



A HOME FROM HOME



RUTH ANNUS AND TURGAY KULELI HIGHLIGHT THE
ADVANTAGES OF THE ESTONIAN E-RESIDENCY PROGRAMME



➤➤ KEY POINTS

WHAT IS THE ISSUE?

Carrying out economic transactions in cyberspace is becoming more popular. People want to do more business in less time, or in more than one place simultaneously.

WHAT DOES IT MEAN FOR ME?

Digital technology offers an easy and efficient way to do business remotely. Estonia has initiated a programme known as 'e-residency' to meet this need. Anyone from any country can apply online for e-residency.

WHAT CAN I TAKE AWAY?

The scope of e-residency and its applications.

ESTONIA IS THE first country to offer non-citizens a digital identity conferring the power to perform legally valid transactions. This innovative virtual-residency programme for non-resident non-citizens is part of Estonia's pioneering e-government initiative, under which citizens can carry out most interactions with the state electronically.

The 'e-residency' programme was launched in 2014. An e-resident's digital identity grants access to certain electronic services that Estonian citizens already enjoy. Using their digital identities, e-residents can sign documents, establish and manage companies, conduct online banking transactions, etc.

The programme quickly attracted global attention. By the end of 2016, the number of e-residents exceeded 15,000, and the Estonian government forecasts that there will be ten million by 2025.¹ Estonia has a population of 1.3 million, so it is clear how much importance the country places on creating a digital society.

PURPOSE OF THE PROGRAMME

Estonia aims to create a unique digital society without physical borders, primarily hoping to attract entrepreneurs, investors and business people. A large 'digital society' could increase Estonia's political and economic weight. Companies built in the country by foreign entrepreneurs and investors will attract additional capital and customers to the country, thus resulting in an expansion of its trade volume.²

LEGAL BASIS OF E-RESIDENCY

An e-resident is a foreign person for whom Estonia has created a digital identity based on the identity issued by the e-resident's country of citizenship, verified by the foreign passport and tied to the person's biometric data.³ E-residency is not a digital reflection of actual citizenship: it does not change or expand the meaning of citizenship or residence. Accordingly, it does not grant to non-Estonians the usual rights of citizenship, such as the rights of entry to or residence in Estonia. The smart identity card cannot be used for physical identification like a regular identity card or travel document. An e-resident's legal status remains essentially the same as that of any other foreigner.⁴

However, e-residency provides some access to the digital services that normal Estonian citizens are entitled to use. E-residency is a type of transnational digital identity issued by a national government, and it gives e-residents the power to perform legally valid transactions.

SERVICES AVAILABLE TO E-RESIDENTS

Estonian citizens and residents can perform almost every public- and private-sector transaction online. The e-residency system allows e-residents (as non-residents) access to all electronic privileges, except those reserved for Estonian citizens, such as voting or, for physical residents, welfare benefits. The smart card serves as a key to online services. ➤➤



FOCUS ON
EUROPE
ESTONIA: E-RESIDENCY

SIGNING AND AUTHENTICATING DOCUMENTS DIGITALLY

A signature is a unique, personal declaration of the signatory's intent. Today, the traditional written signature has been supplemented with the digital signature. This is the most important component of e-residency, and has the same weight under Estonian and EU law as a signature on paper.

Estonia uses DigiDoc, a digital signature system. E-residents can log onto the system with their identity cards or mobile applications, digitally sign documents and send them to others.⁵ A document requiring multiple signatures can also be uploaded to a secure environment and signed at the convenience of the signatories, with no need for circulation. Users can also store signed documents and verify the authenticity of documents signed by others.

The Estonian digital signature is compatible with EU regulations. Thus, digitally signed documents are legally valid and binding in all EU countries, and in any other country where the electronic authentication system is in use.⁶ For example, an e-resident can make a contract with a German company, and make or receive payments entirely online. People from outside the EU can create a base for their business in the EU by establishing a company in Estonia, performing transactions in the EU while residing elsewhere.⁷

Today, digital signatures are widely used in Europe. What makes Estonia different is the variety of electronic services available through its e-governance system. The Estonian digital signature can be used for essential legal transactions, such as the establishment and administration of a company, paying taxes, and filing a case in Estonian courts.

ENCRYPTION AND SECURE TRANSMISSION OF DOCUMENTS

Contracts are bilateral legal transactions requiring the signatures of both parties. Traditionally, either the parties to a contract would conclude it in person, or

one party would send the document to the other after signing it, a time-consuming process. Instead, Estonia's digital signature system allows users to exchange signed and encrypted documents securely in seconds, and physical proximity is not needed to create a contract.

ESTABLISHING AND ADMINISTERING A COMPANY

Estonian companies can be established and administered entirely online. A physical address in Estonia is required to establish a company, but one can be obtained from an Estonian virtual-office service provider. Owners do not have to be physically located in Estonia to administer a company, nor need they appoint any real person in Estonia to perform managerial tasks. Annual reports and tax returns can be submitted using online accounting software.

ONLINE BANKING

E-residents with a bank account in Estonia enjoy the same range of e-banking services as citizens. However, e-residency does not guarantee the right to open a domestic bank account, as opening a bank account requires a contract between the client and the bank, and is thus at the bank's discretion. The client must be identified either in person or remotely. Remote identification may be used if the bank conducts a real-time, recorded interview with the person and verifies their information using the Estonian identity document database. In addition, the would-be client must use their Estonian digital identity document and the identity document issued by the competent authority of their country of citizenship in order to prove their identity.

When identifying a person remotely, a bank must take enhanced due-diligence measures. As banks are permitted, but not obligated, to use remote identification, e-residents may be asked to have a personal meeting with a bank officer. E-residents are thus strongly advised to consult their business service providers before embarking on the process.

OTHER SERVICES

E-residents enjoy many other services related to Estonia's e-governance system, known as X-Road,⁸ and they have access to alternative online payment services. Estonia's e-court service is another feature. Judicial proceedings arising from international business relationships are often time-consuming and costly. Under Estonian law, however, parties can file and prosecute legal cases entirely online. E-residents may also take advantage of this privilege, regardless of whether the parties to the case are Estonian citizens or not.

CONCLUSION

When Estonia notifies the European Commission of the digital identity card as a national electronic identification scheme, all EU Member States will have to recognise an e-resident's digital identity card, accept digital signatures given by e-residents equal to the handwritten ones, and grant access to their national e-services.

1 Taavi Kotka, '10 million "e-Estonians" by 2025!', taavikotka.wordpress.com

2 *Ibid*

3 Ruth Annus, 'E-residentsus', *Juridica*, Issue X (2014), pp742-743; Sandra Särav, 'E-residency: a Cyberdream Embodied in a Digital Identity Card?' in Tanel Kerikmäe and Addi Rull (eds), *The Future of Law and eTechnologies*, Springer International Publishing (2016), p60

4 Annus, p742

5 The mobile application allows a person to use a mobile phone for digital identification and digital signatures, with the advantage that no card reader is required. It requires a special SIM card, and has been in use since 2011. See Annus, p741

6 Annus, p741

7 Taavi Kotka, Janek Rozov and Liivi Karpistšenko, 'E-Residency in e-Estonia', in José Borbinha, Zoltán Szatucsek and Seamus Ross (eds), *Proceedings of the DLM Forum - 7th Triennial Conference*, Biblioteca Nacional de Portugal (2014), p1

8 *Id*, pp1-3

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