

# ***Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State***

## ***Deliverable B.II Investors' Residence Schemes in Estonia***

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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

**Milieu Ltd** (Belgium), Chaussée de Charleroi 112, B-1060 Brussels, tel.: +32 2 506 1000; e-mail: [emma.psaila@milieu.be](mailto:emma.psaila@milieu.be); [ana.gomez@milieu.be](mailto:ana.gomez@milieu.be) and [vanessa.leigh@milieu.be](mailto:vanessa.leigh@milieu.be); web address: [www.milieu.be](http://www.milieu.be).

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## I. GENERAL BACKGROUND

### ■ *Legal background*

Issuing residence permits for investments is regulated with the Aliens Act. The Act was first introduced in 1993 and the last amendment to the Aliens Act relevant to this Report was introduced on 1<sup>st</sup> October 2010<sup>1</sup>. This new version of the Act was drafted to achieve, above all, greater legal clarity. Changes in the Act were primarily generalizing in nature or a refinement of the existing provisions, making it easier to find the necessary applicable rules for both the people and the law enforcers. The amended Act was adopted through the standard procedure by the parliament (*Riigikogu*). Over the years, there have not been any major parliamentary debates over the amendments made to the Aliens Act, as migration has not been a politically sensitive topic and most of the changes to the law have been due to the adoption of EU migration directives. Changes made to the Aliens Act regarding the investors' residence schemes are described below.

The legal basis for granting a temporary residence permit<sup>2</sup> for an investment was first introduced on 1st May 2003. The permit issued to all third-country national investors in Estonia is named “*residence permit for enterprise*” and it entails different investment schemes with different requirements, which have been developed over the years. Thus, currently *residence permits for enterprise* are issued to the following groups of investors:

- **general scheme** - for an investment of at least 65,000 euros (introduced 1 May 2003);
- **sole proprietor** - for an investment of 16,000 euros (introduced 1 May 2003);
- start-up companies – no investment requirement (introduced 18 January 2017);
- companies that have been registered in Estonia for less than 12 months and commence operation with the support of the state or private investments, having received an investment or loan from the State or a private management company licenced by the Financial Supervision Authority or receiving support from a public support measure – no investment requirement (introduced 1 September 2013);
- **major investors** – for an investment of at least 1,000,000 euros<sup>3</sup> (introduced 18 January 2017).

Regarding the scope of this Report, only three of the five schemes mentioned above are of relevance: (1) the general scheme, (2) the sole proprietor scheme; and (3) the special scheme for major investors (highlighted above in bold). All these schemes were adopted with the aim to attract more foreign investments and to enhance a positive effect in the Estonian economy, which is one of the policy priorities stated in the National Reform Programme “Estonia 2020”<sup>4</sup>. The National Reform Programme “Estonia 2020” is Estonia’s strategy for achieving the “Europe 2020” objectives. The Programme states as one of the Government’s policy priorities the creation of an appropriate environment to attract more direct foreign investments into sectors with greater export potential and added value. Also, the updated version of the Programme (approved by Government on 27 April 2017<sup>5</sup>) points out that for reaching the above-mentioned goal, amendments have been introduced to the Aliens Act as of 2017, establishing a special residence permit application procedure for major investors to facilitate, among other things, the moving of their families into Estonia.

The requirements for receiving the named residence permit and the process of application are described in the Aliens Act. The Minister of Interior’s Regulation No 7, 12 January 2017 establishes “The procedure for applying a residence permit and its extension, as well as the application for a residence

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<sup>1</sup> Aliens Act (*Välismaalaste seadus*) RT I 4 July 2017, available at <https://www.riigiteataja.ee/en/eli/50112017003/consolide>.

<sup>2</sup> Temporary residence permit is issued for third-country nationals to reside in Estonia up to 5 years. The permit is renewable for ten years.

<sup>3</sup> Sub-section 5<sup>1</sup> of the Aliens Act.

<sup>4</sup> Available at <https://riigikantselei.ee/et/konkurentsivoime-kava-est-2020>.

<sup>5</sup> Available at [https://riigikantselei.ee/sites/default/files/elfinder/article\\_files/est-2020\\_en.pdf](https://riigikantselei.ee/sites/default/files/elfinder/article_files/est-2020_en.pdf).

permit and the restoration of a long-term resident, as well as the rates of legal income”<sup>6</sup>. Therefore, while the Aliens Act sets the requirements for the permits, the referred Ministerial Regulation stipulates the documents needed for the application.

### **General scheme**

The main criteria to receive a residence permit for enterprise is to invest at least 65,000 euros to a company registered in Estonia<sup>7</sup> and their activities must significantly contribute to the development of the Estonian economy<sup>8</sup>.

### **Sole proprietor**

An alien who is applying for a temporary residence permit for enterprise as a sole proprietor is required to have the capital in the amount of at least 16,000 euros invested in Estonia<sup>9</sup>. The legislation does not clarify what type of investment should be made in the business, however usually sole proprietors invest in equipment that they use for their business activity. Similar to the general scheme their activities in Estonia should significantly contribute to the development of the Estonian economy.

### **Major investment**

The regulation for major investors, which entered into force on 18 January 2017 defines a major investor as an alien who has made a direct investment in the amount of at least 1,000,000 euros into a company, registered in the Estonian Commercial Register, substantially investing in the Estonian economy, or has made an investment into an investment fund, which, pursuant to its investment policy, invests the resources of the fund primarily into the companies entered into the Estonian Commercial register<sup>10</sup>. An investment of one million was determined on the basis of the assessment provided by the Ministry of Economic Affairs and Communications, which is supported by the feedback of the market participants and general market practice, according to which the investment of one million euro is the minimum amount of venture capital investment in a single investment fund<sup>11</sup>.

Similar to the other schemes named above (i.e. sole proprietorship, general scheme), the purpose of a temporary residence permit issued to a major investor for enterprise is to facilitate making investments in such business in Estonia, which is in public interests and significantly contributes to the development of the Estonian economy. The law or its implementing acts do not clarify what is meant by *significantly contributes to the development of the Estonian economy*. This assessment is left to the decision maker, which is the Police and Border Guard Board. The contribution to the Estonian economy may be for example taxes paid, jobs created, etc.<sup>12</sup>.

### ■ **Competent authorities**

The decision on granting or not granting a residence permit for all the above-named investors is made by the **Police and Border Guard Board’s migration department** within two months since the submission of the application or since the elimination of the deficiencies. The applications are submitted to the **Estonian embassy or consulate**, in case the applicant is abroad, otherwise the application is directly submitted to the Board. The consulate verifies the identity of the applicant based on the identity documents the applicant submits and fingerprints him/her if necessary. Thereafter, the application is sent by diplomatic post to the Police and Border Guard Board for processing.

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<sup>6</sup> Minister of Interior’s regulation No 7, 12.01.2017 “The procedure for applying a residence permit and its extension, as well as the application for a residence permit and the restoration of a long-term resident, as well as the rates of legal income”, RT I, 10.10.2017, 5, available at <https://www.riigiteataja.ee/akt/110102017005>.

<sup>7</sup> Article 192 (2) of the Aliens Act.

<sup>8</sup> Article 191 of the Aliens Act.

<sup>9</sup> Articles 191 and 192(3), 191 of the Aliens Act.

<sup>10</sup> Article 197<sup>3</sup> of the Aliens Act.

<sup>11</sup> Explanatory note for the amendments to the draft law of the Aliens Act, Citizen of the EU Act, Identity Documents Act, 251SE.

<sup>12</sup> EMN Focussed Study, 2014, ‘Admitting third-country nationals for business purposes National Report of Estonian NCP’, available at [www.emn.ee](http://www.emn.ee).

The Aliens Act stipulates that the Police and Border Guard Board may ask for an opinion of another administrative authority, or a natural or legal person if it is deemed necessary<sup>13</sup>. Thus, the Board can **consult other entities** on the fulfilment of residence permit requirements, where they might have less knowledge (e.g. what the impact to the economy might be). Economic experts (e.g. from Estonian Unemployment Fund, Enterprise Estonia, Estonian Chamber of Commerce and Industry<sup>14</sup>) might be involved to help the case-officer to assess the impact into the Estonian economy. The decision on involving the group of experts or other institutions in the assessment process is made by the Board and on a regular basis a round table of experts is gathered to look through (some of the)<sup>15</sup> new applications. There is no public list of experts or institutions, which are or could be involved in the assessment process. Although other institutions or experts can be involved in the assessment process, their opinion is only recommendatory and the final decision on the application is made by the Police and Border Guard Board.

All the applicants receive a residence card within one month after the positive decision is made. Normally, it takes around two months (54 days) until the decision is taken; however, this depends on the work-load of the competent authorities (i.e. the number of applications being processed at the same time). The average duration of the procedure is 54 calendar days (statistics for first 9 months of the year 2016 for all the temporary residence permits). There is no distinction made regarding different Directive statuses and national statuses<sup>16</sup>. The applicant can pick up the card at the Estonian foreign mission (in case the applicant is abroad) or at the Police and Border Guard Board. This card gives them a legal basis to enter and reside in Estonia, as well as travel in the Schengen area. The permit can be renewed.

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<sup>13</sup> Article 42<sup>1</sup> of the Aliens Act

<sup>14</sup> EMN Focussed Study, 2014, ‘Admitting third-country nationals for business purposes National Report of Estonian NCP’, available at [www.emn.ee](http://www.emn.ee).

<sup>15</sup> The indication “some of the new applications” responds to the fact that there is no legal obligation to assess **all** applications by the group of experts. Only those applications that present more complexities are assessed by the group of experts. According to the research carried out by the national expert, most applications have been assessed by the group of experts due to the number of applications received.

<sup>16</sup> Source: EMN Focussed Study 2016 “Family Reunification of TCNs in the EU: National Practices. Estonian National Report”. [www.emn.ee](http://www.emn.ee).

## II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

### 1 APPLICATION PHASE

#### 1.1 PROCEDURES

According to the article 213 of the Aliens Act, to apply for a temporary residence permit an alien shall submit an application for a temporary residence permit personally. Thus, the individual is the “main applicant” in the process for residence permit for enterprise. The application is submitted in person to a foreign representation of the Republic of Estonia, which shall send it, if necessary, to the Police and Border Guard Board for processing after the person has been identified or their identity verified and after their biometric data have been collected. Exceptions are made for applicants who are already legally staying (e.g. holding a valid visa or under the visa-free regime) in Estonia. They can submit the application directly to the Police and Border Guard Board. These general rules apply to all immigrant investors.

The application is filled in English, Estonian or Russian language, except the business plan, which is in English or Estonian<sup>17</sup>. All the supporting documents have to be translated into one of these languages, notarised and apostilled, if necessary. A business plan is submitted to prove that the investors’ business activities are in compliance with the purpose of the residence permit for enterprise. The different requirements regarding the business plan are explained below for each type of scheme. By signing the application, the applicant confirms that copies appended to the application comply with the original document, and the documents do not contain false data and are not forged. In addition, by signing the application, the applicant confirms that he or she has a health insurance and sufficient legal income. If necessary, the case officer can ask supporting documents proving these statements (e.g. if there is a doubt, and ad-hoc checks).

In the scope of this Report and as indicated in Section I, Estonia issues residence permits for the purposes of setting up an enterprise (hereinafter, residence permit for enterprise) under three schemes: (1) for general business owners (general scheme), (2) for sole proprietor; and (3) for major investors. All the investors should meet general conditions foreseen for all applicants and special requirements foreseen for a residence permit for enterprise.

**General conditions for a temporary residence permit** are:

- the purpose of the application must be justified (i.e. meets the aim of the residence permit);
- the applicant has an actual place of residence in Estonia (this does not apply to major investors), which they indicate on the application and within 1 month of the issue of the permit they need to register themselves in the Population Registry;
- the applicant has sufficient legal income which would enable him and his family members the subsistence in Estonia. The requirement for legal income is twice the subsistence level in Estonia for every month of stay in Estonia, depending on the size of the family (e.g. in 2017 the level was at least 260 euros per person per month). Article 9 of the Aliens Act defines what constitutes as legal income, that is lawfully earned remuneration for work, parental benefits, unemployment benefits, income received from lawful business activities or property, pensions, scholarships, means of subsistence, benefits paid by a foreign state and the subsistence ensured by family members earning.
- The applicant must hold a medical expenses insurance contract<sup>18</sup> valid in Estonia during the whole validity period of the residence permit. The health insurance is required to compensate to the insured person to the extent of the insurance amount for the medically necessary treatment costs

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<sup>17</sup> Article 192(6) of the Aliens Act.

<sup>18</sup> Article 117 of the Aliens Act.



arising as a result of an illness or accident and expenses of out-patient examinations, which are made to establish the insured event and prescribe treatment. The insurance amount for the annual period of insurance is at least 6,000 euros<sup>19</sup>.

In addition, **special conditions** foreseen for **the general scheme** are:

- the applicant has a holding in a company, which has the capital in the amount of at least 65,000 euros and which is invested in business activity in Estonia;
- the company is entered into the commercial register of Estonia;
- the applicant has sufficient monetary resources for engaging in enterprise in Estonia. There is no minimum amount set, as this depends on the type of business. It is assessed in the application process whether there are enough financial resources to fulfil the business plan<sup>20</sup>;
- the applicant submits a business plan describing the following aspects: name and registry code of the company, business idea - planned activities, potential clients and suppliers, plans of development, fixed assets available for the company, circulating capital, labour force being used, financial forecasts for the next two financial years - projected income statement, balance sheet, cash flow forecast, Curriculum Vitae of the persons who perform managerial and supervisory functions and a motivation, why the settling of the applicant in Estonia is important for enterprise<sup>21</sup>. The business plan is submitted in English or Estonian only, as English is the language used in international business and Estonian is the language of administrative procedures. Based on the business plan, the assessment is made as to whether the company's activities are in compliance with the purpose of the residence permit for enterprise.
- the applicant must pay a state fee – 180 euros (if the application is submitted at the foreign mission) or 160 euros (if the application is submitted at the Police and Border Guard Board).

**Special conditions** for the **sole proprietor**:

- the applicant has the capital in the amount of at least 16,000 euros and which is invested in business activity in Estonia;
- the applicant is registered as sole proprietor in the commercial register of Estonia;
- the applicant has sufficient monetary resources for engaging in enterprise in Estonia<sup>22</sup>;
- the applicant submits a business plan describing the following aspects: name sole proprietor, business idea - planned activities, potential clients and suppliers, plans of development, fixed assets available for the sole proprietor, circulating capital, labour force being used, financial forecasts for the next two financial years - projected income statement, balance sheet, cash flow forecast, Curriculum Vitae of the persons who perform managerial and supervisory functions and a motivation, why the settling of the applicant in Estonia is important for business activity<sup>23</sup>. Like in the general scheme, the business plan is submitted in English or Estonian as proof that the planned activities of the sole proprietor are in compliance with the purpose of the residence permit for enterprise.;
- the applicant must pay a state fee – 180 euros (if the application is submitted at the foreign mission) or 160 euros (if the application is submitted at the Police and Border Guard Board).

Investors applying under the general scheme and as sole proprietors are subject to an annual immigration quota, unless they are exempt from the quota. Aliens who are exempt from the quota are listed in Article 115 in the Aliens Act<sup>24</sup> - most relevant groups for this Report are e.g. citizens of USA,

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<sup>19</sup> Article 120 (1) of the Aliens Act.

<sup>20</sup> Article 192 of the Aliens Act.

<sup>21</sup> Minister of Interior's Regulation No 7, 12 January 2017, 'The procedure for applying a residence permit and its extension, as well as the application for a residence permit and the restoration of a long-term resident, as well as the rates of legal income', Article 16, RT I, 10.10.2017, 5, available at <https://www.riigiteataja.ee/akt/110102017005>.

<sup>22</sup> Article 192 of the Aliens Act.

<sup>23</sup> Minister of Interior's Regulation No 7, 12 January 2017, 'The procedure for applying a residence permit and its extension, as well as the application for a residence permit and the restoration of a long-term resident, as well as the rates of legal income', Article 16, RT I, 10.10.2017, 5, available at <https://www.riigiteataja.ee/akt/110102017005>.

<sup>24</sup> Article 115 of the Aliens Act.

Japan, ethnic Estonians, family members, major investors, start-up investors, ICT workers, researchers, students). The annual immigration quota is set each year by the Government, and it cannot be more than 0.1% of the permanent population<sup>25</sup>. Usually the annual immigration quota is set around 1,300 persons per year, e.g. in 2018 the annual quota is 1315<sup>26</sup>.

**Special conditions** foreseen under the **major investors' scheme** are:

- the applicant proves that he has made a direct investment in the amount of at least 1,000,000 euros into a company, registered in the Estonian Commercial Register, investing primarily into the Estonian economy, or has made an investment into an investment fund, which, pursuant to its investment policy, invests the resources of the fund primarily into the companies entered into the Estonian Commercial register<sup>27</sup>;
- the applicant has paid a state fee – 180 euros (if the application is submitted at the foreign mission) or 160 euros (if the application is submitted at the Police and Border Guard Board).

Major investors are exempt from the annual immigration quota.

In all the above named schemes (**general and the major investors schemes and sole proprietors**) the money for the investment must come directly from the applicant's bank account and he/she must be the owner of such money; this money cannot come from, for example, an account of a company owned by the applicant.

The Aliens Act also stipulates the **reasons for refusal to issue temporary residence permit**. The **general reasons** are the following:

- the basis for the issue of a residence permit has ceased to exist;
- the applicant does not comply with the requirements for the issue of a temporary residence permit;
- the application for the issue of a residence permit is not justified (i.e. does not meet the aim of the residence permit);
- the immigration quota has been fulfilled by the time of making the decision with regard to the application; or
- the person has committed to leaving the Republic of Estonia, has received a dwelling in a foreign state through an international aid programme or has received support for leaving Estonia;<sup>28</sup> and
- the applicant is considered a threat to national security, public order or health<sup>29</sup>.

**Additional reasons for denial for investors in the general scheme** are that the applicant:

- does not provide evidence of the trustworthiness of his/her own current and planned business activities or of the company, of the business associates or financial resources;
- the explanations of the applicant about his/her own current and planned business activities or about the company are not convincing or are controversial;
- does not provide evidence that his stay in Estonia on the basis of the residence permit would significantly contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- does not provide evidence of how his/her own activities or the activities of a company would contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- current activities or a company's activity is not in accordance with the plans in the description of the business plan;
- current activities of the applicant or the company's activities are not in accordance with the purpose of the temporary residence permit for enterprise;
- has failed to meet the conditions related to the temporary stay, residence and employment in

<sup>25</sup> Article 113-114 of the Aliens Act.

<sup>26</sup> Order of the Government of the Republic of Estonia No. 367, 14 December 2017, 'Establishment of the immigration quota for aliens covered by the Aliens Act in 2018', available at: <https://www.riigiteataja.ee/akt/315122017017>.

<sup>27</sup> Article 197<sup>3</sup> of the Aliens Act.

<sup>28</sup> Article 123 of the Aliens Act.

<sup>29</sup> See the reasons from Article 124 of the Aliens Act.

Estonia<sup>30</sup>.

Under the **major investors' scheme**, the application for a residence permit may be refused if:

- the applicant has not made the investment or the investment is not lasting during the period of validity of the temporary residence permit;
- the activity of the company or investment fund does not contribute to the purpose of the issue of a temporary residence permit issued to a large investor for enterprise;
- the investment is not in the public interest;
- the applicant does not provide evidence of the trustworthiness of the financial source of investment or of the business partner; or
- the applicant has not fulfilled the obligation related to the temporary stay, residence or employment in Estonia<sup>31</sup>.

Under the **Sole proprietor**, the permit may be refused if:

- the applicant does not provide evidence of the trustworthiness of his/her own current and planned business activities or financial resources;
- the explanations of the applicant about his/her own current and planned business activities are not convincing or are controversial;
- the applicant does not provide evidence that his stay in Estonia on the basis of the residence permit would significantly contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- the applicant does not provide evidence of how his/her own activities would contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- current activities of the applicant are not in accordance with the plans in the description of the business plan;
- current activities of the applicant are not in accordance with the purpose of the temporary residence permit for enterprise;
- the applicant has failed to meet the conditions related to the temporary stay, residence and employment in Estonia<sup>32</sup>.

The **application is processed and the decision is made** by the Police and Border Guard Board<sup>33</sup> within **two months** from the acceptance of the application<sup>34</sup>. During the application process, the Board **can consult** with other entities to assess the fulfilment of the investment condition and the potential benefit to the economy<sup>35</sup>.

- In case of **granting** a residence permit, **a residence card shall be issued** within 30 days at the foreign representation of the Republic of Estonia or at the Service Office stated on the application form.

In addition to the residence card, if the applicant meets the admission criteria, a **residence permit** for enterprise is granted **for up to five years<sup>36</sup> and can be extended for up to ten years<sup>37</sup>**. However, the mentioned minimum period of five years and the maximum period of ten years for the temporary residence permit may be reduced under the national legislation<sup>38</sup>. The legislation

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<sup>30</sup> Article 195 of the Aliens Act.

<sup>31</sup> Article 197<sup>5</sup> of the Aliens Act.

<sup>32</sup> Article 195 of the Aliens Act.

<sup>33</sup> [Article](#) 211 of the Aliens Act.

<sup>34</sup> Regulation No. 7 of 12 January 2017 of the Minister of the Interior on the procedure for applying for a residence permit and its extension, as well as the application for a residence permit and the restoration of a long-term resident, as well as the rates of legal income, RT I, 10.10.2017, 5, available at <https://www.riigiteataja.ee/akt/110102017005>.

<sup>35</sup> EMN Focussed Study, 2014, 'Admitting third-country nationals for business purposes National Report of Estonian NCP', available at [www.emn.ee](http://www.emn.ee).

<sup>36</sup> Article 119 of the Aliens Act. While the residence permit is the authorisation granting the investor the right to stay and work in Estonia, the residence card is an identification document which proves the identity of the holder and the fact that he/she holds a residence permit.

<sup>37</sup> Article 132 of the Aliens Act.

<sup>38</sup> Article 197<sup>1</sup> of the Aliens Act.

does not establish the legal reasons for reducing such periods but leaves it to the discretion of the competent authorities, on the basis of the assessment of the application and accompanying documents, when they deem it necessary (e.g. when the business plan is not very strong or there is a doubt about how beneficial this business is for EE or will the company be active). This allows to assess sooner whether the requirements for the permit are fulfilled, i.e. is the business still active, is the investment active, how beneficial is the business for the Estonian economy etc. After the legally established periods, the applicant can continue to **renew** his/her residence permit or, if s/he fulfils the conditions for **long-term residence permit**<sup>39</sup> s/he can apply for that, the latter is also a prerequisite for **citizenship**<sup>40</sup>.

The **documents for the renewal of the residence permit** should be **submitted** at least **two months** prior to the expiry of the valid residence permit<sup>41</sup>. The **application for renewal** should be done **in person** at a Police and Border Guard Board's Service Office<sup>42</sup> in case the applicant has to be fingerprinted in cases where more than five years from the date of the previous residence permit application have passed<sup>43</sup>. **If less than five years have passed** from the previous residence permit application and from the capturing of fingerprints, the applicant can also apply for the renewal of residence permit **by post or by e-mail**. The **decision on extension or refusal to extend** the temporary residence permit is made at the latest **10 days prior the expiry of the validity term of the temporary residence permit**. **If the residence permit of the applicant expires during the period of validity**, the **stay** in Estonia shall be **legal for the 90 days following the expiry** date of the period of validity of the residence permit. During this period, an alien has **the right to work** in Estonia directly arising from law. The **renewed residence card is issued at the Service Office of the Police and Border Guard Board**.

- In case of **refusal**, a **written objection** to the decision can be submitted to the Police and Border Guard Board within 10 days of receiving the decision **or an appeal to the Tallinn Administrative Court** within the same period (10 days)<sup>44</sup>. Also, **applicants from abroad** can appeal the negative decision. The applicant can hire a **legal representative** for the appeal procedure.

## 1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

In Estonia, there is one competent authority, which is responsible for granting residence permits. According to Article 211 of the Aliens Act **the issue or refusal to issue, the extension or refusal to extend** of a temporary residence permit shall be decided by the **Police and Border Guard Board** (hereinafter, 'the Board'). This is a government agency under the administration of the Ministry of the

<sup>39</sup> Article 232 of the Aliens Act. The following conditions apply for long-term residence (LTR): 1) s/he has resided in Estonia on the basis of a residence permit for at least last five years before the submission of the application for a residence permit for a long-term resident; 2) s/he or she has a valid temporary residence permit; 3) s/he has a permanent legal income which ensures his/her own subsistence in Estonia; 4) s/he is deemed to be an insured person for the purposes of the Health Insurance Act or a treaty of the Republic of Estonia; 5) s/he has met the integration requirement; 6) the information of his/her place of residence has been registered in the Population Register; 7) no facts which are the basis for the refusal to issue a residence permit for a long-term resident exist in respect of him or her.

<sup>40</sup> Article 6 of the Citizenship Act. The following conditions apply for citizenship: An alien who wishes to acquire Estonian citizenship must: 1) be at least 15 years of age; 2) hold a long-term residence permit or the right of permanent residence; 2.1) prior to the date on which he or she submits the application for Estonian citizenship, have lived in Estonia for at least eight years on the ground of a residence permit or by right of residence, of which at least five years on a permanent basis; 2.3) have a registered place of residence in Estonia; 3) be proficient in the Estonian language in accordance with the requirements provided in section 8 of this Act; 4) know the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements provided in section 9 of this Act; 5) have a permanent legal income; 6) be loyal to the Estonian state; 7) take an oath.

<sup>41</sup> Article 28(4) of the Minister of Interior's regulation No 7, 12.01.2017 "The procedure for applying a residence permit and its extension, as well as the application for a residence permit and the restoration of a long-term resident, as well as the rates of legal income", RT I, 10.10.2017, 5, available at <https://www.riigiteataja.ee/akt/110102017005>.

<sup>42</sup> While the Police and Border Guard Board is the general competent authority to receive, assess and decide on the applications for a residence permit and renewals thereof, specifically, the Service Office of this Board (of the place of residence of the applicant) is the one in charge of these tasks in practice.

<sup>43</sup> Article 28(2) of the Minister of Interior's regulation No 7, 12.01.2017.

<sup>44</sup> Article 222 of the Aliens Act.

Interior. Within the Board, the **Migration Department** is in charge of processing the applications and makes the decision regarding residence permit applications.

Residence permit applications are submitted to the Board via the Estonian foreign missions **when the application is submitted from abroad**. In some cases, the application may be submitted directly to the Board. As described above, the Board may **consult other institutions or experts** regarding the fulfilment of the residence permit conditions set for investors. However, the final decision on the application is made by the Board.

### 1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

The Aliens Act sets an **annual immigration quota** that applies to investors, **except for major investors** and for start-up investors. Also, **citizens of USA and Japan are exempt** from the quota<sup>45</sup>. The annual quota limits the number of aliens who can obtain a residence permit in Estonia. The annual immigration quota is the quota for aliens immigrating to Estonia, which shall not exceed 0.1 per cent of the permanent population of Estonia annually. The quota is **set by the Government** and within the quota, the Minister of the Interior may establish a distribution of the immigration quota according to the grounds for application, the basis for the issue of a residence permit, as well as the temporal distribution within a year<sup>46</sup>. Besides investors, the quota applies to some groups of labour migrants<sup>47</sup> and to migrants who apply for a residence permit under an international agreement.

There is **no system of scrutiny by the Parliament or other bodies** in Estonia. However, the law provides for a certain degree of **monitoring by the Police and Border Guard Board**. This monitoring is ensured, first, by the fact that **the alien** and other persons concerned<sup>48</sup> have the **obligation to notify** the Board of any **change** in and cease to exist of any of the facts relevant to granting, possession, extension and revocation of the **legal basis for temporary stay, residence and employment** in Estonia of an alien<sup>49</sup>.

Furthermore, the Act stipulates that an **alien who has been issued a temporary residence permit for enterprise (general scheme, sole proprietors)** is required to inform the Police and Border Guard Board of any **change in the facts** on the basis of which the residence permit was issued, of difficulties in the performance of the assumed duties or of the impossibility to perform the assumed duties<sup>50</sup>. The same obligation is foreseen for **major investors**, who are required to notify the Police and Border Guard Board of the change in circumstances, including the change of the company or investment fund<sup>51</sup>. On the basis of these notifications, the Board can request further information.

The monitoring by the Board is also ensured by the **ad-hoc checks** that the Board can carry out to verify whether the conditions of the permit are still met **during the validity period of the permit**. **Otherwise**, the monitoring of the fulfilment of the residence permit conditions is made **in the renewal process**. In case the applicant renews the permit, s/he must fulfil almost all the same conditions as for the initial application. Thus, in the renewal procedure, the Board can assess whether the applicant fulfilled all the conditions for the first permit that was issued during its period of validity. For example, the Board can examine whether the investment is still active, whether it has not decreased, whether the investment has

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<sup>45</sup> [Article](#) 115 of the Aliens Act.

<sup>46</sup> [Articles](#) 113 and 114 of the Aliens Act.

<sup>47</sup> Exempt from the annual immigration quota system are the following labour migrants: researchers, lecturers, ICT workers, aliens who come to work in a start-up company.

<sup>48</sup> The law does not stipulate who these persons might be. They can be, for example an employer, the landlord, etc.

<sup>49</sup> [Article](#) 20 of the Aliens Act.

<sup>50</sup> [Article](#) 196 of the Aliens Act.

<sup>51</sup> [Article](#) 197 of the Aliens Act.

been beneficial to Estonian economy, etc.<sup>52</sup>

## 1.4 INFORMATION ON APPLICATIONS

The legislation does not contain any obligation to disclose information about successful applicants. Only the applicant is personally notified immediately about a positive decision regarding his/her application. The positive decision is sent to the contact addresses (e-mail or post) shown on the application.<sup>53</sup> The applicant is also notified about the places where s/he can pick up the residence card.

The Table below shows the total number of requests for residence permits for enterprise, the number of successful and turned-down applications in the reference period (2012-2017):

Year	Total no. of requests for residence	No. of requests for residence by investors*	No. of successful applications	No. of turned down applications	Sources***
2012	3866	127	61	21	PBGB
2013	3696	77	54	22	PBGB
2014	4376	55	35	10	PBGB
2015	5319	38	28	3	PBGB
2016	6429	38	18	3	PBGB
2017	6612	97**	68	4	PBGB

\*No. of residence request for residence by general and major investors.

\*\* It should be noted that the residence permit for major investors was introduced in the Aliens Act on 18 January 2017. From the 97 applications recorded under 2017, four corresponded to major investors.

\*\*\*PBGB- Police and Border Guard Board

## 1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

Estonia has **not** imposed any **limitations** to immigrant investors to reunite with family members or arrive to Estonia with family members. **Family members are not subject to annual immigration quota.**

The following **family members may reunite with the investor**:

- spouse (legally married)
- minor child
- adult child, if the child is unable to cope independently due to health reasons or a disability;
- a person subject to legal guardianship in order to settle with the guardian.

The **reunification of parents or grandparents** is **only** foreseen in case the parent needs **care** and the sponsor has a **long-term residence permit**. Thus, there is no immediate possibility to arrive to Estonia with parents or grandparents.

A residence permit may be issued to settle with his/her **spouse** when the following **conditions are met**:

- if the spouses share **close economic ties** and an intimate **emotional connection**, the family is **stable** and the **marriage is not fictitious**<sup>54</sup>.

<sup>52</sup> Information gathered through consultation with national stakeholder (Police and Border Guard Board's migration advisor, competent authority, 28 February 2018).

<sup>53</sup> Article 36 of the Aliens Act.

<sup>54</sup> Article 138 of the Aliens Act. It is not easy to prove the truth of the marriage. There are no legal provisions on the implementation of this requirement. This is only investigated in a case-by-case basis when a third party brings forth a claim that the marriage is fictitious.

- The family needs to have a **permanent legal income** that shall ensure the subsistence of the family in Estonia<sup>55</sup>.
- Also, the family members need to have a **valid health insurance**, unless they are covered with national health insurance (e.g. minor children).

There is **no obligation to have a registered place of residence** and actual dwelling for the issue of a temporary residence permit to settle with the spouse. However, within one month, family members under the general scheme need to register place of residence in the Population Register. This is not a requirement for the family members of major investors and they do not need to register their place of residence anywhere.

**Applications for family reunification** may be **submitted at the same time as the sponsor's** application for a residence permit. Applications are submitted **personally** (legal representative for a minor child) at the **foreign missions of Estonia**, which then sends the applications for processing to the Police and Border Guard Board. **If the family is already legally in Estonia**, they may submit the application **directly to the Board**. The application for family reunification is **processed and decision is made within two months**. If the decision is **positive**, the **residence permit** is issued up to **five years**, but not for longer than the validity of the permit issued for the sponsor.

There are **no limitations for family member to access the labour market**. If family members are issued a temporary residence permit they receive the right to work as well. There is **no separate work permit needed**. They have the possibility to participate in the adaptation programme (see Section III of this Report)<sup>56</sup>. They have right to most of the **services** (e.g. labour market services) **and benefits** (e.g. family benefits) that citizens have. They can **freely move** around the countries in the Schengen area without a visa.

- *Statistical data on the number of **successful** applications for residence permits for family members:*

Year	Number of successful applications for residence permits for family members	Source*
2012	22	PBGB
2013	13	PBGB
2014	14	PBGB
2015	19	PBGB
2016	17	PBGB
2017	27	PBGB

\*PBGB- Police and Border Guard Board

<sup>55</sup> [Article](#) 139 of the Aliens Act.

<sup>56</sup> Website of the adaptation programme 'Welcome to Estonia', available at <https://www.settleinestonia.ee/>.

## 2 TYPE OF INVESTMENT<sup>57</sup>

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p><b>Residence permit for general scheme</b>—The investment required is a provision of <b>capital</b> of the amount of at least <b>65,000 euros</b>, which is invested in a <b>business activity</b> in Estonia. Investment can be: equity capital, subordinated liability and registered amount of fixed assets<sup>58</sup>.</p>	<p><b>65, 000 euros</b>, which, after one year of the issuance of the permit can be no longer active as an investment if one of the following conditions is met:</p> <ul style="list-style-type: none"> <li>- <b>the sales revenue</b> of the company is at least 200,000 euros per year; or</li> <li>- the amount of <b>social tax paid</b> in Estonia monthly for the persons employed by the company is at least equal to the social tax paid in Estonia monthly for the remuneration equalling fivefold Estonian annual average gross wages<sup>59</sup>.</li> </ul>	<ul style="list-style-type: none"> <li>■ The <b>applicant submits information and documents proving the amount</b> of investment made in Estonia in accordance with the requirements of the law<sup>60</sup> with the residence permit application. The law does not define which kind of documents or proof this should be. In practice, bank statements, contracts etc., might be proof of the investment made.</li> <li>■ The information and documentation provided by the applicant on the investment is <b>checked and assessed</b> in the application process by the Police and Border Guard <b>Board</b>, which might <b>consult with other experts</b> (e.g. economic experts).</li> <li>■ Checks on fulfilling the investment criteria, including the source of funds, is made in the <b>first application procedure</b>. <b>After</b> receiving the residence permit, <b>ad-hoc checks</b> might be carried out, otherwise in the procedure of the <b>renewal</b> of the permit the investment criteria are assessed again<sup>61</sup>.</li> </ul>	<p>Police and Border Guard Board is processing the application and they can involve other experts to evaluate the fulfilment of the requirements, e.g. the benefits of the investment into Estonian economy. Decision is made by the Police and Border Guard Board.</p> <p>The competent authorities are described in points 1.1., 1.2. of the Section II above.</p>
<p><b>Residence permit for enterprise for sole proprietors</b></p>	<p>At least 16,000 euros</p>	<p>Same as above.</p>	<p>Same as above.</p>

<sup>57</sup> For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

<sup>58</sup> Article 192(4) of the Aliens Act.

<sup>59</sup> Article 194 of the Aliens Act.

<sup>60</sup> Articles 192 and 197<sup>3</sup> (1) of the Aliens Act.

<sup>61</sup> Information gathered through consultation with national stakeholder (Police and Border Guard Board’s migration advisor, competent authority, 28 February 2018).



Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
The investment required is a provision of <b>capital</b> in the amount of at least <b>16,000 euros</b> invested in Estonia (e.g. investment in the equipment which is necessary for the business activity)			
<b>Residence permit for enterprise for major investors</b> - The investment consists in a <b>direct investment of capital</b> in the amount of at least <b>1,000,000 euros</b> into a <b>company</b> , registered in the Estonian Commercial Register, or has made an investment into an <b>investment fund</b> , which, invests the resources of the fund primarily into the companies entered into the Estonian Commercial register <sup>62</sup> .	1,000,000 euros and the investment must <b>last during the period of validity of the residence permit</b> .	Same as above.	Same as above.

### 3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
A <b>temporary residence permit for enterprise</b> is issued for <b>all investors</b> . In general, the permit is issued	<b>The national law does not foresee checks of the fulfilment of the residence criterion.</b> As of 18 January 2017, the Aliens Act <b>abolished the concept of permanent residence</b> of 183 days in a year in Estonia to hold any type	Police and Border Guard Board is processing the application and	<b><u>Conditions for renewal</u></b> For the renewal of the residence permit for enterprise (i.e. general scheme, sole proprietors, major investors), <b>the same</b>

<sup>62</sup> Article 197<sup>3</sup> of the Aliens Act.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p><b>for 5 years and extended for up to 10 years.</b> However, the law stipulates that temporary residence permit for enterprise may be granted <b>for shorter periods</b> than the ones mentioned above<sup>63</sup>, taking into account evidence on the circumstances in which the issue or extension of a residence permit is based or other relevant circumstances relevant and whether there are any <b>changes</b> in any such circumstances.</p>	<p>of temporary residence permit, including for investors. <b>The length of residence was replaced with the obligation to use the residence permit for the purposes for which it was issued.</b> Despite that, a general criterion of issuing a residence permit is that an applicant needs to <b>hold a place of residence in Estonia, still applies. Within one month of issuing the permit</b>, the applicant needs to register his/her place of residence in the Population Register<sup>64</sup>. Not registering a place of residence might be a reason for revoking the permit. The Police and Border Guard Board might carry out <b>ad-hoc checks</b> to monitor that the permit holders still continue to fulfil the conditions of the permit, including that he/she has a place of residence in Estonia. Otherwise, the checks are carried out in the procedure of the <b>renewal</b> of the residence permit.</p> <p><b>Major investors and their family members do not have the obligation to hold a place of residence in Estonia<sup>65</sup>.</b> Therefore, residence checks are not carried out regarding them. However, <b>residence permits are issued for persons with the general aim to reside and work in Estonia.</b> Therefore, in the application process, the purpose of the request for a permit is assessed. If the applicant does not need to stay in Estonia for long or visits often, then it can be suggested to issue him/her a D-visa (long-stay visa) instead of the residence permit.</p>	<p>they can involve other experts to evaluate the fulfilment of the requirements, e.g. the benefits of the investment into Estonian economy. Decision is made by the Police and Border Guard Board</p> <p>The competent authorities are described in points 1.1., 1.2. of the Section II above.</p>	<p><b>conditions that were required to issue the first-time permit must still be active and fulfilled by the investor at the time of renewal</b> (e.g. the applicant must hold a place of residence in Estonia, which must be registered – except for major investors, the investment must continue to be active, etc.) (see conditions in Section II.1 of this Report).</p> <p>Regarding the condition that the <b>investment still be active</b>, this means that the original investment must be maintained in all three schemes examined in this Report. Thus, for renewal there is <b>no need to make a new economic disbursement.</b></p> <p>In the <b>general investor scheme</b> the investment of 65,000 euro must still be active. However, as an <b>alternative for the EUR 65,000 investment</b> requirement, the requirement that the investment still be active can be waived if at least one of the following conditions is met:</p> <ol style="list-style-type: none"> <li>1) the <b>sales revenue</b> of a company is at least 200,000 euros per year or</li> <li>2) the <b>social tax</b> paid in Estonia monthly for the persons employed by the company is at least equal to the social tax paid in Estonia monthly for the remuneration equalling fivefold Estonian annual average gross wages.<sup>66</sup></li> </ol>

<sup>63</sup> Article 197<sup>1</sup> (2) of the Aliens Act.

<sup>64</sup> Article 121 of the Aliens Act.

<sup>65</sup> Article 140<sup>1</sup>, 145, 197<sup>4</sup> of the Aliens Act.

<sup>66</sup> Articles 194 (1), (2), of the Aliens Act.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
			<p>Regarding the <b>sole proprietor scheme</b>, the conditions for renewal are the same as for the issuance of the first permit. Thus, the investment of at least 16,000 euros <b>must still be active (maintained)</b>.</p> <p>Regarding, the <b>major investors scheme</b>, the <b>conditions for renewal are the same</b> as for the issuance of the first permit. The investment of EUR 1.000.000 has to last during the whole period of validity of the residence permit and still be active at the time of renewal. Whereas there is no need for a new economic disbursement at the time of renewal, the investor may decide to change the entity in which the funds were originally invested. This is allowed as long as the new entity (the company or investment fund) complies with the requirements set for the issue of the initial permit (see Section II.1 of this Report).</p> <p><b>Procedure for renewal</b> The application is <b>submitted</b> to the Police and Border Guard <b>Board directly</b>, which will <b>process</b> the application and <b>make a decision</b> regarding the application.</p> <p><b>Period of time for which the permit is renewed</b> The permit can be renewed for <b>10 years</b>; however, the law stipulates that temporary residence permit for enterprise may be extended <b>for a shorter period</b> <sup>67</sup>, taking into account evidence on the circumstances on the basis of which a residence permit is issued</p>

<sup>67</sup> Article 197<sup>1</sup> (2) of the Aliens Act.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
			or extended or any other relevant circumstances, or the change of any such circumstances.

#### 4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>One of the general criteria for issuing a residence permit is that <b>the person is not a threat to the security nor public order</b>. Therefore, <b>Article 124(2) in the Aliens Act</b> gives the opportunity to <b>refuse to grant</b> a residence permit if:</p> <ul style="list-style-type: none"> <li>the applicant has submitted false information or documents;</li> <li>the applicant has committed a criminal offence for which s/he has been sentenced to imprisonment for a term for more than one year and his/her criminal record has not expired;</li> <li>there is a good reason to believe that the applicant's activity is against the State and security or the applicant has been repeatedly punished in Estonia for intentionally committing a crime against the State and his/her punishment has not expired;</li> <li>there is a good reason to believe that an alien has incited or is inciting or may incite national, racial, religious or political hatred or violence;</li> <li>the applicant is serving or has served in a foreign armed forces or intelligence service;</li> </ul>	<p>Due diligence checks are carried out by the Police and Border Guard Board during the assessment of the residence permit application based on the information provided by the applicant and based on any additional documents filed to prove that the person fits the security requirements and the origin of the funds for the investment is legal and trustworthy. The Aliens Act does not list the documents to prove this. However, although the Aliens Act does not cross-refer directly to the Anti-money laundering law<sup>69</sup>, the residence permit application can be refused if the applicant is involved in financing or supporting terrorism (Article 124(2) Aliens Act). Therefore, it is deemed that the due diligence measures of such law to ensure that the funds used in the investment are not aimed at such purposes will be carried out. To this end, the obliged entities (e.g. credit and financial institutions, legal</p>	<p>In assessing the application, the Police and Border Guard can involve other institutions (e.g. Security Police) to evaluate the fulfilment of the due diligence and security requirements, e.g. trustworthiness of the money, security considerations. The final decision on the application is made by the</p>	<p><b>The Police and Border Guard Board can make ad-hoc check or checks based on risk analysis</b> regarding whether the residence permit holder still fulfils the requirements set for this type of permit. <b>Otherwise</b> the checks are carried out when the investors come to <b>renew</b> their permits.</p>

<sup>69</sup> Money Laundering and Terrorist Financing Prevention Act, *Rahapesu ja terrorismi rahastamise tõkestamise seadus*, RT I, 17.11.2017, 2, available at <https://www.riigiteataja.ee/en/eli/517112017003/consolide> (in English) and <https://www.riigiteataja.ee/akt/117112017002> (in Estonian) transposing Directive (EU) 2015/849.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<ul style="list-style-type: none"> <li>■ the applicant has been repeatedly punished pursuant to criminal procedure for intentionally committed criminal offences or crimes against humanity; or</li> <li>■ there is information about the applicant belonging to a criminal organisation, or is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border, or s/he is a member of a terrorist organisation, or s/he has committed or there is a good reason to believe that s/he may commit an act of terrorism, or s/he is involved in financing or supporting terrorism or money laundering.</li> </ul> <p>Information about criminal background should be provided by the applicant in the residence permit application and if necessary provide with a document proving the fact (e.g. clean criminal record certificate). In addition, <b>general security checks</b> are carried out by the Police and Border Guard Board by using different national (e.g. PBGB's databases) and international databases (e.g. INTERPOL, EUROPOL, SIS). Regarding national security concerns the opinion of the Security Police can be asked.</p> <p>Besides a possible criminal and security background, <b>a residence permit for enterprise might be denied in case the applicant fails to provide evidence of the trustworthiness of the business associates or financial resources of the investment</b><sup>68</sup>. In case there is any <b>doubt</b> the Police and Border Guard Board can ask for <b>extra proof of the origin of the finances</b> from the applicant. This is <b>assessed</b> based on the <b>documents</b> and <b>statements issued by the applicant</b>. There can be <b>consultations with Security institutions</b> (e.g. Security Police).</p>	<p>professionals, real estate agents) will be compelled to examine the funds used by the investor (e.g. bank deposit, bank statements). In addition, investors must present a business plan where the nature of the capital and the capital movements are specified. This business plan is also examined at the application phase and, again, at the time of renewal, to take the corresponding decision.</p> <p>If necessary, further documents or proof may be asked or interviews set up.</p> <p>The Police and Border Guard Board uses its own national databases and also international databases (e.g. SIS, EUROPOL, INTERPOL) to check criminal background, possible security threat or false documents instances.</p> <p>As mentioned above, the Board can consult other institutions or experts (incl. the Security Police) regarding the background of the investor and the financial resources.</p>	<p>Police and Border Guard Board.</p> <p>The competent authorities are described in points 1.1., 1.2. of the Section II above.</p>	

<sup>68</sup> Articles 195 p1; 197<sup>5</sup> para. 4 of the Aliens Act. The information is assessed based on the documents and statements issued by the applicant. There can be consultations with other relevant institutions (Article 42<sup>1</sup> of the Aliens Act).

### III. RIGHTS GRANTED BY THE PERMITS

#### 1 RIGHTS GRANTED TO INVESTORS

The residence permit issued for enterprise, which is issued to all the investors mentioned in this Report (including the general scheme, sole proprietors, major investors) entitles the **beneficiary and his or her dependants to settle, reside and work in Estonia**. There are no limitations set for them for working in Estonia, i.e. **they do not need a separate work permit** in case they want to work, including in their company. Beneficiaries of the resident permit for enterprise can **move freely** in the **Schengen area**, without a visa according for up to a total of 90 calendar days within the period of 180 days.

All third-country nationals who hold a valid residence permit in Estonia have **access to social<sup>70</sup> and employment<sup>71</sup>** (in case they also work/ed) **services and benefits**. All third-country nationals who stay in the country legally with a temporary residence permit have access to the same services and benefits that nationals have. The only difference is in the subsistence benefit, which is only foreseen for residents whose income is under the minimum set by the State. This would, thus, not apply to foreign investors as one of the main conditions for receiving a temporary residence permit is that the applicant has legal income which would enable him/her and the family members of the applicant the subsistence in Estonia.

Investors are not automatically covered with national **health insurance**, and having a personal medical insurance is a prerequisite for the issuance of the residence permit. However, in case the investor or his/her family member is working and social tax is payed from his/her salary, then the national health insurance widens to them as well. Sole proprietors must pay social tax from their income, which provides them with health insurance. Also, children under the age of 19 and pregnant women are covered with national health insurance<sup>72</sup>. In case there is a bilateral agreement with a third country regarding pensions or other benefits (depending of the bilateral agreement), then earned benefits and pensions can be exported. Currently, Estonia has bilateral contracts with four third-countries (Ukraine, Russia, Moldova and Canada), which cover the export of pensions and in case of Ukraine other benefits like employment, family, funeral benefits.<sup>73</sup>

Furthermore, all investors have an option to **take part in the adaptation programme<sup>74</sup>** offered by the State to integrate foreigners into Estonian society. The adaptation programme entails 80 hours of Estonian language courses and a one-day course about the about the functioning of the state and the society, and a specific module on working and enterprise in Estonia<sup>75</sup>.

The residence permit for enterprise, which is issued to all the investors mentioned in this Report (including the general scheme, sole proprietors, major investors), indicates the **areas of activity** in which the investor will operate and, where necessary, it will also determine the **licensed territory** to which such activities may extend<sup>76</sup>.

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<sup>70</sup> EMN 2013 Main Study, Migrant access to social security and healthcare: Policies and Practice. Estonian National Report. available at [http://emn.ee/wp-content/uploads/2016/04/07.estonia\\_national\\_report\\_social\\_security\\_en\\_version.pdf](http://emn.ee/wp-content/uploads/2016/04/07.estonia_national_report_social_security_en_version.pdf)

<sup>71</sup> Article 9 of the Labor Market Services and Benefits Act, available at: <https://www.riigiteataja.ee/akt/121122010016>

<sup>72</sup> Article 5 of the Health Insurance Act, available at <https://www.riigiteataja.ee/en/eli/511012018002/consolide>

<sup>73</sup> The list of countries available at <http://www.sotsiaalkindlustusamet.ee/et/pension-toetused/pensioni-saamine-valisriigist-jamaksmine-valisriiki#Pension%20maksmine%20v%C3%A4lisriiki>.

<sup>74</sup> Article 121<sup>1</sup> of the Aliens Act.

<sup>75</sup> Website of the adaptation programme 'Welcome to Estonia', available at <https://www.settleinestonia.ee/mod/page/view.php?id=118>.

<sup>76</sup> Article 193 of the Aliens Act.

## 2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Dependants are granted the **same rights as the main beneficiary**. They have the right to **work** in Estonia without a separate work permit. Also, they have access to **social services** and **benefits** as any other foreigner staying in Estonia based on a valid residence permit.

As explained above, family members can take part in the **adaptation programme**<sup>77</sup> offered by the State to integrate foreigners into Estonian society. Apart from the general courses (see above Section III.1), the course includes a specific module for family members, which includes topics on the local education system, social and labour market services, family benefits and leisure opportunities in Estonia<sup>78</sup>.

**Children have access to education**. Also, **higher education** is accessible on the same grounds as for Estonian citizens.

Family members can **move freely in the Schengen visa area**, without a visa for up to a total of 90 calendar days within the period of 180 days.

After three years, the **spouse** can apply for a **separate residence permit**. S/he may be issued a temporary residence permit for settling permanently in Estonia<sup>79</sup>.

## 3 OTHER BENEFITS

No other benefits were identified.

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Article 121<sup>1</sup> of the Aliens Act.

<sup>78</sup> Website of the adaptation programme 'Welcome in Estonia', available at <https://www.settleinestonia.ee/mod/page/view.php?id=118>.

<sup>79</sup> Article 149 of the Aliens Act. The purpose of the temporary residence permit issued for settling in Estonia is to enable an alien, who has settled into Estonia on the basis of a temporary residence permit and whose residence in Estonia is in accordance with public interests, to settle in Estonia. Thus, even if there is no other grounds for a person to stay in Estonia, as he/she does not fulfil the criteria anymore, then if there is a public interest, he/she may be issued a permit for settling permanently in EE.

#### IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

**There are no restrictions made to immigrant investors to be granted access to citizenship. They have to fulfil the general requirements set for naturalization. There is no special or facilitated way foreseen for them.**

The general requirements for citizenship are<sup>80</sup>:

- to be at least 15 years of age;
- to hold a long-term residence permit<sup>81</sup>;
- prior to the date on which s/he submits the application for Estonian citizenship, to have lived in Estonia for at least eight years on the grounds of a residence permit or by right of residence, of which at least five years on a permanent basis;
- to have a registered place of residence in Estonia;
- to be proficient in the Estonian language in level B-1;
- to know the Constitution of the Republic of Estonia and the Citizenship Act<sup>82</sup>;
- to have a permanent legal income;
- to be loyal to the Estonian state;
- to take an oath.

There is no statistical data collected on immigrant investors who have been obtained citizenship in Estonia.

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<sup>80</sup> Article 6 of the Citizenship Act (*Kodakondsuse seadus*), RT I, 3 January 2017, available at <https://www.riigiteataja.ee/en/eli/513012017001/consolide>.

<sup>81</sup> Under Article 62(2) of the Aliens Act, a long-stay visa can be issued when the alien meets the following requirements:

- 1) the alien holds a valid travel document;
- 2) if the purpose and reason of his or her planned stay in Estonia have been proved and these are in accordance with the provisions of the legislation regulating the temporary stay in Estonia of an alien;
- 3) if it is proved that his or her accommodation and staying expenses are covered during his or her stay in Estonia;
- 4) if he or she proves the intention to leave Estonia at the latest upon termination of the period of stay;
- 5) if it is proved that the costs relating to his or her return to his or her country of origin or departure from Estonia into another country into which he or she has a legal basis to enter are covered and;
- 6) who has a valid health insurance policy guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the visa shall be met, in case of a multiple-stay visa until the expiry of the period of the first planned stay.

As explained, since January 2017, Estonian law does not require a certain length of the residence, but instead focuses on the purposes for which the permit is issued.

<sup>82</sup> A person who wishes to acquire Estonian citizenship must know: the general principles of the Estonian constitutional order; the fundamental rights, freedoms and duties of every person; the powers of the Riigikogu, the President of the Republic, the Government of the Republic and the courts; the conditions and procedure for acquisition, restoration and loss of Estonian citizenship as provided in the Citizenship Act. Knowledge of the Constitution of the Republic of Estonia and the Citizenship Act is assessed by way of examination which is held in Estonian.



## V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

The impact of the investment and the value to the Estonian economy is **assessed in the residence permit renewal** procedure as one of the pre-conditions for the renewal. Outside of the residence permit procedure, there is no monitoring.

There is **no publicly available information** that would allow a determination of whether the residence permit schemes have met the expectations for which they are created. There are **no studies assessing the economic and financial efficiency** of the residence scheme.

When the major investor scheme was drafted, then policy makers assessed that per year less than 100 major investor applications would be submitted. In the first year, only four applications were submitted and all of them got a positive decision. Thus, the expectation so far has been greater than reality. Based on statistical data, it may be calculated that, as a result of the major investor scheme, at least four million euros were invested into Estonian companies last year (2017). Furthermore, taking into account that major investor is defined under the Estonian legislation as an alien who has made a direct investment in the amount of at least 1,000,000 euros into a company, registered in the Estonian Commercial Register, it can be interpreted that this means that over 50% of the investments are made in Estonian businesses, thus, directly having an impact in the Estonian economy.

Apart from the direct benefit resulting from foreign investment as described above, foreign investment also has indirect effects. The active involvement of major investors in the Estonian economy will contribute to the growth of the companies' productivity, the growth of export potential, the increase of the value added of products, the opening of new market opportunities and the creation of more job positions<sup>83</sup>. Therefore, the major investor scheme will have a positive economic impact. Estonia will also become more attractive to foreigners in an entrepreneurial environment, which in turn diversifies and strengthens Estonia's competitive position.

When looking at the number of residence permits issued for other investors (i.e. sole proprietors and general scheme investors), 64 positive decisions were made in 2017(see table in section 1.4). Taking into account the minimum sum of 65,000 or 16,000 euros that investors have to invest into the company, then these two schemes had around 2,6- 4 million euros effect in the economy. In previous years, these investor schemes have not been very popular. For example, in 2016 only 18 permits were issued for all the investors in these schemes. It is estimated that the translation of these permits in benefits to the Estonian economy had an effect of 1 million euros. However, these calculations are rough, as there is not enough information available to assess the real effect of the investor schemes.

There are also the state fees that applicants have to pay into the State budget for their applications. The state fee for an application (regardless of the type of investor) is 180 euros. Thus, in 2017 investors paid around 17,000 euros for their applications.

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<sup>83</sup> Explanatory note for the amendments to the draft law of the Aliens Act, Citizen of the EU Act, Identity Documents Act, 251SE.

## VI. OTHER COMMENTS

There is an **intent to make amendments** to the major investors' scheme<sup>84</sup>. Although the major investors' scheme has already brought foreign investors to Estonia, the **number of applications and issued residence permits for large investors is quite modest**: since the launch of the major investors' scheme in 2017, four applications were filed for a major resident's residence permit, and all applications have received a positive response. According to the 2018 paper of the Estonian Chamber of Commerce on the intention to make amendments to, inter alia, the major investors' scheme,<sup>85</sup> the **reason for the lack of interest** may be that the regulation establishing the major investors' scheme **places significantly higher investment requirements** in comparison with the regulations of other Member States. Due to that, the regulation of major investors has not significantly added new foreign investments to Estonia.

The aim of legislative **amendments is to update the regulation of the major investors' scheme** in such a way that it **better meets the actual investment size** and so it would be internationally **more competitive**. Also, there is a need **harmonise the investment requirements** set in the Aliens Act for different investors. For example, although **entrepreneurial schemes** do not fall within the scope of this Report, the difference in the types of investments between these schemes and the investors' residence schemes assessed in this report has caused, in practice, difficulties for both businesses and employers in understanding the law<sup>86</sup>. There are currently three different categories of entrepreneurial schemes in Estonia, each with different ways of regulating the capital and investment requirements of entrepreneurs - a top specialist employer, a residence permit for applying for entrepreneurship in general terms and a residence permit for entrepreneurship to a major investor. For instance, in the case of top specialist employers, the investment required amounts to at least 65,000 euros of the paid-in equity capital, for which immovable property, machinery and equipment has been acquired in Estonia and accounted for as fixed assets or for which investment has been made in another company registered in Estonia which has actual business activity in Estonia, or in an investment fund created or established on the basis of the Investment Funds Act or the company's sales revenue is at least 200,000 euros per year or the company pays social tax, which is at least equal with the social tax paid for an average gross salary times five monthly. Meanwhile, in the investors' residence schemes assessed in this Report the investment can be in the business, equipment and in different funds.

There is a will from the employers, who are represented by the Estonian Chamber of Commerce, to keep modifying the investors' residence scheme as so far it has not been so successful in attracting investors<sup>87</sup>.

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<sup>84</sup> Estonian Chamber of Commerce, 'The intention of drafting the Bill on Amendments to the Aliens Act and Other Acts' (*Välismaalaste seaduse ning teiste seaduste muutmise seaduse eelnõu väljatöötamise kavatsus*), 28. February 2018, available at <https://www.koda.ee/sites/default/files/content-type/content/2018-03/V%C3%A4lismaalaste%20seaduse%20muudatuste%20v%C3%A4ljalat%C3%B6%C3%B6tamiskavatsus.pdf>.

<sup>85</sup> Estonian Chamber of Commerce, 'The intention of drafting the Bill on Amendments to the Aliens Act and Other Acts' (*Välismaalaste seaduse ning teiste seaduste muutmise seaduse eelnõu väljatöötamise kavatsus*), 28. February 2018, available at <https://www.koda.ee/sites/default/files/content-type/content/2018-03/V%C3%A4lismaalaste%20seaduse%20muudatuste%20v%C3%A4ljalat%C3%B6%C3%B6tamiskavatsus.pdf>.

<sup>86</sup> Estonian Chamber of Commerce, 'The intention of drafting the Bill on Amendments to the Aliens Act and Other Acts' (*Välismaalaste seaduse ning teiste seaduste muutmise seaduse eelnõu väljatöötamise kavatsus*), 28. February 2018, available at <https://www.koda.ee/sites/default/files/content-type/content/2018-03/V%C3%A4lismaalaste%20seaduse%20muudatuste%20v%C3%A4ljalat%C3%B6%C3%B6tamiskavatsus.pdf>.

<sup>87</sup> Ibid.