



**LAW ON IDENTITY 2023 – PERSONS AGED UNDER
14 YEARS OLD COULD BE GRANTED AN
IDENTITY CARD**

The Law on Citizen Identification 2014 is an important legal document in population management and identification, facilitating people's travel, carrying out administrative procedures and transactions. civil, economic, commercial, etc. However, after more than 7 years of implementation, the Law on Citizen Identification 2014 has revealed a number of difficulties and problems. Therefore, after a period of research, drafting, receiving comments and completing, the Law on Identification 2023 was issued with many amendments and supplements, creating a legal basis for implementing the Digital Transformation Project in Vietnam, facilitating the exploitation, use and management of population information in a synchronous and effective manner.

Through this topic, ATA Legal Services will synthesize important and notable new points of the Law on Identification 2023 based on comparison with the provisions of the Law on Citizen Identification 2014, and at the same time give an assessment of the impact, progress and limitations (if any) of these regulations on people.

1. ISSUE IDENTIFICATION CERTIFICATES TO PEOPLE OF VIETNAMESE ORIGIN WHOSE NATIONALITY IS UNKNOWN

Compared to the Citizen Identification Law on Citizen Identification 2014, the Citizen Identification Law 2023 has added applicable subjects to be people of Vietnamese origin whose nationality is unknown and living in Vietnam. This is a person living in Vietnam, without papers or documents proving that he/she has the nationality of Vietnam or another country but has the same direct bloodline as a person who once had Vietnamese nationality as determined according to the principle bloodline (hereinafter referred to as "people of Vietnamese origin whose nationality has not been determined").

In fact, currently, people of Vietnamese origin whose nationality has not been determined are those who do not have identification documents, so they face many difficulties in traveling and carrying out transactions or owning assets in their names. In addition, some organizations and individuals also deliberately take advantage of this issue to cause trouble, causing loss of security, social order and safety. Expanding

the scope of regulation to this group of subjects aims to manage all citizens and people of Vietnamese origin living in the locality; Facilitate the planning of social development policies, ensuring social security, order and safety.

Here, the Identity Law 2023 adds specific regulations guiding issues related to the rights and obligations of people of Vietnamese origin whose nationality is unknown and the issuance of identification certificates for this group of subjects. Specifically, according to the Law on Identification 2023, people of Vietnamese origin whose nationality has not been determined but are living continuously for 6 months or more in a commune-level administrative unit or district-level administrative unit where there is no such administrative unit. Commune-level authorities will be granted an Identification Certificate to participate in transactions on the territory of Vietnam and have their legitimate rights and interests protected by the State according to the provisions of law.

2. THE INFORMATION IS INTEGRATED INTO THE IDENTIFICATION CARD AT THE REQUEST OF THE CITIZEN

The Law on Identification 2023 stipulates that when carrying out procedures for issuing identification cards, people only have to provide minimum information on the identification card according to regulations. Other information about health insurance cards, social insurance books, driver's

licenses, birth certificates, marriage certificates or other documents as prescribed are not required to be integrated into the identification card but only is implemented when people request it.

3. LEGAL FORMS TO AUTHENTICATE CITIZENS' IDENTIFICATION INFORMATION

The Law on Identification 2023 for the first time introduces the concept of "electronic identification" which is the identity of Vietnamese citizens expressed through an electronic identification account created by an electronic identification and authentication system. Electronic identification cards will have the same validity as identification cards. Accordingly, currently, there are two legal forms to authenticate citizens' identification information: identification cards and electronic identification cards. In case there is a difference between the information printed on the identification card or the information stored in the encrypted storage part of the identification card and the information in the electronic identification card, the agency, organization or individual shall Individuals use information in electronic identification cards.

Here, the Law on Identification 2023 stipulates that information in electronic identification includes:

a. Information in the national population database and identification database

according to regulations, including: Place of birth; place of birth registration; home town; nation; religion; Nationality; Blood group; Identity card number: 09 digits; Date, month, year of issue, place of issue, validity term of the issued 12-digit identification card, people's identity card and citizen identification card; full name, middle name, personal identification number, 09-digit people's identity number, nationality of father, mother, wife, husband, children, legal representative, represented person; place of residence; shelter; current residence; mobile subscription number, email address; identification information; occupation, except for the People's Army, People's Police, and Cipher.

b. Information integrated into the identification card (including information on health insurance card, social insurance book, driver's license, birth certificate, marriage certificate or other documents as prescribed) is integrated at the request of citizens and must be authenticated through national databases and specialized databases.

4. INDIVIDUALS AGED UNDER 14 YEARS OLD COULD BE GRANTED AN IDENTIFICATION CARD UPON THEIR NEEDS

According to the Law on Citizen Identification 2014, citizen identification cards are only issued for citizens aged at least 14 years old; those aged under 14 years old are only subject to a personal identification number. However, the Law on Identification 2023 allows citizens under 14 years old to also be issued an identification card if needed. The Law additionally supplements regulations on the procedure for issuing identification cards to this age group. Specifically:

a. The legal representative shall perform the identification card issuance procedure for individuals under 6 years old through the public service portal or the national identification application. If individuals under 6 years old have not registered for birth certificates, the legal representative shall perform the identification card issuance procedure through interlinked procedures with birth registration on the public service portal, the national identification application, or directly at the identification card management agency. The identification card management agency does not collect identification

information and biometric information for individuals under 6 years old.

b. Individuals from 6 to under 14 years old, accompanied by their legal representatives, go to the identification card management agency to provide identification information and biometric information as required. The legal representative shall perform the identification card issuance procedure on behalf of the individual.

According to ATA's observation, issuing identification cards to individuals under 14 years old is expected to facilitate citizens for addressing the drawbacks of birth certificates being easily torn, damaged, and difficult to store as they are issued only once. Additionally, issuing identification cards to those subjects is more convenient for transactions, as they can integrate more information than birth certificates. Moreover, allowing individuals under 14 to have an identification card is also in line with the laws of many countries worldwide, contributing to reducing paperwork, administrative procedures, and maximizing the value of exploiting and using databases

5. OFFICIALLY RECOGNIZING THE CHANGE OF IDENTIFICATION CARD DUE TO GENDER TRANSITION

The Law on Identification 2023 supplements the case of gender reassignment as one of the instances for the issuance, reissuance or replacement of an identification card according to regulations.

This provision aligns with the current direction of the draft Law on Gender Reassignment. As of now, not many countries recognize gender reassignment, making these regulations seen as progressive and open-minded, creating a legal framework for gender reassignment issues in Vietnam.

6. REDUCING THE ISSUANCE, REISSUANCE, AND REPLACEMENT PERIOD FOR AN IDENTIFICATION CARD AND ALLOWING THE ONLINE REISSUANCE OF IDENTIFICATION CARDS FOR CASES OF LOSS

According to the Law on Citizen Identification 2014, the time frame for issuing, reissuing, or replacing a citizen identification card varies by region, ranging from 07 to 20 working days from the date of receiving a complete and valid application as per regulations. However, the Law on Identification 2023 reduces this period uniformly to 07 working days in all cases.

Moreover, particularly for cases of reissuing identification cards due to loss, damage, or where the card cannot be used as per regulations, the Law on Identification 2023 allows individuals to choose to conduct procedures online through the public service portal, national identification application, or directly at the place where the identification card issuance procedure is carried out

(instead of being restricted to direct processing at the citizen identification management agency as stipulated in the Law on Citizen Identification 2014). In this case, the identification card management agency uses facial recognition information, fingerprints from the most recent card issuance, and existing information in the national population database and identity card database for the reissuance of the identity card.

These regulations demonstrate the state's efforts to improve the quality of public services, contributing to promptly meeting the needs of citizens and providing convenience in using their data. It optimizes the time and effort of all parties involved in transactions and administrative procedures

7. THE USE OF PEOPLE'S IDENTITY CARDS AND CITIZEN IDENTIFICATION CARDS ISSUED BEFORE THE EFFECTIVE DATE OF THE LAW ON IDENTIFICATION 2023

According to the Law on Identification 2023, from January 15, 2024, the use of people's identity cards and citizen identification cards is regulated as follows:

- a. Citizen identification cards issued before the effective date of this Law are valid until the expiration date printed on the card (except for cases where the citizen identification cards or people's identity cards expire between January 15, 2024 and June 30, 2024, which continue to be valid until June 30, 2024). Citizens can request a replacement with the new identification card as needed.
- b. People's identity cards remain valid until December 31, 2024. Legal documents

issued using information from the people's identity card or citizen identification card shall remain their validity. Citizens are not required to change or adjust the information on the people's identity card or citizen identification card in the issued documents.

Provisions regarding the use of people's identity cards or citizen identification cards in legal documents issued before the effective date of this Law shall be applied similarly to the new identification card issued pursuant to this Law.

8. IS THE CHANGE FROM "CITIZEN IDENTIFICATION CARD" TO "IDENTIFICATION CARD" NECESSARY?

Regarding this issue, the addition of the adjustment group of individuals of Vietnamese origin whose nationality is unknown is the reason for changing the name from the Law on Citizen Identification 2014 to the Law on Identification 2023 and from "citizen identification card" to "identification card". However, according to ATA's opinion, the change from "citizen identification card" to "identification card" does not have much significance because, essentially, the subjects to either citizen identification card or

identification card are still Vietnamese citizens. Individuals of Vietnamese origin whose nationality is unknown are only subject to a certificate of identification. On the other hand, the aforementioned reform also leads to the adjustment and reissuance of new cards on a large scale, causing inconvenience, time loss, and additional expenses, especially as the state has recently carried out the plan for encouraging people to switch to chip-embedded citizen identification cards.

9. IS THE REGULATION FIXING THE PERSONAL IDENTIFICATION NUMBER AS A 12-DIGIT NATURAL NUMBER IN THE LAW REASONABLE?

In essence, Laws generally provide principles and regulatory frameworks, while the specific implementation of these regulations is normally detailed in corresponding guidelines. According to the provisions of the Law on Citizen Identification 2014, the structure of the citizen identification number is determined by the government. However, the Law on Identification 2023 rigidly

specifies the personal identification number as a 12-digit natural number established by the National Population Database for Vietnamese citizens. From the perspective of ATA, we support the approach taken by the Law on Citizen Identification 2014, as the provision in the Law on Identification 2023 seems overly specific and may not align well with the usual practices of legal documents.

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