

Legal basis for using your own identity card as a replacement for the identity card of the Federal Republic of Germany

1. The identity cards issued by the Federal Republic of Germany do not comply with the Act on Identity Cards and Electronic Identification (PAuswG)
2. The identity card does not identify any natural persons (= humans), but legal persons (= companies)

1.1 Serial number

According to the act on identity cards, the serial number of an identity card is composed of a four-digit authority code (= BKZ) and a five-digit, randomly assigned number (4 digits BKZ + 5 random characters = 9 digits).

Since an authority code only consists of numbers, but each serial number always starts with a letter (L, M, N, P, R, T, V, W, X, or Y), it is impossible that it may even contain a four-digit authority code, which is a violation of section 2, paragraph 8 PAuswG:

Act on Identity Cards and Electronic Identification (PAuswG) Section 2 - Definitions

(8) Each identity card shall be issued a new serial number. The serial number of an identity card shall consist of a four-digit authority ID number and a five-digit, randomly assigned number, and may include both numerals and letters. The serial number of a temporary identity card shall consist of one letter and seven numerals.

1.2 Family name

According to the act on identity cards, the id card must have the family name, but there is only "name". Although a family name is a "name" too, there is a legal difference between the two terms (see point 2). Therefore, in the card must be unequivocally the label "family name", which is not the case and constitutes a violation of section 5, paragraph 2, point 1 PAuswG:

Act on Identity Cards and Electronic Identification (PAuswG) Section 5 - Models; stored data

(2) In addition to the issuing authority, date of issue, date of expiry, access number and the data listed in subsection 4 second sentence, identity cards shall clearly indicate only the following information about the card holder:

1. family name and name before marriage,

1.3 Citizenship

According to the act on identity cards, the id card should contain the citizenship of the holder. According to the general view, the Federal Republic of Germany is a state, so that in the id card under "Nationality" the noun "Bundesrepublik Deutschland" would have to stand. But there is only the adjective "deutsch".

Apart from that, the card holder owns the citizenship in the still existing state "German Empire" (popularly known as "Germany", which is not quite correct). Therefore, in the id card under „nationality“ would have to stand "Deutsches Reich" or alternatively "Deutschland". The adjective "deutsch" makes no sense here, because it does not refer to a state recognized by international law, which is a violation of section 5, paragraph 2, point 10 PAuswG:

Act on Identity Cards and Electronic Identification (PAuswG) Section 5 - Models; stored data

(2) In addition to the issuing authority, date of issue, date of expiry, access number and the data listed in subsection 4 second sentence, identity cards shall clearly indicate only the following information about the card holder:

10. nationality,

2. Legal and natural person

A legal entity is for example a company and never a human. A natural person, on the other hand, is never a company but always a human.

The term "name" (see 1.2) can mean both people and companies. The term "family name", on the other hand, can only mean people and not companies. However, since - in contrast to ID cards from other countries - the gender information is also missing in the ID card, it is clear that the holder of such an ID card does not identify himself as a natural person, but as a legal person and thus e.g. also waived his human rights, see article 1 in the Basic Law (GG):

Basic Law (GG) I. Basic Rights Article 1 - Human dignity / Human rights

(1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.

(2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.

Summary

The identity card of the Federal Republic of Germany does not comply with the act on identity cards, contains at least one false entry and does not identify the holder as a natural person.

Due to the false entry, the holder is obliged under section 27, paragraph 1, point 1 PAuswG to present the ID card to the competent identity card authority, because it is invalid under section 28, paragraph 1, point 2 and therefore in accordance with section 29, paragraph 1, point 1 can be kept:

**Act on Identity Cards and Electronic Identification (PAuswG)
Section 27 - Obligations of identity card holders**

(1) Identity card holders shall be obligated to do the following without delay:

- 1. present their identity card to the identity card authority if the card contains incorrect information;*

**Act on Identity Cards and Electronic Identification (PAuswG)
Section 28 - Invalid identity cards**

(1) An identity card shall be invalid if

- 2. it lacks information mandated by this Act, or the information (other than height or place of residence) is incorrect;*

**Act on Identity Cards and Electronic Identification (PAuswG)
Section 29 - Seizure and confiscation**

(1) An identity card which is invalid under Section 28 (1) or (2) may be confiscated.

The alternative identification with a passport and a confirmation of registration according to section 1, paragraph 2 PAuswG, does not apply because the passport violates the passport law (PaßG) too, thus is also invalid and the use of invalid, or false documents is criminalized:

**German Criminal Code (StGB)
Section 269 - Forgery of data intended to provide proof**

(1) Whosoever for the purposes of deception in legal commerce stores or modifies data intended to provide proof in such a way that a counterfeit or falsified document would be created upon their retrieval, or uses data stored or modified in such a manner, shall be liable to imprisonment not exceeding five years or a fine.

(2) The attempt shall be punishable.

**German Criminal Code (StGB)
Section 271 - Causing wrong entries to be made in public records**

(1) Whosoever causes declarations, negotiations or facts which are of relevance for rights or legal relationships to be recorded or stored in public documents, books, data storage media or registers as having been made or having occurred, when they either were not made or did not occur, or were made or occurred differently or were made by a person lacking a

professed quality or by a different person, shall be liable to imprisonment not exceeding three years or a fine.

(2) Whosoever for the purpose of deception in legal commerce uses a false certification or stored data of the type indicated in subsection (1) above shall incur the same penalty.

(3) If the offender acts for material gain or with the intent of enriching himself or a third person or of harming another person the penalty shall be imprisonment from three months to five years.

(4) The attempt shall be punishable.

German Criminal Code (StGB) Section 276 - Acquisition of false official identity documents

(1) Whosoever

1. undertakes to import or export; or,

2. with the intent of using it to facilitate a deception in legal commerce, procures for himself or another, stores or supplies to another

a counterfeit or falsified official identity document or an official identity document which contains a false certification of the type indicated in section 271 and section 348 shall be liable to imprisonment not exceeding two years or a fine.

Own id card

As has been explained in detail, the use of an identity card or passport of the Federal Republic of Germany is unlawful due to several legal violations. In practice, however, it is sometimes necessary that you can identify with your person.

Anyone who wants to be clearly identified as a natural person and a national can make their own identity card. The legal basis for this is:

German Criminal Code (StGB) Section 34 - Necessity

A person who, faced with an imminent danger to life, limb, freedom, honour, property or another legal interest which cannot otherwise be averted, commits an act to avert the danger from himself or another, does not act unlawfully, if, upon weighing the conflicting interests, in particular the affected legal interests and the degree of the danger facing them, the protected interest substantially outweighs the one interfered with. This shall apply only if and to the extent that the act committed is an adequate means to avert the danger.

It should be noted that the production and use of an own identity card is not an unlawful act, as long as certain points are observed (see download [legal status identity card](#)).

Note: As an alternative to an own identity card, § 34 could also be applied to the use of the illegal documents of the Federal Republic of Germany.

Sources:

Act on Identity Cards and Electronic Identification (PAuswG), from 22 December 2011:
https://www.gesetze-im-internet.de/englisch_pauswg/

Passport Act (PaßG), from 25 July 2013: https://www.gesetze-im-internet.de/englisch_pa_g/

German Criminal Code (StGB), from 10 October 2013:
https://www.gesetze-im-internet.de/englisch_stgb/

Basic Law (GG, from 23 December 2014): https://www.gesetze-im-internet.de/englisch_gg/

German Civil Code (BGB), from 1 October 2013:
http://www.gesetze-im-internet.de/englisch_bgb/