

THE NEW TYPE OF RESIDENCE PERMIT IN GREECE FOR “INVESTORS IN STARTUP COMPANIES”

1. INTRODUCTION

For several years the Greek State has focused on the organization of the startup ecosystem in Greece, providing the relevant legal framework (e.g. the appealing, flexible form of the Private Company-P.C., the establishment of the National Startup Registry etc) and various incentives for the funding of this type of undertakings (such as tax incentives). So far, the National Startup Registry includes more than 900 startup companies and some of them have received significant funding¹.

As a further incentive for foreign investors to invest in startup companies in Greece, in December 2024 the law 5162/2024 was issued (*“Measures to boost income, tax incentives for innovation and corporate transformations and other provisions”*), which, inter alia, amended the Greek Code of Immigration and provided the option for a foreign investor to obtain a residence permit in Greece by investing in Greek startup companies.

2. BRIEFLY- THE STARTUP COMPANIES IN GREECE

According to Greek law, the “startups” are companies which are registered in the National Startup Registry of the company ElevateGreece S.A.², which constitutes the official registry of the startups in Greece³.

The criteria for the registration of a company to the above registry are the following:

i. To have the type of a “capital company” i.e. Private Company (P.C.), Limited Liability Company (Ltd) or Societe Anonyme (S.A.)⁴ with registered seat in Greece or a similar type of company with registered seat abroad with a Greek branch (which has obtained a Greek Tax Identification Number and it is registered in the Greek General Commercial Registry- in this case the branch is the entity that files the application for the registration).

¹ The Registry is accessible at the following link, where information including the names of the startup companies, their websites, the industry of each company, the number of employees and their funding , is listed: <https://elevategreece.gov.gr/the-startup-database/>

² ElevateGreece S.A. belongs to the organizations of the broader public sector in Greece and its purposes, inter alia, include the management and operation of the National Startup Registry and the recording of the Greek startups, the mapping of the ecosystem that they compose, the networking among them, the networking with the business community and the Greek industry with the aim of providing feedback on market needs, the monitoring of the progress of the startups, the creation of a database for finding specialized - scientific jobs in startups, the operation of the platform as a pole of attraction for investors, such as investment angels, venture capital funds and companies from Greece and abroad, the support of the startups with various potential financing measures from the State and the provision of business awards.

³ <https://elevategreece.gov.gr/startup-registry/>

⁴ For more details on the company types in Greece see the publication “ESTABLISHING A BUSINESS ENTITY: AN INTERNATIONAL GUIDE”, published by “International Lawyers Network (ILN)”, where our firm has provided the chapter regarding Greece- the latest edition of Fall 2024 is available here: <https://online.flippingbook.com/view/66463977/>

ii. At the time of the application for the registration not to have existed for more than 8 years since its establishment (in the case of the Greek branch of a foreign company, this applies both for the branch and the foreign company).

iii. To employ less than 250 employees at its last fiscal year (in the case of the Greek branch of a foreign company, this applies only for the branch).

iv. the annual turnover as described in the financial statements of the last fiscal year not to exceed the amount of €50,000,000 (in the case of the Greek branch of a foreign company, this applies only for the branch).

The interested company or the branch of a foreign company submits an online application to Elevate Greece S.A. along with the required documentation. Subsequently, Elevate Greece S.A. decides for the registration taking into account the following criteria: **i.** Innovation and **ii.** Scalability

Regarding the criterion of “Innovation” the following are taken into account: **a)** There must be technological innovation in the product/service and/or there must be an innovative business model in a recent (new) technology; **b)** there must be a very limited number of competitors, corresponding to startups or very few large companies in the sector (the term “competitors” refers to companies that propose solutions with similar advantages and not generally those that target the same market) and **c)** companies whose main activity is research with the aim of producing intellectual property with prospects for commercial exploitation (“knowledge-intensive companies”) are also characterized as innovative.

The criterion of “Scalability” is assessed as follows: **a)** It is assessed whether the business model and/or technology allows for rapid scale-up of sales in the global market. The company's main product/service must be standardized (or can be standardized), and not consist of consulting/research services, nor does it involve manufacturing on demand; **b)** in the case of “knowledge-intensive companies” (spin-offs), the business model may be based on the sale or exploitation of intellectual property in general.

Exceptionally, some companies may be entitled for a fast-track registration to the abovementioned registry without evaluation of the innovation and scalability criteria, if one of the following applies: **1)** when Venture Capital Funds from Greece and/or abroad, registered in the Registry of the Capital Market Commission (or the competent body of the state of their seat), participate in their corporate structure, or **2)** they constitute spin-offs of Greek Universities and Research Centers, or **3)** they have obtained funding in Horizon 2020 Programs (SME Instrument Phase I and/or Phase II), approval for “Seal of Excellence”, Fast Track to Innovation, EIC Accelerator and their successor programs in Horizon Europe or **4)** they own a registered and active patent at the European Patent Office and the US Patent Office, (cumulatively), or a concession agreement between the patent owners and the company (if the applicant is a Greek Branch of a foreign company it is entitled to the fast-track procedure only if cases 3 or 4 apply to the foreign company).

3. ELIGIBILITY FOR THE RESIDENCE PERMIT

The residence permit is provided by a Ministerial Decision to third-country nationals as investors to startup companies (“residence permit of type B.6”) provided that:

- i. They contribute at least an amount of €250,000 to the share capital of a startup company registered in the National Startup Registry for the acquisition of shares in a capital increase of the company or bonds at the issuance of a bond loan.
- ii. The acquired shares must not exceed the **33%** of the share capital or the voting rights of the company
- iii. The company creates within the first year from the time of the abovementioned investment **2 additional new employment positions**.
- iv. The company maintains for **at least 5 years** from the time of the abovementioned investment the total number of its employment positions (including the above 2 new positions)
- v. If the investment takes place by a Greek legal entity, the residence permit may be granted to a third-country national if he owns the total of the entity’s shares
- vi. If the investment takes place by a foreign legal entity, the residence permit may be granted to up to three (3) third-country nationals, depending on the amount of the investment provided that they own at least the 33% of the share capital of the foreign legal entity.
- vii. the investment takes place with **funds transferred from abroad to Greece** for the purpose of the investment by a third-country national or a foreign legal entity (the senders of the bank transfer may also be the spouse or relatives up to 2nd degree of the investor).

4. APPLICATION AND ISSUANCE OF THE RESIDENCE PERMIT

The application takes place within the following year from the realization of the investment.

Along with the application, a duty of €2,500 must be paid and it is not refundable regardless of the outcome of the application.

The investor/owner of the residence permit for Investors in Startups may apply for a residence permit for the **members of his family** (spouse/partner, unmarried children under 21 years old, his and his spouse’s/contractual partner’s parents) which shall expire along with his own.

The residence permit for Investors in Startups does not grant a right for whatever type of work in Greece.

The investor/ owner of the residence permit must keep the acquired shares for **5 years from the acquisition**. If after the 5-year period the investor he/she sells the shares, the residence permit of the investor (and the residence permit of the members of his family) is not revoked, if he acquires new shares (under the conditions that apply for the issuance of the residence permit) within 2 months or if he proceeds with an investment of articles 96-100 of the Immigration Code (residence permits for investors-different from the residence permit for the Investors in Startups) within 2 months. The

existing residence permit(s) remains valid until the completion of the procedures for the issuance of a new residence permit for the new investment.

If the startup company goes bankrupt or if a corporate transformation takes place even before the abovementioned 5-year period, the investor's residence permit (and the residence permit of the members of his family) is not revoked if he acquires new shares (under the conditions that apply for the residence permit) within 2 months or if he proceeds with an investment of articles 96-100 of the Immigration Code within 2 months, even if the funds for the investment occur from the liquidation of the initial investment. The existing residence permit(s) remains valid until the completion of the procedures for the issuance of a new residence permit for the new investment.

5. CONCLUSIONS

The provision of the new type of Residence Permit for the investors in startups constitutes a further incentive for the growth of the startup ecosystem in Greece. It is an incentive that it seems appealing for future investors and persons who seek to obtain residence permit in Greece, for 2 main reasons: **a) The amount of the investment (€250,000) is significantly lower than those for other investments that provide the possibility to obtain a residence permit in Greece** (e.g. for real estate properties the required amount is in principle €400,000 or € 800,000, for the establishment of an undertaking in Greece the amount is €500,000, for a financial investment the amount is €500,000 and €800,000 or €350,000 in some cases) and **b) the investment in several startups in Greece has the prospect of increasing the amount invested by the investor if the specific startup turns out to be profitable.**

The present article constitutes only a brief, general outline of the relevant provisions and proceedings and obviously it does not cover all the detailed provisions of the laws and ministerial decisions. For any specific situation, any interested person must seek specific legal advice from a qualified lawyer.

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Managing partner, Kriton Metaxopoulos built his international reputation by representing major US Film Studios, record companies and MPAA (having also served as a BoD member of Warner Music for more than 20 years) as well as Greek and foreign clients in complex litigation matters of corporate and IP/Patent/Trademark laws.

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