

## DECREE LAW No. 122/2017

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**Publication:** Republic Diary No. 183/2017, Series 1 of 2017-09-21

**Issuer:** Environment

**Diploma Type:** Decree Law

**Number:** 122/2017

**Pages:** 5495 - 5500

### SUMMARY IN PLAIN ENGLISH

#### What is it?

This decree-law defines the rules that apply to users of genetic resources and users of traditional knowledge associated with genetic resources.

The decree-law only applies when genetic resources are used for research and development on the genetic and/or biochemical composition of genetic resources.

**Genetic resources** are all genetic material obtained from plants, animals or microbes. Genetic resources are used for a wide range of purposes, from producing scientific knowledge to product development.

**Traditional knowledge associated with genetic resources** includes knowledge, innovations and practices of indigenous and local communities that reflect traditional lifestyles relevant to the conservation and sustainable use of biological diversity. This decree law applies only to those that are referred to in contracts between suppliers and users of genetic resources.

**What will change?** The authorities responsible for implementing the decree-law are defined

The Institute for Nature Conservation and Forestry (ICNF) is the competent national authority that ensures the application of this decree-law.

Competent regional authorities will be designated in the Azores and Madeira.

An advisory group (the ABS Advisory Group) will be created to advise on access to genetic resources and how to share the benefits of their use. This group will support the ICNF by providing information on the various subject areas of its members.

The members of the ABS Advisory Group are representatives of:

- the Institute for Nature Conservation and Forestry, which will be the chairperson
- the Foundation for Science and Technology
- INFARMED - National Authority of Medicines and Health Products
- the National Institute of Agricultural and Veterinary Research
- the National Institute of Industrial Property
- the National Authority for Animal Health
- the Directorate-General for Agriculture and Rural Development
- the Directorate General for Economic Activities
- the Directorate-General for Natural Resources, Safety and Maritime Services
- the competent regional authority of the Azores
- the competent regional authority of Madeira.

ICNF and the Advisory Group may establish protocols

The ICNF and the entities of the ABS Advisory Group may establish protocols, consulting agreements or other collaborations with:

- public bodies
- research and development institutions in the area of genetic resources and biodiversity such as:
  - laboratories
  - higher education institutions
  - museums
  - associations
  - small and medium-sized enterprises.

Obligations for users of genetic resources are defined

Obligations will be established for users of genetic resources and the traditional knowledge associated with them.

Users are required to ensure and demonstrate that they only access, transfer and utilize genetic resources and traditional knowledge about genetic resources with the consent of the providers of those resources and in compliance with the contracts agreed with them. To this end, users are required to obtain, maintain and transfer to subsequent users:

- an internationally recognized certificate (the certificate of conformity) stating that access and use complies with the law of the country providing the genetic resources, and information on the contracts relating to the use of those resources
- or, when there is no certificate of conformity, information and documents on:
  - date and place of access to resources or traditional knowledge
  - description of resources or traditional knowledge
  - where the resources or knowledge were originally obtained and the identification of the users who had access to them
  - rights and obligations associated with access to and sharing of benefits (e.g. obligations assumed on future applications and commercialization of genetic resources)
  - access licenses, if any
  - contracts that have been signed, including benefits shared.

Measures to monitor the use of resources are created

Users of genetic resources are required to provide certificates on how they complied with the rules on access to and use of genetic resources and traditional knowledge in one of the following ways.

1. Beneficiaries of research funding involving the use of genetic resources or the use of traditional knowledge associated with such resources must provide a certificate.

This certificate is submitted as soon as the first part of the funding is received and all the genetic resources or traditional knowledge associated with the genetic resources used in the funded research are obtained. The certificate can never be submitted after the submission of the final report nor after the project has been completed.

2. Users of genetic resources or traditional knowledge associated with such resources submit a certificate at the final stage of a product's development that used genetic resources or traditional knowledge associated with those resources.

The forms for submitting these certificates are available on the ICNF website.

Mechanisms for monitoring the use of resources are created

Compliance with the law on genetic resources and traditional knowledge associated with these resources is ensured by the following entities:

- Institute for Nature Conservation and Forestry
- Food Safety and Economic Authority (ASAE)
- Tax and Customs Authority
- National Republican Guard
- Public Security Police
- General Inspection of Agriculture, Sea, Environment and Spatial Planning
- General Inspection of Education and Science
- INFARMED - National Authority of Medicines and Health Products
- competent regional authority of Madeira
- the competent regional authority of the Azores.

Inspection and supervision activities will be carried out:

- according to a user control plan set up by the inspection and supervision authorities
- whenever there is information about non-compliance with the rules
- when necessary for the application of the rules.

Entities responsible for inspection and supervision may request documents and information from users to verify that the rules are being complied with.

Collections of genetic resources can be registered on the ICNF website

The holder of a collection of genetic resources can register it by submitting a form available on the ICNF website.

The collection will be registered if the holder demonstrates that they meet the requirements stated in the European Regulations.

Collections of genetic resources are scientific collections of genetic material, public or private. They include, for example, herbariums, germplasm banks and seed banks, and therefore constitute important sources of genetic resources.

### **What are its benefits?**

This decree-law creates conditions for the application in Portugal of EU rules and international agreements on access to genetic resources and sharing of the benefits of their use.

Therefore, it:

- ensures the sustainability of using genetic resources

- ensures fair sharing of the benefits of using genetic resources
- clarifies for users of genetic resources the rules that apply to them
- promotes the use of legally acquired genetic resources
- creates new opportunities for nature-based research and contributes to economic development in this area
- increases resources for the conservation and sustainable use of biodiversity.

**When does it come into effect?**

This decree-law comes into effect the day after being published.