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COVER NOTE

from: Permanent Representation of Romania to the European Union –
Mihnea Motoc

date of receipt: 2 March 2012

to: Rafael FERNANDEZ-PITA,
Deputy Director-General - DG H - Justice and Home Affairs

Subject: Declaration by the Republic of Romania in accordance with Art. 2 (3) of
Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of
cross-border cooperation, particularly in combating terrorism and cross-border
crime

Dear Mr. Deputy Director-General,

In accordance with Article 2 (3) of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, please find attached the Declaration of Romania with regard to national DNA analysis files.

I avail myself of this opportunity to assure you, dear Mr. FERNÁNDEZ-PITA Y GONZÁLEZ, of my highest consideration.

Yours sincerely,

Mihnea Motoc

Declaration of Romania in accordance with Article 2 (3) of Council Decision 2008/615/JHA

List of shared national DNA files

The National Judicial Genetic Data System was established in the context of *Law No. 76/2008 on the organization and functioning of the National Judicial Genetic Data System* and *Government Decision No. 25/2011 approving the Methodological Norms in application of Law No. 76/2008 on the organization and functioning of the National Judicial Genetic Data System and creation of the necessary domestic legal implementation of the 2008/615/JHA Council Decision from 23 June 2008, on intensifying the border cooperation, particularly in combating terrorism and cross-border criminality, regarding to automated DNA data exchange.*

The National Judicial Genetic Data System is based on the CODIS (Combined DNA Index System), which was installed at the Romanian National Forensic Science Institute (within the General Inspectorate of Romanian Police / Ministry of Administration and Interior) in 2010 by engineers from SAIC / FBI (United States).

The DNA profiles to be shared with other Member States and to be extracted from the above-mentioned national DNA database are the following:

- **Forensic unknown:** DNA profile obtained from a specimen of unknown origin - unidentified - generally a specimen obtained from evidence associated with a criminal act;
- **Suspect known:** DNA profile obtained from a specimen of known origin from a suspect (arrested, charged, etc.);
- **Convicted offender:** DNA profile obtained from a specimen of known origin from a person convicted of a crime;
- **Deceased:** DNA profile obtained from a specimen from a dead body (or the remains thereof) not identified;
- **Unidentified person:** DNA profile obtained from a specimen from a person whose real identity cannot be established by other means (missing children, persons with some mental disorders, etc.);
- **Missing person:** DNA profile obtained from a specimen from a missing person (preserved specimen, toothbrush, electric razor, etc.).

Conditions for the exchange and comparison of profiles

The Member State which wants to carry out the exchange and comparison of DNA profiles with Romania must comply with the legal, organizational and technical requirements of Council Decisions 2008/615/JHA and 2008/616/JHA, in particular:

Technical requirements. The country should have:

- a national DNA database;
- automated tools for the exchange of profiles;
- TESTA network connection;
- validation that is already in production and that its exchange system is adequate.

Legal requirements. The country must:

- share information in accordance with its domestic law;
- respect the European Union's rules on the processing of personal data;
- have been previously authorized by the Council to exchange data.

Organizational requirements. The country must:

- have a National Contact Point, which Romania could contact to obtain complementary information, additional to a DNA profile match.
