its owner's citizenship, tax residency, residence or right of entry to Estonia or to the European Union. Therefore, it does not entail any EU passporting rights. However, setting up a company in Estonia online by an e-resident will grant this person access to the EU internal market.

How does it function in practice?

E-residency allows people to establish and run a company online, have access to payment service providers, digitally sign documents (eg annual reports, contracts) within the company as well as with external partners, declare taxes online and much more (as indicated above). Several of the available digital services offered to e-residents have been listed on the e-Estonia website. It is important to understand the background and impact of each of these. For example, investing through crowd-lending platforms is easier after obtaining **e-residency** because digital signature capability guarantees conclusion of legally binding agreements online, regardless of the parties' location. Also, to declare the taxes of an Estonian company managed by an e-resident, one can take care of all the formalities online using Estonian e-government services.

What are the terms and conditions of digital residency?

In order to be a suitable applicant a person must be at least 18 years old and not have been convicted of a criminal offence. For example, a person will be denied **e-residency**, if they have been involved in money laundering. The applicant should also have a reasonable interest in using public e-services in Estonia. An applicant for the **e-residency**, who comes in the form of an e-resident's digital identity card, cannot be a foreigner who is staying in Estonia on the basis of the International Military Co-operation Act or a person that is holding or applying for an Estonian identity card or residence permit card issued by the Estonian Police and Border Guard Board. One face-to-face meeting is required to collect the card from one of the chosen Estonian embassies and consulates or the Estonian Police and Border Guard Board service points.

Interviewed by Alex Heshmaty.

This article was first published on Lexis®PSL Immigration on 23 May 2017. Click for a free trial of [Lexis®PSL](#).

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