

COUNCIL RESOLUTION

of 9 June 1997

on the exchange of DNA analysis results

(97/C 193/02)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS RESOLUTION:

Considering that exchanging DNA analysis results may be a way of making a significant contribution to the investigation of crime;

Believing that exchanging DNA analysis results for the purpose of investigating crime should be restricted to exchanging data from the non-coding part of the DNA molecule;

Emphasizing that, to this end, it is very important for Member States to exchange their DNA investigation findings;

Taking into account initiatives being developed at European Union level within the framework of the incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children (STOP)⁽¹⁾;

Taking into account initiatives already under way in other international forums;

Whereas DNA investigation may involve not only technical, legal and political but also ethical aspects which need to be given appropriate consideration in the further development of cooperation activities;

Having regard to the protection of personal data as regulated by European Convention No 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data (Strasbourg, 28 January 1981), Recommendation (87) 15 of 17 September 1987 of the Council of Europe Committee of Ministers regulating the use of personal data in the police sector, and Recommendation (92) 1 of 10 February 1992 of the Council of Europe Committee of Ministers on the use of DNA analysis within the framework of the criminal justice system;

Noting that, for exchange of DNA analysis results to be useful, DNA markers need to be standardized;

Having noted that further steps with a view to the exchange of DNA analysis results within the European Union are not possible until there are properly operating databases in the Member States,

I. ESTABLISHMENT OF NATIONAL DNA DATABASES

1. Member States are invited to consider establishing national DNA databases.
2. With a view to the exchange of DNA analysis results between Member States, the latter are urged to build up those databases in accordance with the same standards and in a compatible manner. The possibility of exchange shall be limited to exchanging data from the non-coding part of the DNA molecule, which can be assumed not to contain information about specific hereditary qualities.
3. Member States should take into account, when setting up a computer system for DNA analysis results, the results of the investigation carried out by the ICPO-Interpol DNA Working Party.

II. STANDARDIZATION OF DNA TECHNOLOGY

1. The choice of the standard to be used will be determined on the basis of studies.
2. With a view to exchanging DNA analysis results at European level, Member States are urged to build up DNA analysis results preferably using the same DNA markers.

III. LEGAL SAFEGUARDS

1. It is up to each Member State to decide on the conditions under which, and the offences regarding which, the DNA analysis results may be stored in a national database.
2. The taking of DNA material for the purpose of storing DNA analysis results should be subject to safeguards designed to protect the physical integrity of the person concerned.
3. National rules on personal data will have to be in accordance with European Convention No 108. Recommendation (87) 15 of the Council of Europe Committee of Ministers and Recommendation (92) 1 of the Council of Europe Committee of Ministers should be taken into consideration, where appropriate.

⁽¹⁾ Joint action of 29 November 1996 (OJ No L 322, 12. 12. 1996, p. 7).

IV. EXCHANGE OF DNA ANALYSIS RESULTS AT EUROPEAN LEVEL

1. The Council urges that there should be further study of a system for information exchange. Consideration could be given here to the creation of a network of compatible national DNA databases. Such a system must offer sufficient safeguards concerning the security and protection of personal data.

2. Such information exchange should be restricted to DNA analysis results which when compared can indicate whether a person appears in a file and whether a person can be connected with traces found in a given crime.

3. The need to establish a European DNA database should be considered as a second step once the conditions for the exchange of the DNA analysis results are realised.

4. An appropriate role for Europol will be considered.

V. CONCLUSION

The Council urges that concrete recommendations be placed before it by the Presidency within one year of the adoption of this resolution with a view to implementation thereof.
