

## National DNA Database

Privacy Policy (Art. 10 of the Legislative Decree 18th May 2018 n. 51)

The National DNA Database was established by the **Law n. 85 of 30 June 2009** to effectively counter terrorism, cross-border organized crime and illegal immigration.

The implementation of the law took place with the Regulation containing provisions implementing the law, established by the **Presidential Decree n. 87 of 7 April 2016**.

The procedure for data processing were defined by **Decree of the Ministry of the Interior issued on 8 November 2016** by the National DNA Database and the Central Laboratory for the National DNA Database and for the transmission of DNA profiles by highly specialized institution laboratories.

Subsequently, by **Decree of the Ministry of the Interior of 12 May 2017**, the methods for deleting DNA profiles, destroying biological samples, entering and updating the data necessary for fixing the retention time of the same DNA profiles were defined.

By **Decree of the Ministry of the Interior of 24 May 2017**, in implementing of Article 53, # 3, of the Legislative Decree 196 of 30 June 2003, the processing of personal data contained in the National DNA Database in the card no. 6 were identified.

The National DNA Database is aimed at identifying perpetrators of crimes, missing people as well as cooperating with the police at an international level

In the light of the above, the processing of personal data is related to a DNA profile obtained from:

● **the following subjects under Article 9, paragraphs 1 and 2 of the Law 85 of 30 June 2009:**

- a) subjects under pre-trial detention or house arrest;
- b) subjects arrested *in flagrante delicto* or under detention as suspected of crime;
- c) subjects in prison or interned following an irrevocable judgment of conviction for a negligent offence;
- d) subjects under alternative measures to prison following an irrevocable judgment of conviction for a negligent offence;
- e) subjects under a temporary or definitive custodial security measure.

● **blood relatives of missing persons;**

The DNA typing at points a) b) c) d) e), can only be carried out against suspected offenders involved in negligent offences subject to a discretionary arrest *in flagrante delicto*.

In the case of arrest in the act of a crime or arrest of a suspect of a crime, the sampling is carried out

after validation by the competent judge.

## **1. Data Controller**

The Data Controller of the National DNA Database, under Article 26, paragraph 3, of the Presidential Decree of 7 April 2016 no. 87 is the Ministry of the Interior – Department of Public Security (Decree of the Ministry of the Interior of 24 May 2017, card no. 6).

## **2. Purpose of the processing**

The purposes are established by Articles 5 and 12 of the Law 85 of 30 June 2009:

- in order to facilitate the identification of perpetrators of crimes;
- for the purposes of the International Police Cooperation.

## **3. Exercise of the right of access to personal data processed by the National DNA database**

The right of the interested party to access to personal data is provided for by Article 33 of the Presidential Decree no. 87 of 7 April 2016.

The interested party is granted the rights referred to in Article 10, paragraphs 3, 4 and 5 and of the Law 121 of 1 April 1981, and subsequent amendments, after ascertaining the identity of the person, and, if necessary, by means other than identification documents, too.

The Data Protection Authority exercises his control over the National DNA Database, as provided for by law and regulations in force, under Article 15 of the Law 85 of 30 June 2009.

**The rights of the interested party are exercised upon request addressed to the Public Security Department –Central Police Directorate- at the Ministry of the Interior, filling in the attached request form and sending it, together with a signed photocopy of a valid identity document, to:**

***Ministero dell'Interno***

***Dipartimento della Pubblica Sicurezza***

***Direzione Centrale della Polizia Criminale***

***Servizio per i Sistemi Informativi Interforze***

***Via Torre di Mezzavia, 9***

***00173 Roma***

**For a quicker response, you are kindly requested to write in Italian or English.**

**Besides, the requests must be signed by the person concerned or provided with a power of attorney in favour of the writer.**

**The documents sent should be clearly legible and show the correct address of the writer**

**(postal address or certified mail) where the interested party can easily receive a reply.**

**The interested party who holds a certified e-mail box is kindly requested to address his request to the following address:**

***privacy.dna@pecps.interno.it***

In the event of a non-exhaustive response, the interested party can lodge a complaint with the Data Protection Officer to the following address:

*Garante per la protezione dei dati personali*

*Piazza Venezia n°. 11*

*00187 Roma*

*Tel. (+39) 06.696771*

*Fax (+39) 06.69677.3785*

*garante@gpdp.it*

#### **4. Retention period of personal data**

The retention period of data is regulated by the Presidential Decree no. 87 of 7 April 2016, and methods for deleting DNA profiles, destroying biological samples, entering and updating the data necessary for the purpose of determining the retention times of those profiles, are governed by the Decree of the Ministry of the Interior of 12 May 2017.

The deletion can take place in the following cases:

- further to an acquittal sentence become irrevocable for lack of evidence, innocence of the accused, when the fact does not constitute a crime, the fact is not foreseen by law as a crime;
- following identification of a corpse or cadaveric remains, as well as finding of a missing person, and on request by a blood relative.
- when the samples were taken in violation of Article 9 of the Law 85 of 30 June 2009;
- for all other cases, the DNA profile is kept in the National DNA Database for thirty years from the date of the last record (Article 5, # 1 of the Presidential Decree of 7 April 2016 no. 87) and raised to forty years when the DNA profile belongs to persons under an irrevocable sentence for one or more crimes for which the law provides for the obligatory arrest in *flagrante delicto* or for crimes under Article 407, # 2A a) of the Criminal Procedure Code. The profile is also kept for forty years in the event that a repeated offence was found when issuing an irrevocable sentence.

Thirty or forty years after the last circumstance that led to the inclusion of the DNA profile in the National DNA Database, the profile is automatically deleted.

The term starts from the recording date of the identification and sampling.

#### **5. Categories of recipients of personal data**

The recipients of personal data of the genetic profiles kept in the National DNA Database, as provided for by the Law 85 of 30 June 2009, are the following:

- Judicial Authorities;
- International Police Cooperation;
- Judicial Police.

## **6. Data protection officer**

At the Central Directorate of the Criminal Police-Department of Public Security has been established a Security manager (Interministerial Decree of the Ministry of the Interior in concert with the Ministry of Economy and Finance of 6 August 2015) appointed as Data Protection Officer (DPO), under Article 28 of the Legislative Decree no. 51 of 18 May 2018.

The Data Protection Officer can be contacted on the following certified mail:

*dpo.dna@pecps.interno.it*

Law 30 June 2009 no. 85, Article 5, paragraph 1.

Law 30 June 2009 no. 85, Article 12, paragraph 2.

Typing: set of laboratory technical operations to create a DNA profile.

Law 30 June 2009 no. 85, Article 6, paragraph 1, lett. h).

29/11/2019