



# Investment Migration Policy Briefs

## ‘Making Estonia Bigger’: What E-Residency in E-Estonia Can Do for You, What It Can Do for Estonia

Vadim Poleshchuk

IMC-PB 2016/1

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# Investment Migration Policy Briefs

## IMC-PB 2016/1

### **‘Making Estonia Bigger’: What E-Residency in E-Estonia Can Do for You, What It Can Do for Estonia**

Vadim Poleshchuk\*

**ABSTRACT** Estonia became the first country in the world to offer non-residents a transnational digital identity (e-resident’s digital identity card) that seeks to promote and develop the Estonian economy, science, education and culture. Principle benefits associated with e-residency are secure electronic authentication and access to e-services by public or private providers. Considering the importance of direct foreign investments in Estonian economy, national authorities singled out services related to online establishment and distant administration of businesses. e-residency reflects a major trend of convergence of legal regulation and practice related to ‘virtual’ and ‘real’ formats of everyday human activities.

**KEYWORDS:** Authentication, e-residency, digital identity card, electronic/digital signature, e-services, Estonia

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\* Vadim Poleshchuk is a lawyer at the European Parliament. The content of this policy brief does not reflect the official opinion of the European Union or the European Parliament. Responsibility for the information and views expressed in the piece lies entirely with the author.

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## 1. Introduction

Estonia has become the first country to offer non-residents a transnational digital identity. The Identity Documents Act (Bill No 699) was amended to this end on 21 October 2014 and the amendments entered into force on 1 December 2014.<sup>1</sup> E-residents receive smart ID cards which provide them with: a) digital identification and authentication for secure services; b) digital signing of documents; c) digital verification of document authenticity; and d) document encryption.

On 8 December 2014 Prime Minister Taavi Rõivas granted the first group of e-residents their digital identity cards (digi-IDs) at a ceremony in the United States. The Prime Minister stated that e-residency is ‘the start-up of the Estonian Government – together we will make Estonia bigger’.<sup>2</sup> According to the Explanatory Note attached to Bill No 699 (hereinafter the Explanatory Note), Estonia aimed to receive 5,000 successful e-residency applications by 2020.<sup>3</sup> By early July 2015 the total number of applications reached 3,816. The authorities revised their forecasts in 2015 and now expect about 40,000 e-residents over a three year period or 60,000, provided that additional investments are secured.<sup>4</sup> One of the objectives of the Estonian authorities is to boost economic development, as e-residency permits the establishment of a company online within a day and administering it over the internet from anywhere in the world. According to official estimates, 30,000 e-residents will bring about

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<sup>1</sup> Identity Documents Act and State Fee Act Amendment Act (*Isikut tõendavate dokumentide seaduse ja riigilõivuseaduse muutmise seadus*), RT I, 29.10.2014, 1.

<sup>2</sup> Estonia, Government of the Republic, Press release of 9 December 2014 <<http://valitsus.ee>> last accessed 26 May 2016. All internet links accessed 30 September 2015.

<sup>3</sup> *Explanatory Note to the Draft of the Identity Documents Act and State Fee Act Amendment Act*, 3 <[www.riigikogu.ee](http://www.riigikogu.ee)> last accessed 26 May 2016.

<sup>4</sup> Estonia, Ministry of Economic Affairs and Communications, Press release of 23 July 2015 <<http://www.mkm.ee>> (in Estonian) last accessed 26 May 2016.

EUR 60 million to the Estonian economy.<sup>5</sup> By May 2016 the total number of e-residents has reached 10,122 (website e-estonia.com). The project also has an important PR component. Rein Lang MP, who was responsible for the bill in Parliament, argued before the final vote that these changes ‘are epoch-making and they could draw international attention and move the Estonian agenda forward’.<sup>6</sup> In a rather polarised Estonian parliament, all parties supported the bill.<sup>7</sup>

This policy summary briefly analyses the background for the introduction(1) and legal status of e-residency in Estonia(2) and provides examples of the practical use of e-residents’ digital identity cards(3), followed by concluding remarks (4).

## **2. How the e-residency bill came about? The background**

According to the Digital Agenda for Estonia 2020, the fundamental pillars of development of Estonian information society are the public sector’s active role in the uptake and procurement of innovative solutions, and shaping the overall conditions for development, investment in new technologies by the banking and telecommunications sectors and, public readiness to use new ICT solutions.<sup>8</sup>

The internet is accessible nearly everywhere in Estonia. In 2013, fixed or wireless broadband connections were enjoyed by 68.8percent of all households, mobile connections by 27.0percent, other broadband connections by 53.7 percent, and dial-up or ISDN links by 3.6percent.<sup>9</sup> Estonia is pioneering in the uptake of electronic identity and the use of e-voting. Article 20-5(2) of the amended Identity Documents Act<sup>10</sup> provides that:

[t]he objective of the issuance of an e-resident’s digital identity card is to promote the development of the Estonian economy, science, education or culture by providing access to e-services with the Estonian digital document.

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<sup>5</sup> Ibid.

<sup>6</sup> Estonia, the Parliament, Minutes of the Plenary Session of 21 October 2014 <[www.riigikogu.ee](http://www.riigikogu.ee)> last accessed 26 May 2016.

<sup>7</sup> Ibid.

<sup>8</sup> Estonia, Ministry of Economic Affairs and Communications, *Digital Agenda 2020 for Estonia*, [7] <<http://www.mkm.ee>> last accessed 26 May 2016.

<sup>9</sup> Estonia, Statistics Estonia, Public Database, *Table IC21: Households Having Internet Connection at Home* <[pub.stat.ee](http://pub.stat.ee)> last accessed 26 May 2016.

<sup>10</sup> Identity Documents Act (*Isikut tõendavate dokumentide seadus*), RT I 1999, 25, 365.



Estonia is a relatively small country with a population of 1.3 million (0.26percent of the total EU population) with an economy which amounts to 0.14 percent of the total EU economy.<sup>11</sup> The Estonian economy is rather dependent on foreign investment. In 2014 Estonian GDP at current prices was EUR 19,525.3 million;<sup>12</sup> by the end of 2014 the total amount of foreign direct investment was EUR 16,204.4 million:<sup>13</sup> i.e. 83percent of the country's GDP. While Estonia does not have a reputation as a tax haven, reinvested profit (dividends paid to resident legal persons) is not subject to income tax (Income Tax Act,<sup>14</sup> Article 50).

In May 2015 Estonia launched its e-residency application portal: e-resident.gov.ee. The online application is quite simple. After paying a fee and completing a background check, e-residents can collect their digi-IDs at an Estonian embassy or consulate, or at a Police and Border Guard Board service point in Estonia. The entire application process was expected to take an average of just one month.<sup>15</sup> In practice, it took longer than expected due to high numbers of applications.

The fee for an application for an e-resident's digital identity card submitted in Estonia or electronically is EUR 50 and EUR 80 if submitted at one of Estonia's foreign representations (Article 272(6) State Fee Act 2014).<sup>16</sup> This fee can be considered relatively moderate.<sup>17</sup>

### **3. The legal status of e-residency in Estonia**

Estonia was first to introduce the concept of 'an e-resident' and therefore enjoys the freedom to define its content. According to the Ministry of Economic Affairs and Communications, 'e-residency is a step towards fulfilling Estonia's aspirations to pioneer the first borderless e-society, and is the first government-backed digital identity in the world'.<sup>18</sup> Prime Minister

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<sup>11</sup> Estonia, Government of the Republic, Press release of 9 June 2015 <<http://valitsus.ee>> last accessed 26 May 2016.

<sup>12</sup> Estonia, Statistics Estonia, *Main Indicators* <<http://www.stat.ee/main-indicators>> last accessed 26 May 2016.

<sup>13</sup> Estonia, Bank of Estonia, Public Database, *Direct Investment Position in Estonia and Abroad* <<http://statistika.eestipank.ee>> last accessed 26 May 2016.

<sup>14</sup> Income Tax Act (*Tulumaksuseadus*), RT I 1999, 101, 903.

<sup>15</sup> Estonia, Ministry of Economic Affairs and Communications, Press release of 13 May 2015 <<http://www.mkm.ee>> last accessed 26 May 2016.

<sup>16</sup> State Fee Act (*Riigilõivuseadus*), RT I, 30.12.2014, 1.

<sup>17</sup> Compare: state fees for issuance of ID card of the Estonian citizen aged 15 and older are equal to EUR 25 and EUR 50 respectively. State Fee Act, Article 272(1).

<sup>18</sup> Estonia, Ministry of Economic Affairs and Communications, Press release of 13 May 2015 <<http://www.mkm.ee>> last accessed 26 May 2016.

Rõivas used the term ‘e-Estonians’ when speaking to potential e-residents in the United States.<sup>19</sup> Policymakers decided to avoid using exclusive terminology, such as ‘a non-resident’, and opted for the inclusive term ‘e-resident’: the Explanatory Note described e-residents as ‘persons residing in the e-state’, the ‘permanent virtual inhabitant of the e-state’.<sup>20</sup>

Thus, rhetorically, e-residency in Estonia is defined as membership in a virtual polity which includes but exceeds the polity of Estonian nationals and resident aliens. Quite unexpectedly, however, there is no direct connection between the e-resident’s status with the status of any ordinary resident. E-residency as such does not grant a right to visit or to reside in Estonia (which normally requires visa, resident permit or right of residence).

From a legal perspective, e-residency is endorsed by the release of a digital document enabling digital identification and digital signing. Digi-IDs are issued in accordance with the Identity Documents Act (IDA) and relevant secondary legislation. Similar digital documents which prove digital identity have previously been and are still issued to Estonian nationals and resident aliens (Article 20-1 IDA). However, there are significant differences between these categories in terms of procedure. The Explanatory Note explains that access to e-residency is a benefit (*hüve*), not an individual right.<sup>21</sup>

Estonia has deliberately decided to apply the same principles to e-residence requests as to visa proceedings.<sup>22</sup> The burden of proof rests with the applicant (Article 20-7(1) IDA). There is no right of access for the applicant to the relevant documents or files during the process (Article 20-7(3) IDA). The circumstances or evidence on which a challenged decision to refuse to issue, suspend the validity of or revoke an e-resident’s digital identity card will not be stated on appeal (Article 20-7(5) IDA). The Explanatory Note argues that this is done to protect public order and national security, which could be compromised if this information is forwarded to aliens.<sup>23</sup> The process to obtain an e-resident’s digital identity card is generally different from the rules normally applied in Estonian administrative proceedings.<sup>24</sup>

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<sup>19</sup> Estonia, Government of the Republic, Press release of 9 December 2014 <<http://valitsus.ee>> last accessed 26 May 2016.

<sup>20</sup> *Explanatory Note*, 12.

<sup>21</sup> *Explanatory Note*, 3

<sup>22</sup> *Explanatory Note*, 4.

<sup>23</sup> *Explanatory Note*, 9.

<sup>24</sup> For instance, in ordinary administrative proceedings everyone has the right to examine relevant documents and files, if such exist; and any negative decision must be reasoned on a challenge. Articles 37(1), 86(2), Administrative Procedure Act (*Haldusmenetluse seadus*), RT I 2001, 58, 354.

The Identity Documents Act (Article 20-8) authorises the Police and Border Guard Board, the Estonian Security Police (special service) and the Estonian Tax and Customs Board to exercise state supervision over the use of any e-resident's digital identity card.<sup>25</sup> Any other administrative body or service provider is required to forward to the Police and Border Guard Board any information obtained capable of leading to the revocation or suspension of the validity of the e-resident's digital identity card. The identification of the person and verification of identity of the e-resident (Article 20-9, IDA) is regulated by relevant provisions of the Aliens Act,<sup>26</sup> including Article 270(1) which permits processing of a foreigner's personal data, including private and sensitive personal data, without his or her consent and without separately notifying him or her.

It is a positive sign that the criteria for e-residency are worded in general and inclusive terms: a digi-ID may be issued to any person who 'has a relationship with the Estonian state or legitimate interest in the use of the e-services of the Estonian state' (Article 20-6(1) IDA). An absolute ban for the acquisition of digi-IDs only applies to people who pose a threat to public order or national security; where such ID is applied for on the basis of an economic activity which is or may be prohibited; or the applicant is not clearly identified or there is a reason to doubt the true identity thereof (Article 20-6(2) IDA). The issuance of an e-resident's digital identity card can be refused in that authorities may exercise their discretion where there is a basis for refusal to issue a visa or temporary residence permit or where the rules for refusal of entry to Estonia apply. Also, the document can be denied if its issuance does not comply with the objectives of the e-resident's digital identity card (Article 20-6(3) IDA). Logically, e-resident's digital identity cards may also be revoked under the same conditions (Article 20-6(4) IDA).

It would appear, however, that the Estonian judiciary could decide to limit the discretion of the authorities. E-residents are private persons or business persons who enter into 'effective' social

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<sup>25</sup> A digital identity card is 'an important identity document' for the purposes of Division 2 of Chapter 19 of the Penal Code (Article 350). That means that crimes related to digi-IDs are punishable according to Article 347 (falsification of important ID), Article 348 (obtaining, use or grant of permission to use a falsified important identity document) and Article 349 (fraudulent use of important ID) of the Penal Code. In practice, there may be a few problems with the territorial scope of the penal law of Estonia insofar as it applies to acts committed within the territory of Estonia (Article 6(1) of the Penal Code) and exceptions to these rules (Articles 6(2) and 7) are hardly relevant in the context of digi-IDs. Nevertheless, the physical infrastructure which enables the use of these documents as well as the 'territorial points' of provision of e-services are mostly anchored in Estonia and therefore to the territorial scope of the Estonian penal law.

<sup>26</sup> Aliens Act (*Välismaalaste seadus*), RT I 2010, 3, 4.

relations in the Estonian territory. They establish relations with the Estonian state and thereby obtain Estonian personal codes and special IDs. The digital ID is also impossible without certain infrastructure, which is ‘physically’ located in Estonia. In the medium term, ‘effective’ social relations could accord e-residents with some of the characteristics of ordinary residents, who under Article 26 of the Estonian Constitution enjoy protection of the inviolability of their private and family lives. In other words, under certain circumstances e-residency could gradually become a ‘right’ rather than a ‘benefit’ and it could even form the basis of a claim to be permitted to reside and remain in Estonia.<sup>27</sup>

Some observers have even greater expectations. Costica Dumbrava argues that the design and the discursive framing of the scheme could bring e-residence closer to citizenship. In practical terms e-residence status means some sort of participation in Estonian society – an important dimension of democratic citizenship – e-residents need to have links with the country, which brings their status closer to the formula of ‘genuine connection’, typical of ‘classical’ citizenship; the scheme also brings in the element of contribution to the common good, which is important for modern understanding of citizenship.<sup>28</sup>

As with other digital initiatives, the Estonian e-residence scheme also raises issues about equal access, privacy and state surveillance. But as long as the scheme is designed and presented as a mere bundle of services and transactions empowered by technological innovation, there are no important concerns with regard to its implications for citizenship. If e-residence is framed in the normatively rich language of participation and contribution, it may trigger claims to membership.<sup>29</sup>

#### **4. Benefits and practical use of e-resident’s digital identity cards: A few examples**

The Explanatory Note emphasises that e-residency is intended to promote the attractiveness of Estonia as a place to live and visit and to promote business activities in Estonia and the

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<sup>27</sup> Provided certain conditions are met, an e-resident (as any other foreigner) may apply for a temporary residence permit for enterprise (Subsection 5, Chapter 3 Aliens Act). However, several applicable rules are quite rigid (especially those related to capital).

<sup>28</sup> Costica Dumbrava, ‘Welcome to E-stonia! E-residence and Citizenship in an Electronic Republic’, 9 September 2015, *Reproducing the Nation*, <<http://reproducingthenation.com>> last accessed 26 May 2016.

<sup>29</sup> *Ibid.*

development of Estonia as an e-state and a country open to the world. It seeks to facilitate the internationalisation of all spheres of public life. However, in practical terms, it provides Estonian non-residents with secure identification and authentication and digital signing and access to EU and Estonian e-services. EU citizens will have better opportunities under this system compared with the services provided in their Member States. Finally, companies in Estonia will be able to attract new clients, as e-services benefit from improved security and potential on-line crimes are prevented.<sup>30</sup>

The official online form at [e-resident.gov.ee](http://e-resident.gov.ee) offers five main reasons for an application:

- Seeking location-independent international business
- Bringing business to Estonia
- Using secure authentication technology
- Desiring to live or visit Estonia
- Supporting the idea of e-residency.

In practice, the main benefits can be divided into two main interdependent categories: secure authentication and access to e-services by public or private service providers. They both facilitate trade and make it easier to live or visit Estonia.

‘Supporting the idea of e-residency’ is an additional option which is available to non-residents with no plans to live or work in the country. Nonetheless, their interest and related activities could be useful to attract public attention internationally and raising the profile of Estonia as a pioneering IT-friendly country and a good place for foreign investment. In case of ‘substantial public interest’, the Police and Border Guard Board may issue an e-resident’s digital identity card on the basis of a decision from the responsible minister without receiving an application from the person in question (Article 20-11 IDA), and free of charge (Article 37 (6) State Fees Act).

#### **4.1. Secure authentication technology**

With their e-resident’s digital identity cards, e-residents can digitally sign documents and contracts; verify the authenticity of signed documents; and encrypt and transmit documents

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<sup>30</sup> *Explanatory Note*, 13.

securely. As explained on the official website, e-resident.gov.ee:

the e-Resident ID card and services are built on state-of-the-art technological solutions, including 2048-bit public key encryption. The smart ID card contains a microchip with two security certificates: one for authentication, called PIN1, and another for digital signing, called PIN2. PIN1 is a minimum 4-digit number for authorization, PIN2 is a minimum 5-digit number for digital signature.

Digital signatures and digitalised documents are in use in almost all areas of public life in Estonia. In some cases, their use is obligatory. For instance, procedural documents in the civil courts must be served on advocates, notaries and bailiffs electronically through the designated information system, except with good reason (Article 311-1 (6) Civil Procedure Code).<sup>31</sup>

According to the General Part of the Civil Code Act,<sup>32</sup> an electronic transaction is deemed to be equivalent to a written transaction unless otherwise provided by law (Article 80(1)). The same Act clarifies that ‘a digital signature is also an electronic signature’ (Article 80(3)). The use of digital signatures beyond Estonian borders can be limited by the law and practice of other jurisdictions. In other words, there are no guarantees that a certain country will recognise an Estonian digital signature or identity or an electronic transaction. The situation within the EU is different.

Firstly, the Electronic Signatures Directive<sup>33</sup> establishes the legal framework at European level for electronic signatures (eSignatures) and the recognition of certification service providers within the EU. However, the conclusion and validity of contracts and legal rules and limits governing the use of documents are out of scope of this Directive<sup>34</sup> (Article 1). Member States had to transpose the Directive by 19 July 2001 (Article 13(1)). In Estonia the conditions necessary for using digital signatures and digital seals, and the procedure for exercising

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<sup>31</sup> Code of Civil Procedure (*Tsiviilkohtumenetluse seadustik*), RT I 2005, 26, 197

<sup>32</sup> General Part of the Civil Code Act (*Tsiviilseadustiku üldosa seadus*), RT I 2002, 35, 216.

<sup>33</sup> Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures [1999] OJ L 13.

<sup>34</sup> According to Article 9(1) of the e-Commerce Directive, Member States ‘shall ensure that their legal system allows contracts to be concluded by electronic means’; Article 9(2) provides for exceptions. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market [2000] OJ L 178.

supervision over the provision of certification services and time-stamping services are provided in the Digital Signatures Act.<sup>35</sup>

At the moment, the European Commission publishes the EU Trusted Lists of Certification Service Providers (TSL),<sup>36</sup> (i.e. a public list notified by Member States of supervised/ accredited certification service providers issuing qualified certificates). The objective is to enhance the cross-border use of electronic signatures by increasing trust in electronic signatures originating from other Member States. Estonia trusts certificates from Finland, Belgium, Slovenia, Italy, Spain, Lithuania and Portugal.<sup>37</sup>

Secondly, the eIDAS Regulation governs electronic identification and trust services for electronic transactions in the internal market. It will repeal Directive 1999/93/EC with effect from 30 June 2016. The Regulation lays down conditions for mutual recognition of electronic identification; sets rules for trust services, in particular for electronic transactions; and creates a legal framework for electronic signatures, seals and time stamps, electronic documents and electronic registered delivery services and certificate services for website authentication (Article 1). The eIDAS Regulation not only overcomes some of the shortcomings of Directive 1999/93/EC (establishing rules for time stamping, electronic seals, electronic delivery and website authentication) but also provides for common rules concerning trust services in the EU; furthermore, it guarantees free circulation of trust services compliant with the regulation within the single market (Ch. 3).

According to Article 6(1) of the Regulation, electronic identification means issued in another Member State must be recognised in the first Member State for the purposes of cross-border authentication for that service online. Certain additional conditions need to be met, most importantly an electronic identification scheme must be included in the list published by the Commission and the assurance level of the electronic identification means and in relation to accessing the relevant service online must be 'substantial' or 'high'. Such recognition will have to occur no later than 12 months after the Commission publishes the list.

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<sup>35</sup> Digital Signatures Act (*Digitaalalkirja seadus*), RT I 2000, 26, 150. This law transposes to the national legislation the Directive 1999/93/EC.

<sup>36</sup> European Commission, *List of Trusted List information as notified by Member States* <[https://ec.europa.eu/information\\_society/policy/esignature/trusted-list/tl-hr.pdf](https://ec.europa.eu/information_society/policy/esignature/trusted-list/tl-hr.pdf)> last accessed 26 May 2016.

<sup>37</sup> Information provided by the Estonian Information System Authority.

An implementing act, setting out minimum technical specifications, standards and procedures related to assurance levels, was adopted by the Commission only on 8 September 2015. In practical terms, it is reasonable to expect this to kick-off compulsory mutual recognition in all Member States in 2018.

#### **4.2. Access to online services**

The development of secure identification technology in Estonia has facilitated online access to public and private services for quite a long time. The European Commission (DG CNECT) assesses the development of Estonia and other EU countries in becoming digital economies and societies using indicators structured around five dimensions: Connectivity, Human Capital, Use of Internet, Integration of Digital Technology and Digital Public Services (the DESI index). Estonia falls into the medium-performance country group, ranking 7th overall of the 28 EU Member States 2015 and second best in Europe in the supply and use of Digital Public Services. Nevertheless, Estonian is relatively weak in Integration of Digital Technology by businesses, because the uptake of digital technologies and practices by Estonian businesses has been slow, and they are only starting to exploit the possibilities offered by online commerce.

The Estonian state portal – [www.eesti.ee](http://www.eesti.ee) – enables easy access to more than 100 public e-services and information, permits the creation and digital signature of documents, and the withdrawal of information from various databases and registries, etc. In 2014 the most widely used public e-services were the submission of income tax returns (used by 71.5 percent of the entire population), communication with schools and teachers (30.4 percent), digital prescriptions (56.3 percent), payment of public service charges or state fees via internet banking (42.0 percent), and the mobile payment of parking charges (29.3 percent). Local government websites were very popular (52.8 percent), as was the Estonian legislation website [www.riigiteataja.ee](http://www.riigiteataja.ee) (29.8 percent), the state portal [www.eesti.ee](http://www.eesti.ee) (42.9 percent), the state-wide journey planner [peatus.ee](http://peatus.ee) (37.8 percent) and the archive of the Estonian Public Broadcasting Corporation [arhiiv.err.ee](http://arhiiv.err.ee) (27.7 percent).

In the context of e-residency the Estonian authorities correctly emphasise services related to the establishment and administration of businesses. According to a recent overview of the European Commission:

[...] on-line registration of companies is not yet available in all Member States, only handwritten signatures are accepted by the registers, and often paper versions



of documents still must be stored by companies. While the new regulation on electronic identification should now make it easier to overcome technical barriers, company law provisions may need revisiting in order to better align to the opportunities offered by the use of e-identification. [...]

This statement is rather surprising given that the Services Directive (to be transposed by late 2009 – Article 44(1)) requires that the establishment of a company electronically in another Member State must be made possible through Single Points of Contact (Article 8). In Estonia, however, residents and e-residents may establish companies online within a day and administer the company using the internet from anywhere in the world. A private limited company may thus be registered electronically on the e-Business Register, with all persons related to this establishment (the management board, founding members etc.) being required to sign the application for initial entry into the register and the establishment documents digitally (and digi-IDs may be crucial in this context). A private limited company can be established without immediately contributing to its share capital. Alternatively, a monetary contribution can be made electronically in the course of preparing an application through the Portal.

The remote administration of a business is relatively easy in the Estonian context. Public administration, businesses and private persons widely use the DigiDoc system for storing, sharing and digitally signing documents. The system is popular with the private sector for handling court documents, municipal contracts, etc. Businesses are also free to use the digital signature system.

Easy access to numerous e-registries is another advantage. For instance, the e-Business Register not only enables the registration of a new business online but also to update the data held in the register, to file annual reports and to make detailed inquiries about other companies. The electronic tax filing system (E-Tax, accessible from [www.emta.ee](http://www.emta.ee)) permits the review, alteration and approval of tax declarations using a digital signature. An enterprise's declarations for income tax, social tax, unemployment insurance and mandatory funded pension contributions, value-added tax returns, excise duty returns etc. can be submitted electronically. There is no specific tax regulation for electronically registered companies. Digi-IDs can also facilitate access to e-banking, remote money transfers and other online service providers. It is worth mentioning, however, that e-banking in Estonia is not dependent on electronic identity cards. In order to access most 'internet banks' you can use a PIN

calculator or a password card issued by the financial institution (certain limits are applicable in such cases). Logged-in users enter a personal environment and have access to both e-banking services and to the Estonian state portal [www.eesti.ee](http://www.eesti.ee), but access to most public services does not require the use of digi-IDs.

The provision of services to e-residents by public or private service providers is not guaranteed and may be subject to additional requirements (Article 20-10 IDA), some of them based in law. For instance, upon opening a bank account, an individual must be identified in person (Article 15(1) Money Laundering and Terrorist Financing Prevention Act).

## **5. Concluding remarks**

As explained above, the criteria for e-residency are worded in quite inclusive terms but the Estonian authorities enjoy a wide margin of appreciation when deciding whether to issue, suspend or revoke e-residents' digi-IDs. The liberal access to e-residency would appear to benefit non-resident aliens with no plans to live in Estonia the most. In turn, e-residency is supposed to promote Estonia's economy, science, education or culture 'at a distance'. Rhetorically, e-residency is defined as membership in a virtual polity.

In the future, additional conditions and obstacles for e-residents are both possible and permissible but such limitations are context-related (such as the fight against corruption or money laundering) and they hardly limit the core competences available to e-residents. Furthermore, the Estonian judiciary could decide to limit the authorities' discretion in the medium-term. E-residents are private persons or business persons who enter into 'effective' social relations in the Estonian territory and this makes e-residents in some ways similar to ordinary residents who enjoy protection under Article 26 of the Estonian Constitution, which provides for the inviolability of private and family life. From this perspective, e-residency will reflect a major trend of convergence of legal regulation and practice related to 'virtual' and 'real' formats of everyday human activities.

The main benefits of e-residents' digi-IDs are related to secure authentication and access to e-services by public or private service providers. So far, the use of e-residents' digital identity documents is mostly limited to Estonian cyberspace, and the recognition of digital signatures

outside of Estonia is limited. Nonetheless, digi-IDs may soon become useable across the EU if European legal norms are properly implemented.

Estonia now offers more than 100 public e-services. It is reasonable to expect a rapid rise in the number of public and private e-services offered to Estonian e-residents. Considering the importance of direct foreign investment in the Estonian economy, the national authorities have singled out services related to the online establishment and distance administration of businesses. In practical terms, running a business over the internet has been made quite simple in Estonia – digi-IDs permit you to use the DigiDoc system for storing, sharing and digitally signing documents, to register your company online, to submit annual reports and electronic tax declarations online to the authorities, and have facilitated access to e-banking. While e-residency is a proof of the advance of modern technology, its future will depend on the ability to achieve the development of the Estonian information society to a high level and to secure sufficient investment in new ICT.

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