

Table of contents

Identical frame for each country

Frame of the cards: identical structure for each country

THEME	BIOLOGICAL IDENTITY	
Identification of technology	Národní databáze DNA/National DNA database	
Technology used/tool (For each teams, a card pro tool)	DNA ANALYSIS/ DATABASE	
Country/ use area	Czech republic	
Frame of use	Database used by Police for identification and investigation purposes	
Population concerned: target and age	Persons accused and convicted of committing intentionally criminal act, persons sentenced to compulsory medical treatment	
% of users/of young users	Unknown	
Trends (measured / supposed)	In march 2009 database contained more than 45 thousands of genetic profiles. Majority of profiles are of sentenced and accused persons, approx 8 thousands are of unidentified profiles from crime scene ¹ , numbers rised significantly in 2007 after Police and prison authorities was given new authority to collect the data even without a consent of an accused or sentenced citizen by the law no.	

¹ statement of Roman Hradil, deputy chief of department of criminal identification in Criminology Institute in hev, Analýza určí jen rezavé vlasy, in Lidové noviny, 14.3.2009, p. 25

	321/2006 (resulted in broadscale collection of DNA profiles of inmate population)	
Known or potentials dangers /Risks	insufficient legislation, insufficient oversight over security of the data shared and then stored and processed abroad	
Others		
Generated data bases		
Associated data base/ creation (a line pro database)	Created since 2002	
What justifies the inscription in the file /Risks?	Law on police 273/ 2008, § 65 Gathering of personal information on purposes of future identification provides basic authorisation of the Police, details on operation rules of the database and processing of the data are based on Directive of Police president/ Contravenes recommendation of Council of Europe Committee of ministers Recommendation No. R (92) 1 on the use of analysis of deoxyribonucleic acid within the framework of the criminal justice systém	
Purposes /contents, main data included / Risks?	DNA samples, other personal information of the subjects	
File masters? Risks?	Criminology institute, Czech Police	
Who accesses the files/ Sharing of the data base? Access limits? /Risks	Police experts, access to the files is monitored, deletion can be made by one authorised employee of Criminology institute, DNA profiles are shared with with security services of EU countries and USA but these do not have direct access to the database ² /access limits regulated by police directives, international agreements – some of them are restricted ³ / no details are available on control and access mechanisms, there are no relevant mechanisms to control use of the data shared with the US institutions ⁴	
Data retention delays/ risks Right to be forgotten	New police law 273/ 2008 doesnot allow clear interpretation. It is unclear from its § 65 if the Police has to liquidate all the	

² article at web pages of the Czech police <http://www.policie.cz/clanek/policie-cr-nezneuziva-dna.aspx>

³ Czech-U.S. Agreement on the strengthening of cooperation in the prevention of and the fight against serious crime and Agreement on establishment of anti-terrorist center signed in 2008

⁴ Czech Data protection authority Annual report 2008

	<p>DNA profiles in the database of the persons that have not been accused or sentenced. However the refusal of deletion of such data might contravene art. 8 par.1 of the ECHR as demonstrated in a decision of European court of human rights on 4. 12. 2008.</p> <p>Data of the persons sentenced are stored until they are necessary for prevention, revelation and prosecution of criminal offences or for protection of national security and public order.⁵</p>	
Rights to know or to modify data?	<p>According to the old version of the police law, police was obliged to inform the person about processing its genetic data or destroy them after criminal proceeding was finished. However according to the new police law 273/2008 police does not have a duty to inform a person about the fact it is processing its data, it must give an information only when the data are deleted.</p> <p>Persons who were not convicted may ask (if they find out their data are stored) deletion of their DNA profiles. Such right was demonstrated in judgements of European court of human rights (30562/04, 30566/04) citing art. 8 par. 1 of the ECHR.</p>	
Covert purposes/ Risks/uncontrolled future evolution	<p>Control of the Czech DPA revealed in 2008 operation of National database of DNA breaches § 9 of the 101/2000 law on data protection because the data of persons who were not sentenced for serious crimes were stored.⁶ New legislation enacted in 2009 further broadens the extend of subjects whose data can be stored in a databases. And there were numerous statements of the police representatives who declared the intention to broaden even more the extend of citizens whose DNA profiles are stored in the database to include for instance military and police personnel, firemen etc⁷.</p> <p>Subsequent legislation changes also weakened the right of the person to be informed of processing its data and right to seek their deletion.</p>	
Others (interconnections...)		
Legislation in application		
Law /rules / others (?)	Specific legislation is missing, regulated	

⁵ § 65 of the police law No. 273/ 2008

⁶ Czech Data protection authority Annual report 2008

(implemented for this data base or this technology)	only by directive of police president Applies only law 101/2000 law on data protection and 273/2008 law on police with unclear interpretations. Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine ⁸	
Risks for freedoms despite the law	Contravening art. 8 par. 1 of the ECHR. Article 8 – Right to respect for private and family life 1. Everyone has the right to respect for his private and family life, his home and his correspondence.	
If revision of the regulation: reasons? Result: improvement or aggravation (compared to the protection of the DP)	Necessary adoption of the new legislation acknowledged also in DPA annual report 2008	
Conformity with the European right (Charter of fundamental rights, directives...)	Current legislation – directive of police president and 273/2008 law on police are not conforming with art. 8 par. 1 of the ECHR ⁹	
Implementation (or not) of the legislation? / Risks	Legislation is in early stage of preparation	
Others		
This tools and young public or young adults		
How far are young people concerned?	Information on percentage of youngsters DNA profiles in a database is not publicly available	
Awareness of issues or of risks	None research made on awareness on the issue among youth, estimated - Low	
Indifference or reaction	Indifferent	
Awareness campaigns/ results	None	
Good practises	None	
Campaign to be led. On which themes?	Informing youngsters on their rights enshrined in ECHR. Informing youngsters of the meaning and importance of protection of their sensitive biological data and relevance of DNA profiles in that sense	
Others		

⁷ see for instance article of police lieutenant of Criminology Institute Radka Šímková, Legislativní problémy národní databáze dna in Kriminalistika 3/2003

⁸ entered into force in the Czech republic 2001

⁹ Czech Data protection authority Annual report 2008

Conclusions		
Recommendations	Support DPA call for new legislation dealing specifically with DNA databases, establish expert group including privacy experts to start work on new legislation, public awareness campaign	

Podpořili nás:



Ministerstvo práce a sociálních věcí



Trust for Civil Society in Central & Eastern Europe



Open Society Fund Praha



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Lichtenštejnska a Norska v rámci

Finančního mechanismu EHP a Norského finančního mechanismu prostřednictvím Nadace rozvoje občanské společnosti.