



Vietnam's Legal Framework for Background Checks

In Vietnam, it is common for employers to conduct background checks to obtain relevant information about candidates. Employers have the right to collect information that is pertinent to the position for which the candidate is applying. This usually includes basic details such as personal profile, contact information, and work experience.

In some cases, additional checks may be conducted, such as requests for health information or criminal records. Such information is typically required for positions with specific regulatory or safety requirements.

Are employers permitted to carry out background checks? If so, what types of background checks can they conduct, and what are the associated risks?

Vietnam has no regulation prohibiting the conduct of background checks. In fact, employees are required to provide truthful information to their employers regarding their full name, date of birth, gender, place of residence, educational background, professional qualifications, health status certificate, and other matters directly related to the conclusion of the employment contract, as requested by the employer.[1] As such, as long as the requested information relates to the execution of the employment contract, the employer is within their rights to obtain it.

However, since the employer will be processing candidates' personal data, they must comply with the general requirements on personal data processing under Decree No. 13/2023/ND-CP, and later, both the general and specific provisions on personal data processing in recruitment activities under the Law on Personal Data Protection 2025.

Employers should be careful not to request information unrelated to the requirements of the position, as this could lead to violations of personal data protection regulations or even allegations of discrimination.

Additionally, under Vietnam's Labour Code, employers are prohibited from retaining employees' original identification papers, diplomas, or certificates, including those used for background verification (BGV) when concluding an employment contract.[2]



Are employers permitted or required to carry out additional checks for certain roles?

Yes. If the position that the candidate is applying for has specific requirements, employers may conduct additional checks.

These may include, for example, criminal record checks to determine whether the candidate is prohibited from holding certain positions, or health examinations for roles that involve heavy physical labor, and so on.

In practice, the Labour Code provides an umbrella provision requiring employees to supply the employer with any information directly related to the conclusion of the employment contract, as requested by the employer (in addition to the specific details already listed).[3] Accordingly, employers may conduct background verification (BGV) covering additional types of information beyond those enumerated, provided that they can demonstrate the relevance of such information to the conclusion of the employment contract.



Are employers required to carry out immigration or right-to-work checks? What information must or may employers request?



Foreign workers must meet certain conditions before being eligible to work in Vietnam, including:[4]

- being at least 18 years old and having full civil act capacity;
- possessing the required professional qualifications, technical skills, occupational expertise, and work experience; and being in good health as prescribed by the Ministry of Health;
- not serving a criminal sentence, not having an unexpunged criminal record, and not being under criminal investigation in accordance with the laws of Vietnam or of any foreign country;
- holding a valid work permit issued by a competent Vietnamese authority, unless exempted.[5]

Accordingly, employers are required to verify these conditions to ensure that all relevant documents and requirements are in order.

Can employers carry out criminal record checks? Are there any additional steps that an employer should take or consider with regard to criminal record checks?

Yes, employers may carry out criminal record checks, particularly when the position has specific legal or ethical requirements. In Vietnam, such checks are commonly mandatory for recruitment in regulated professions, such as accounting[6], teaching[7], and the employment of foreign workers, as these are positions where the law requires high ethical standards. For example, individuals who have previous convictions for crimes infringing upon national security, or for crimes infringing upon another person's life, health, dignity, or honor as prescribed by the Penal Code, cannot apply for the position of educator.[8] Likewise, where data protection laws stipulate that individuals with prior criminal convictions in the fields of information technology or telecommunications must not be appointed as data protection officers, employers would necessarily need to verify the candidate's criminal record to determine whether they meet this legal requirement.[9]

However, in practice, many enterprises and organizations continue to require employees and job applicants to submit Judicial Record Cards, even though the law does not mandate this. Such practices result in the excessive collection of sensitive personal data and increase the risk of misuse or data leakage in the absence of appropriate safeguards.

To sum up, employers should exercise caution and only request candidates' criminal records where there are statutory requirements or other demonstrable reasons showing the relevance of such information to the position applied for. It should be noted that Vietnam may soon revise its regulations to allow criminal background checks only in cases explicitly required by law, rather than as a common practice.[10] This policy shift aims to prevent the misuse of Judicial Record Cards[11] and to better safeguard individuals' privacy in line with the principle of data minimization.





Are candidates' personal data, including data used for background verification, retained after the recruitment process is completed?

There is currently no specific legal requirement in Vietnam regarding the deletion of background verification materials after the recruitment process is completed. However, from January 1, 2026, when the Law on Personal Data Protection 2025 takes effect, employers will be required to delete the personal data of job applicants (which naturally includes BGV documents) if the applicant is not hired, unless there is an agreement with the applicant allowing such data to be retained.[12]

Reference

[1] Article 16(2) Labor Code 2019.

[2] Article 9(2)(a) Decree 12/2022/ND-CP.

[3] Article 16(2) Labor Code 2019.

[4] Article 151(1) Labor Code 2019.

[5] Article 153(3) Labor Code 2019.

[6] Clause 2, Article 52 of the Law on Accounting 2015.

[7] Clause 1, Article 67 of the Law on Education 2019: Educators must meet good qualities, ideology, and ethics.

[8] Article 14(4)(c) Law on Educators 2025.

[9] Article 18(4)(b) Decree 165/2025/ND-CP.

[10] <https://laodong.vn/thoi-su/chinh-phu-de-xuat-khong-yeu-cau-ca-nhan-cung-cap-phieu-ly-lich-tu-phap-so-2-1598764.laod>

[11] Directive 23/CT-Ttg dated July 9, 2023, on promoting administrative procedure reform for issuing Judicial Record Cards to facilitate citizens and enterprises.

[12] Article 25(1) Personal Data Protection Law 2025.



Thank you!



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