

Pursuant to Article 82 paragraph 1 item 2 and Article 91, paragraph 2 of the Constitution of Montenegro, the Montenegrin Parliament 24<sup>th</sup> convened at the eleventh session of the first regular (proljećnjeg) session in 2011 on 22 July 2011th years, it has

**LAW**  
**A DNA REGISTER**

**I. GENERAL PROVISIONS**

**Scope of Law**

**Article 1**

This law regulates the establishment and contents of the register-analysis results dezoksiribonucleic acids made for the purposes of criminal proceedings and determining the identity of missing persons (in hereinafter referred to as DNA register), data processing and other issues of importance for conducting the DNA registry, and the method of collecting and taking samples of biological material for DNA analysis.

**Data processing**

**Article 2**

Data processing in the DNA registry includes actions that automatically or otherwise data recorded, to record, organize, maintain, modify, use, shall review, delete, destroy, and other actions that are performed on the data. Storing, comparing and deleting data that were submitted by the competent authorities in framework of international cooperation is conducted in accordance with international agreements. If there is no international agreement or certain issues are not regulated by international agreement, storage, and comparison of data erasure is performed in accordance with this Law, provided there is reciprocity.

**The principles of conducting the DNA registry**

**Article 3**

Conducting the DNA registry is in accordance with the principles of non-discrimination, privacy, impartiality, reliability, timeliness and cost-effectiveness.

**Privacy Policy**

**Article 4**

The data contained in the DNA registry are processed to the extent needed to achieve the purpose processing and in a manner consistent with their purpose. The data referred to in paragraph 1 of this article can be cultivate in statistical or scientific research purposes, if you take appropriate protection measures. Data protection referred to in paragraph 1 of this Article shall be in accordance with the law regulating the protection of Personal Data.

**Definition of Terms**

**Article 5**

Terms used herein shall have the following meanings:

1) **DNA analysis** indicates the appropriateness of a set of biochemical and molecular genetic methods to extract DNA from biological traces that can serve as a DNA sample, duplicate fragments of certain gene loci isolated from the DNA, electrophoretic separation amplified DNA fragments separated

fragments and the detection sequence, determining the present variant alleles of the DNA fragment or a specific sequence of bases in DNA sequences analyzed biological trace;

- 2) **gene locus** is exactly a certain part of the DNA molecule;
- 3) **gene allele** is a variant of a gene locus;
- 4) **biological trace** is any biological material that can be linked to the crime, the which can be carried out DNA analysis;
- 5) **the undisputed biological material** is **material** that is known by anyone encourages, which is used for comparison of biological material to the matter in the exercise pronađenim uviđaja, autopsy or physical examination;
- 6) **the controversial biological material** is material that you do not know who comes, which is used for comparison with the biological material when performing pronađenim uviđaja, autopsy or physical inspection;
- 7) **a sample for DNA analysis** of a sample of biological material (saliva, blood, hair, tissue and fluids);
- 8) **DNA profile** is regulated by a series of numerical codes gene alleles present in the analyzed locus, which is characteristic of the person whose identification is subject to DNA sample DNA analysis.

## **II. SADRŽINA, establishment and maintenance of DNA REGISTRY**

### **Sadržina DNA registry**

#### **Article 6**

DNA register includes:

- Collection of DNA profiles;
- A collection of identification data;
- Collection of indisputable biological materials.

### **The collection of DNA profiles**

#### **Article 7**

The collection of DNA profiles include:

- 1) DNA profiles of suspects, accused or accused to have committed a criminal offense for which punishable by imprisonment for a term of four years or more severe punishment of imprisonment of forty years;
- 2) DNA profiles of persons convicted of security measures of compulsory psychiatric treatment and health care in;
- 3) the DNA profile obtained by the analysis of contentious biological materials;
- 4) DNA profiles that were submitted by the competent authorities within the international cooperation;
- 5) DNA profiles of unidentified persons and their relatives;
- 6) DNA profiles of relatives of missing persons;
- 7) the serial number under which it was registered in the collection of data.

### **A collection of identification data**

#### **Article 8**

A collection of identification data includes:

- 1) the name and identification number of the person whose DNA profile is entered in the register of DNA;
- 2) name and address of laboratory where DNA analysis was performed, the number of laboratory protocols, or other designation under which it can ascertain the type and location of fixation of biological material whose analysis was determined by DNA profile;
- 3) of the person in criminal proceedings and criminal case number or property of another person;

4) Name and address of the authority that ordered the DNA analysis.

### **Collection of biological material undisputed**

#### **Article 9**

Collection of undisputed biological material contains samples for DNA analysis were taken from the person referred to in Article 7 this Law and other persons whose biological material found at the site of crime or can be related to the crime.

### **Establishing a DNA registry**

#### **Article 10**

DNA registry is established on the basis of DNA analysis performed for the purpose of criminal proceedings and determining the identity of missing persons.

### **Submission of the results of DNA analysis**

#### **Article 11**

The results of DNA analysis performed for the purpose of criminal proceedings the competent authority a laboratory that performed the DNA analysis (hereinafter referred to as DNA laboratories), within three days of on the analysis. The detailed method of submitting the results of DNA analysis in paragraph 1 of this Article is determined by the State administration charge of internal affairs (hereinafter: Ministry).

### **Conducting the DNA registry**

#### **Article 12**

DNA registry is established, led and managed by the state authority responsible for Police (hereinafter: the competent authority).

## **III. DATA PROCESSING IN DNA REGISTER**

### **Persons authorized to process data**

#### **Article 13**

Data processing done in DNA registry of the competent authority employees who are qualified and trained for jobs in data processing and authorized by the head of the body (hereinafter: authorized persons).

### **Processing of the submitted results of DNA analysis**

#### **Article 14**

Authorized persons are obliged to, within three days from receipt of the results of DNA analysis Article 11 of this law, process the data in the collections of DNA, and identification data indisputable biological materials.

### **Comparison of DNA profiles**

#### **Article 15**

The state prosecutor, the court or the superior competent authority may request a DNA registry search for comparison of DNA profiles obtained from DNA analysis of the DNA profile that is already in the DNA

register. In the case of paragraph 1 of this Law, the authorized person, within three days, the DNA profile submitted entries and compares the DNA profiles stored in the DNA registry. After the comparison of authorized persons referred to in paragraph 1 above shall submit written report on the comparison result. DNA profiles of relatives of unidentified or missing persons can not be uporeĎivati with DNA profiles stored in the DNA registry.

### **Storing data in the DNA register**

#### **Article 16**

The data in the DNA register shall be kept permanently, if not otherwise regulated. The data stored in the DNA Registry is applying measures ensuring their physical and technical protection. A computer containing a database of DNA registry can not be publicly available network computer networks. All information in the DNA register electronically archived daily in duplicate at the appropriate media, and copies of archived data is stored in the manner prescribed in paragraph 1 above.

### **General provision on removal of DNA profiles**

#### **Article 17**

DNA profiles from the DNA registry will be deleted by the decision of the Court and the Ministry, ex officio, as and at the request of relatives of missing or unidentified persons.

### **Deletion of DNA**

#### **Article 18**

The court will decide on the removal of DNA profiles from DNA register if in the course of procedure to determine DNA profiles do not belong to persons referred to in Article 7, paragraph 1. 1 and 2 of this Act, except relatives of missing or unidentified persons. The Ministry will decide on the removal of DNA profiles from DNA registry if it is determined that the DNA profiles entered incorrectly when the deadline expires for the storage of DNA profiles, which is specified with law. Decision on removal of DNA profile court or the Ministry shall, within 60 days from the date of determining the facts of the century. 1 and 2 above.

### **Deletion of DNA ex officio**

#### **Article 19**

Deletion of DNA profiles from DNA registry competent authority shall ex officio on the basis of decision to discontinue the proceedings or dismissing the charges because of statute of limitations for criminal prosecution or if the DNA profile belongs to:

- 1) missing person when the person is recovered or the lapse of 25 years from the date of entering data the missing person;
- 2) when an unidentified person determine his identity.

### **Deleting data identification and destruction of indisputable biological materials**

#### **Article 20**

Identification data is deleted and the undisputed biological material is destroyed at the same time deletion of DNA in which the data and related biological material. Unquestionably the biological material is destroyed in the manner prescribed by the law regulating treatment of medical waste.

### **Control and review of specific files**

#### **Article 21**

Data processing in the DNA register is recorded in a separate file, which contains: name authorized person who carries out processing, time, date, month and year was processed and the type of action. Viewing files and compare the data from its content to the requirements of Article 15 paragraph 1 of this Law is performed by persons determined by the Minister in charge of internal affairs.

### **IV. COLLECTION AND SAMPLING OF BIOLOGICAL MATERIAL FOR DNA ANALYSIS IN CRIMINAL PROCEDURE**

#### **Handling of biological material**

#### **Article 22**

Biological material which is the subject of DNA is taken, packages, marks, stores and delivers the a way that makes it possible to prevent its contamination and degradation.

#### **Sampling**

#### **Article 23**

For DNA analysis in criminal proceedings to collect and take all available and useful samples of the disputed and undisputed biological material taken from or with the body of living beings or bodies, or were found to venue. Detailed conditions for the taking, packaging, labeling, storage and transportation of biological samples materials, as well as the results of DNA analysis by the Ministry.

### **V. SUPERVISION**

#### **Article 24**

Supervision of the implementation of this Act and regulations made under this Act shall Ministry.

### **VI. TRANSITIONAL AND FINAL PROVISIONS**

#### **The deadline for establishing a DNA registry**

#### **Article 25**

DNA registry will start its work within three months from the date of enactment of this Act.

#### **The deadline for data entry**

#### **Article 26**

Data from the records of DNA tests of the person by the competent authority shall be entered in the DNA register within three months from the date of establishment of the DNA registry.

#### **The deadline for adoption of bylaws**

#### **Article 27**

Regulations for implementation of this Law shall be passed within one year from the date of force.

#### **Entry into force**

#### **Article 28**

This Law shall come into force eight days after its publication in "Official Gazette of Montenegro".

Number 23-2/11-2/10  
EPA 599 XXIV  
Podgorica, 22 July 2011. The

24th Parliament of Montenegro SUMMONS

PRESIDENT

Ranko Krivokapic