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**Federal Act
on the Use of DNA Profiles
in Criminal Proceedings and for
Identifying Unidentified or Missing Persons
(DNA Profiles Act)**

of 20 June 2003 (Status as of 1 October 2016)

The Federal Assembly of the Swiss Confederation,

on the basis of Articles 119 and 123 paragraph 1 of the Federal Constitution¹,
and having considered the Federal Council Dispatch dated 8 November 2000²,
decrees:

Section 1 General Provisions

Art. 1 Subject matter and purpose

¹ This Act regulates:

- a. the use of DNA profiles in criminal proceedings;
- b. the processing of DNA profiles in a federal information system;
- c. the use of DNA profiling to identify unidentified, missing or deceased persons outside of criminal proceedings.³

² The main purpose of this Act is to improve the efficiency of criminal prosecution procedures, in particular:

- a. by using DNA profiling:
 1. to identify suspects and exonerate other persons from suspicion,
 2. to detect more rapidly links between criminal offences and thus identify, in particular, criminal groups operating on an organised basis as well as serial and repeat offenders, by systematically evaluating biological material,
 3. to facilitate the establishment of the facts;

AS 2004 5269

¹ SR 101

² BBl 2001 29

³ Amended by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009, in force since 1 Jan. 2011 (AS 2010 1573; BBl 2006 1085, 2008 3121).

- b. by enabling DNA profiling within the scope of mutual assistance and administrative assistance in police matters.

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Art. 1a⁵ Scope of application

If the prosecution or adjudication of an offence is regulated by the Criminal Procedure Code of 5 October 2007⁶, the provisions in Section 2 of this Act relating to criminal procedure do not apply.

Art. 2 DNA profile and use

¹ A DNA profile is a combination of letters and numbers unique to an individual that is obtained from the non-coding parts of DNA genetic material with the help of molecular biology techniques.

² DNA analysis may only be used to determine the gender of the person concerned; it may not be used to determine their health or other personal characteristics.

³ A DNA profile and its underlying analysis material may not be used for any purposes other than those provided for under this Act (Art. 1).

Section 2 Taking Samples and DNA Analysis

Art. 3 Taking samples and DNA analysis in criminal proceedings

¹ To investigate a felony or a misdemeanour, a sample, for example a buccal swab, may be taken for the purpose of DNA analysis from the following persons (persons concerned):

- a. suspects;
- b. other persons, in particular victims or persons authorised to be at the scene of a crime, if this is necessary to distinguish their traces from those of suspects.

² In mass testing conducted to solve a felony, a sample, for example a buccal swab, may be taken for the purpose of DNA analysis from persons who have certain features that have been identified in connection with the commission of the crime, in order to be able to identify them as, or exclude them from being, the possible perpetrator.

³ Except in the case of mass testing, the sample will not be analysed until it is clear that the conditions for registering the DNA profile in the information system have been met (Art. 11).

⁴ Repealed by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009, with effect from 1 Jan. 2011 (AS **2010** 1573; BBI **2006** 1085, **2008** 3121).

⁵ Inserted by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009, in force since 1 Jan. 2011 (AS **2010** 1573; BBI **2006** 1085, **2008** 3121).

⁶ SR **312.0**

Art. 4 Collecting trace evidence and taking samples from deceased persons
A DNA profile is generated from biological material (trace evidence) relevant to a crime and from samples taken from deceased persons if there is a firm indication that this may help to solve a felony or a misdemeanour.

Art. 5 Taking samples and DNA analysis in the case of convicted persons
Immediately on a conviction taking legal effect, a sample may be taken from and a DNA profile generated for persons:

- a.⁷ who have been sentenced to a custodial sentence or measure of more than one year for wilfully committing a felony;
- b. who have been convicted of wilfully committing a felony or a misdemeanour against life and limb or sexual integrity; or
- c.⁸ who have been ordered to undergo a therapeutic measure (Art. 59–63 of the Swiss Criminal Code, SCC⁹), indefinite incarceration (Art. 64 SCC) or a placement (Art. 15 of the Juvenile Criminal Code of 20 June 2003¹⁰).

Art. 6 Identification outside criminal proceedings

¹ If identification is not possible by other means, a DNA profile of the following persons may be generated outside criminal proceedings:

- a. deceased persons;
- b. persons who due to age, accident, permanent illness, disability, physical disorder or disturbance of consciousness are unable to provide information on their identity.

² Biological material from these persons may also be analysed if this can help to identify them.

³ Biological material from missing persons may be analysed for their later identification.

⁴ DNA profiles of presumed relatives of the person to be identified may be generated for comparison purposes if they give their written consent.

Art. 7 Ordering authorities

¹ Police, law enforcement services and criminal courts (ordering authorities) may order:

- a. the non-invasive taking of a sample from persons (Art. 3 para. 1) and the analysis of the sample in order to generate a DNA profile;

⁷ Amended by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009, in force since 1 Jan. 2011 (AS **2010** 1573; BBl **2006** 1085, **2008** 3121).

⁸ Amended by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009, in force since 1 Jan. 2011 (AS **2010** 1573; BBl **2006** 1085, **2008** 3121).

⁹ SR **311.0**

¹⁰ SR **311.1**

- b. the analysis of trace evidence and of samples from deceased persons in order to generate a DNA profile (Art. 4).

² If the police order a sample to be taken, they shall notify the person concerned of their right to contest this decision with the investigating authority. If the order is contested, a sample will only be taken if the investigating authority upholds the decision.

³ Judicial authorities decide on:

- a. conducting mass testing (Art. 3 para. 2);
- b. taking an invasive sample and analysing the sample to generate a DNA profile.

⁴ The judicial authority concerned decides on the taking and analysis of a sample for generating a DNA profile of persons who have been convicted (Art. 5).

⁵ If a different investigating authority is responsible for identification in the cases defined in Article 6, that authority may also order a sample to be taken and analysed in order to generate a DNA profile.

Section 3 DNA Analysis Arrangements

Art. 8 DNA analysis

¹ The Federal Department of Justice and Police (Department) decides which laboratories are authorised to conduct DNA analyses under this Act.

² The ordering authority shall have the analysis carried out in a laboratory authorised in accordance with paragraph 1.

³ The sample is anonymised using a process control number, which is also used for personal data and other identification data (photos, fingerprints).

⁴ Besides the sample, the laboratory is given only the data it requires for generating the DNA profile and assessing its probative value, namely details of the race of the person concerned, of the location of the crime and of the location where the trace evidence was found.

Art. 9 Destroying samples

¹ The ordering authority shall arrange to have the sample taken from a person destroyed:

- a. if a DNA profile of that person has already been generated;
- b. three months after the sample has been taken if it has not arranged an analysis;
- c. if the person concerned can be ruled out as the perpetrator; or
- d. after identification of the person in the cases defined in Article 6.

² The laboratory shall destroy the sample taken from a person as soon as the DNA profile generated from it meets the qualitative requirements for inclusion in the DNA profile information system (Art. 10–13), but at the latest three months after the laboratory has received the sample.

Section 4 DNA Profile Information System

Art. 10 Basic principles

¹ The DNA profile information system facilitates the comparison of DNA profiles for the purpose of law enforcement and the identification of unidentified or missing persons.

² The information system is operated exclusively by the Confederation.

Art. 11 Registration in the information system

¹ The DNA profiles of the following shall be registered in the information system:

- a. persons suspected of committing or taking part in a felony or a misdemeanour (Art. 3);
- b. convicted persons (Art. 5);
- c. trace evidence and deceased persons (Art. 4).

² The DNA profiles of the following shall also be registered in the information system:

- a. unidentified living or deceased persons (Art. 6 para. 1);
- b. biological material that can be attributed to missing persons (Art. 6 para. 3);
- c. relatives of deceased or missing persons whose identification is required outside criminal proceedings (Art. 6 para. 4).

³ DNA profiles transmitted from abroad as part of international co-operation and required in Swiss proceedings (Art. 13) shall be registered in the information system if one of the conditions defined under paragraphs 1 and 2 of this Article is met.

⁴ The DNA profiles of the following shall not be registered in the information system:

- a. identified victims (Art. 3 para. 1 let. b);
- b. persons authorised to be at the scene of a crime whose traces must be distinguished from those of perpetrators (Art. 3 para. 1 let. b);
- c. persons who in mass testing have been excluded from being the perpetrator (Art. 3 Abs. 2);
- d. suspects who have been excluded from being the perpetrator of the felony or misdemeanour in question;
- e. persons who were involved in proceedings that have been abandoned.