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Romanian Parliament adopts this law.

## **Law no. 76/2008 regarding the organization and National Genetic Data Judicial System**

### **Chapter I - General Provisions**

#### **Article 1**

(1) This law aims at establishing the National Genetic Data Judicial System, hereinafter SNDGJ to prevent and control certain types of crimes which seriously harm the fundamental rights and freedoms of individuals, in particular the right to life and integrity physical and mental, as well as to identify the corpses of unknown identity, persons missing or deceased persons in natural disasters, mass casualties, the crime of murder or terrorism.

(2) This law establishes the conditions in which biological samples can be collected from individuals or from traces left at the commission of crimes, in order to determine the genetic profile, and given that the data can be processed in SNDGJ

(3) SNDGJ check and compare genetic profiles and personal data, in order:

- a) exclusion of the circle of suspects and identify offenders contained in the annex that is part of this law;
- b) determining the identity of persons - victims of natural disasters, mass accidents and acts of terrorism;
- c) to exchange information with other states and combating cross border crime;
- d) identify the participants to commit crimes contained in the appendix.

#### **Article 2**

In this law, the terms and expressions have the following meanings:

- a) **genetic profile** - the alphanumeric code of genetic material obtained through the application of molecular biology techniques;
- b) **legal genetic analysis** - using a set of biochemical measurements that uncoded information stored in certain parts of the macromolecule of deoxyribonucleic acid is converted into an alphanumeric code specific to each individual;
- c) **SNDGJ** interactive and independent subunit assembly in which are stored data that is used for its intended purpose in art.1. SNDGJ include: personal database, a database of cases and genetic profile database;
- d) **personal database** - SNDGJ component that includes personal data of persons under art. 4. (1). a) and b) and data on the crime committed or investigated;
- e) **a case database** - SNDGJ component that includes information about crime and other data relevant to police work, the corresponding genetic profile of high biological traces of the field and attributed to an author's crime;
- f) **genetic profile database with records** - SNDGJ component containing genetic profiles of persons mentioned in art.4. (1). a) and b) and the biological traces collected from the site;
- g) **processing the data contained in SNDGJ** - any operation or set of operations that are performed on the data contained in SNDGJ by automated means or otherwise, such as collection, recording, organizing, checking, storage, comparison, retrieval, consultation, use, transmission to others, deletion or destruction;
- h) **Biological traces** - traces that have the component cells, human tissues or secretions;
- i) **biological samples** - any sign or object that relates to a crime, with the corpses of unknown identity or those dead and missing persons in natural disasters or accidents in the table and which / whose examination is necessary to establish a situation fact or to identify objects or persons;
- j) **non-invasive methods** - methods of collection of biological samples from individuals that do not affect the person's privacy and bodily integrity.

### **Chapter II - Biological Sampling**

#### **Article 3**

The offenses for which biological samples can be taken to introduce SNDGJ genetic profiles are provided in the annex which is an integral part hereof.

#### **Article 4**

(1) SNDGJ contains genetic profiles, personal data and information about the case for the following categories:

- a) **suspects** - people who are data and information that could be perpetrators, instigators or accomplices of the crimes listed in the Annex;
- b) **persons definitively convicted** to imprisonment for crimes listed in the appendix;
- c) **biological traces** taken when performing research on the spot;
- d) cadavers with **unknown identity**, missing persons or persons who died in natural disasters, mass casualties, the crime of murder or terrorism.

(2) SNDGJ can be complemented by other types of data than those provided in par. (1) by a Government decision on a proposal from the Ministry of Justice and the Ministry of Interior and Administrative Reform, according to the needs and resources.

(3) To exclude persons who had contact with the crime scene in a justified or accidental, may be collected and analysis of biological samples from them, as well as victims of crime, with their consent.

(4) genetic profiles of persons under par. (3) will be checked by comparing the SNDGJ only for the offense and the purpose for which the collection was made without being stored in the database.

(5) For fulfilling the objectives stipulated in art. 1, comparisons can be made between genetic profiles recorded within and between categories under par. (1). a)-c). Examining and comparing data are automatically made to introduce new people belonging to a genetic profile or biological traces of a new case.

(6) genetic profiles from the category referred to in par. (1). d) will be compared for identification purposes only genetic profiles from relatives of grade I and II. Genetic profiles serve to identify relatives who are not stored in the database.

#### **Article 5**

(1) biological sampling is noninvasive methods, ie epithelial cells harvested by brushing the oral mucosa, and in situations that can not be done this way, the collection of epithelial cells in the region face.

(2) Collection of biological samples from persons mentioned in art. 4. (1). a) is done with their consent, upon the written request of the prosecution bodies or the court.

(3) If the person from whom biological samples are to be or, in the case of minors aged between 14 and 18, parents or legal representative does not give consent, inform the competent body to carry out taking court trial, which will be available for the taking or, as appropriate, non-invasive biological samples without the said persons.

(4) Sampling of biological children under the age of 14 years to establish the genetic profile, is made only with the consent of parents or their legal representative in this.

(5) The courts and prosecution bodies that have been taking the obligation to inform the persons mentioned in art.4. (1). a) and b) the biological evidence collected will be used for obtaining and storing the genetic profile SNDGJ.

#### **Article 6**

(A) In criminal cases, procurement, storage and transportation of biological samples from persons mentioned in art. 4. (1). a) in order to introduce genetic profiles SNDGJ, is made by Romanian police personnel trained in this respect, at the request of prosecution bodies and / or the courts. Also, the Romanian Police personnel trained in this respect may take, store and transport biological samples from persons mentioned in art. 4. (3).

(2) Collection of biological samples from persons mentioned in art. 4. (1). a) and para. (3) can be carried out by qualified health professionals.

#### **Article 7**

(A) Sampling biological definitively convicted persons to prison for crimes listed in the appendix is ordered by the court, the sentence.

(2) Collection of biological samples from persons mentioned in art. 4. (1). b) in order to introduce genetic profiles SNDGJ, is at release from prison by prison medical staff with the assistance of a guard and a police presence, without any other notice from the court.

#### **Article 8**

(1) biological sampling at the offense is done by specialized police.

(2) Collection of biological samples from corpses with unknown identity, those collected when performing the autopsy, and invasive methods of biological sampling is carried out by forensic institutions.

### **Chapter III - Processing of personal data and genetic profiles placed in SNDGJ**

#### **Article 9**

(A) The authority responsible for processing the data contained in SNDGJ is the General Police Inspectorate of the Ministry of Interior and Administrative Reform, hereinafter IGPR by the Forensic Institute. Institute of Criminalistics is a director of SNDGJ

(2) The structures IGPR managing personal database, on the one hand, and genetic profile database and a database of court cases, on the other hand, there are two distinct units of the Institute of Criminalistics, between there are no subordinate relations, and communication is restricted.

(3) The beneficiaries of the existing data are SNDGJ enforcement and prosecution in criminal court, the Romanian Intelligence Service to meet the statutory duties in preventing and combating terrorism, and judicial authorities of other states on a reciprocal basis or under international agreements to which Romania is party.

(4) international demands to interrogate, search and verification of data is performed by SNDGJ International Police Cooperation Centre or contact with other horses officially established.

(5) For fulfilling the objectives stipulated in art. 1, data processing can be performed in SNDGJ, in compliance with par. (3) and (4), based on a formal request to the criminal prosecution bodies and / or court.

(6) Processing of personal data entered in SNDGJ is made with the Law no. 677/2001 on the protection of individuals regarding the processing of personal data and free movement of such data, amended and supplemented.

(7) concrete ways of processing data, including order forms required by the norms established by this law.

#### **Article 10**

Biological samples taken under this law and SNDGJ data can not be used for purposes other than those stipulated by this law.

#### **Article 11**

(1) Laboratory for genetic analysis of the court is empowered to examine IGPR biological samples taken from the categories provided for in art. 4. (1). Genetic analysis can be carried out judicial and other laboratories accredited according to international standard ISO 17025.

(2) The provisions of the Criminal Procedure Code on the expertise and properly applied judicial genetic tests performed in laboratories under par. (1).

(3) the nature of the data contained in databases defined in art. 2 letters. d) and f) obtained genetic laboratories other than the Institute of Forensic IGPR, transmitted SNDGJ administrator, to register.

#### **Article 12**

Genetic analysis is performed by applying legal techniques of molecular biology and genetic profiles that are put into SNDGJ not contain information on health or other individual characteristics that may affect the right to privacy, family and private person.

### **Chapter IV – Storing and destruction of biological samples and personal data on SNDGJ**

#### **Article 13**

(1) introduced in SNDGJ genetic profiles obtained from the persons mentioned in art. 4. (1). a) are kept until the criminal prosecution bodies or the courts have to delete them from the database. Keeping genetic profile, personal data and those of the case is done by storing them in electronic files from servers that have this destination.

(2) When ordering the criminal prosecution, removal or termination of the criminal investigation of criminal prosecution or, as appropriate, payment or termination of criminal proceedings in SNDGJ deletion shall be based on the ordinance or resolution issued by the prosecutor or, as appropriate, the court ruling, if no mention in their contents as expressly on deletion, these situations will be notified SNDGJ manager

#### **Article 14**

Genetic profiles obtained from the persons mentioned in art. 4. (1). b) placed in SNDGJ are kept until the person reaches the age of 60 years, and if it dies before the age of 60 years, genetic profiles are kept another 5 years after death, then are removed.

#### **Article 15**

Existing data base as defined in Art. 2 letters. d) are deleted from the records with the genetic profiles, as provided in Art. 13 and 14.

#### **Article 16**

Genetic profiles from the category referred to in art. 4. (1). d) and the high marks from the scene are stored until identification is made or 25 years from registration, prior notice is not required for deletion.

#### **Article 17**

The biological samples left behind genetic analysis for the persons mentioned in art. 4. (1). a) and b) are kept in special places and are destroyed only with the genetic profiles deleted from the database.

### **Chapter V - Final**

#### **Article 18**

The funds necessary to ensure the establishment and operation SNDGJ annual amounts allocated for such purpose from the state budget through the Ministry of Interior and Administrative Reform.

**Article 19**

Within 30 days from the date of entry into force of this Law, the Ministry of Interior and Administrative Reform and the Ministry of Justice to elaborate rules for the application, relating to the collection of biological samples of reference, recording personal data, perform genetic analysis, data transmission, approved by Government decision.

**Article 20**

This law shall come into force within 6 months after publication in the Official Gazette, Part I.

**ANNEX - offenses for which biological samples can be taken in order to introduce genetic profiles  
SNDGJ**

1. Murder, provided in art. 174 of the Criminal Code
2. Crime of murder under article. 175 of the Criminal Code
3. Crime of aggravated murder under article. 176 of the Criminal Code
4. Crime of infanticide, as stipulated in Art. 177 of the Criminal Code
5. Crime of manslaughter, as provided in Art. 178 of the Criminal Code
6. Offense of causing or facilitators of suicide, mentioned in art. 179 of the Criminal Code
7. Crime of bodily harm, provided in art. 181 of the Criminal Code
8. Crime of serious physical injury, provided in art. 182 of the Criminal Code
9. Crime of causing death or injury strikes, stipulated in art. 183 of the Criminal Code
10. The fault of the offense of injury, provided in art. 184 of the Criminal Code
11. Crime of unlawful deprivation of liberty under article. 189 of the Criminal Code
12. Crime of slavery, as provided in Art. 190 of the Criminal Code
13. Crime of rape under article. 197 of the Criminal Code
14. Crime of sexual intercourse with a minor under article. 198 of the Criminal Code
15. Crime of sexual perversion, stipulated in art. 201 of the Criminal Code
16. Crime of sexual corruption, mentioned in art. 202 of the Criminal Code
17. Crime of incest, as provided in Art. 203 of the Criminal Code
18. Crime of robbery under article. 211 of the Criminal Code
19. Crime of torture under article. Criminal Code 2671
20. Offense of failure of the system of nuclear material or other radioactive materials, provided in art. Criminal Code 2791
21. Offense of failure of the regime of explosive materials, provided in art. 280 of the Criminal Code
22. Crime of child maltreatment, provided in art. 306 of the Criminal Code
23. Propaganda for war crime under article. 356 of the Criminal Code
24. Crime of genocide under article. 357 of the Criminal Code
25. Crime of inhumane treatment under article. 358 of the Criminal Code
26. Crime of destruction and appropriation of property objectives, stipulated in art. 359 of the Criminal Code
27. Crime of destruction, pillage, or ownership of cultural values, mentioned in art. 360 of the Criminal Code
28. Acts of terrorism under Law no. 535/2004 on preventing and combating terrorism
29. The offenses referred to in art. 2, 3, 10 and 12 of Law no. 143/2000 on combating illicit drug trafficking and consumption, with subsequent amendments
30. Offense referred to in art. 22 para. (3) of Government Emergency Ordinance no. 121/2006 on the legal status of drug, approved by Law no. 186/2007.