



REPRODUCTION AND PRESERVATION OF IDENTIFICATION CARDS

With reference to recent legislative changes regarding the obtaining and preservation of photocopying and/or digitalization of identity cards of natural persons, it entailed the obligation to obtain the consent of the holders of identification cards, so that they may be photocopied/digitalized and kept on companies' records.

With practical relevance in this matter there is Law 7/2007, of February 5, 2007, amended by Law 91/2015, of August 2, 2015, which created the citizen's card and governs its issuance and use, establishing, so to speak, the Legal Regime of the Citizen's Card.

In fact, article 2 of such law establishes that "The citizen's card is an authentic document that contains the data of each citizen that is relevant to his/her identification and includes the civil identification number, the tax identification number, the national health service user number and the social security number."

On the other hand, article 4 of the Law establishes that "The citizen's card constitutes title enough to prove the identity of the holder before any authorities and public or private entities, being valid throughout the national territory ..."

Regarding the retention and reproduction of the Citizen's Card, Law 7/2007, of February 5, 2007, provides the following, which we transcribe: "1 - The identity verification that proves necessary to any public or private entity does not allow the retention or conservation of the citizen's card, except in the cases expressly provided for by law or by decision of a judicial authority.

2 - The reproduction of the citizen's card by photocopy or by any other mean without the consent of the holder is also prohibited, except in the cases expressly provided for by law or by decision of the judicial authority ... "

In light of the foregoing, it is concluded that the law prohibits the reproduction of the citizen's card by photocopy or by any other mean, such as digitalization, without the consent of the holder. One of the exceptions is the decision by a judicial authority.

On the other hand, public or private entities are prohibited from retaining or keeping the document to verify the identity. In such cases, the data shall be entered in the computer system, form or other platform in the presence of its holder.

The law provides for the imposition of a fine for the retention of the document, in its article 43 (1) that "1 - The retention or conservation of a citizen's card of which you are not the holder in violation of the provisions of article 5 (1) is an administrative offence punishable by a fine ranging from € 250 to € 750."

In view of what has been analyzed in our opinion and in order to avoid the application of administrative offences and the respective fines, the human resources departments must request all employees to sign an addendum to their employment contracts with a view to obtaining their express consent to having their identification cards photocopied/digitalized and kept in the files and/or records of the company.

We remain at your disposal to prepare an Addendum to the employment contracts, as well as the authorization document to be signed by each of the workers.