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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 September 2023)

*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. 1³ Subject matter and purpose

This Act regulates:

- a. the following for use in criminal proceedings:
 - 1. generating a DNA profile from samples taken from persons or from biological material relevant to a crime (forensic evidence),
 - 2. familial DNA searches,
 - 3. phenotyping;
- b. the use of DNA profiling to identify unidentified, missing or deceased persons outside of criminal proceedings;
- c. the use of phenotyping to identify deceased persons outside of criminal proceedings;
- d. the processing of DNA profiles in a federal information system.

AS 2004 5269

¹ SR 101

² BBl 2001 29

³ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

Art. 1a⁴**Art. 2** DNA profile and use

¹ A DNA profile is the letter-number combination specific to an individual which is created from the genetic material DNA with the help of molecular biological techniques for the purpose of identifying persons.⁵

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 the law of criminal procedure and for identifying persons outside criminal proceedings.⁶

Art. 2a⁷ Familial DNA search

A familial DNA search is a search in the information system in accordance with Article 10 when investigating a felony by which persons are sought who could be related to the person to whom forensic evidence pertains because of the similarity of their DNA profiles.

Art. 2b⁸ Phenotyping

¹ Phenotyping is the analysis of special DNA markers which are used to obtain information about externally visible characteristics of a person to whom forensic evidence pertains.

² The following may be ascertained:

- a. eye, hair and skin colour;
- b. biogeographical origin;
- c. age.

³ Health-related and personal characteristics such as character, behaviour and intelligence shall not be evaluated.

⁴ The Federal Council may specify additional externally visible characteristics depending on technical progress and if reliability in practice is guaranteed.

⁴ Inserted by Annex No 3 of the Juvenile Criminal Procedure Code of 20 March 2009 (AS **2010** 1573; BBl **2006** 1085, **2008** 3121). Repealed by No I of the FA of 17 Dec. 2021, with effect from 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

⁵ Amended by Annex 2 No 3 of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

⁶ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

⁷ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

⁸ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

Art. 3⁹ Surplus information

¹ When analysing DNA for DNA profiling or phenotyping, generating results that are not required or which are not on the list of permitted personal characteristics in Article 2b shall if possible be avoided.

² If such information is nevertheless obtained, it must remain in the laboratory and may not be disclosed to the authority requesting the analysis or to any other third party

Art. 4 and 5¹⁰**Section 2 Identification outside Criminal Proceedings¹¹****Art. 6** ...¹²

¹ Outside criminal proceedings, if identification is not possible by other means, the competent cantonal or federal authority may order that a DNA profile of the following persons be generated:¹³

- 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.

^{2bis} Phenotyping in accordance with Article 2b may be ordered for a deceased person if they cannot otherwise be identified.¹⁴

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

⁹ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹⁰ Repealed by No I of the FA of 17 Dec. 2021, with effect from 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹¹ Originally before Art. 3. Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹² Repealed by No I of the FA of 17 Dec. 2021, with effect from 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹³ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹⁴ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

Art. 7¹⁵**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 location of the crime and of the location where the forensic evidence was found.¹⁶

Art. 9¹⁷ Destruction of samples

¹ The ordering authority shall arrange for the destruction of a sample taken from a person:

- a. if a DNA profile of that person has already been generated, unless the DNA profile was generated before the Amendment of 17 December 2021 came into force and the sample from which the profile was generated has already been destroyed;
- b. six 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 fifteen years after the laboratory has received the sample.

³ It shall destroy samples taken by mass testing in accordance with Article 256 of the Criminal Procedure Code (CrimPC)¹⁸ or Article 73*t* of the Military Criminal Procedure Code of 23 March 1979¹⁹ (MCPC) on conclusion of the investigation on the order of the director of proceedings.

¹⁵ Repealed by No I of the FA of 17 Dec. 2021, with effect from 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹⁶ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹⁷ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

¹⁸ SR 312.0

¹⁹ SR 322.1

Art. 9a²⁰ Retyping

While retained, the sample may only be used for retyping if this is required:

- a. to expand the informative value of an existing DNA profile if this is required for its interpretation in a specific case or to implement new analysis specifications;
- b. to narrow down the group of persons to be investigated in a familial DNA search in accordance with Article 258a CrimPC²¹ or Article 73w MCPC²².

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.²³

² The information system is operated exclusively by the Confederation. The Federal Council may delegate the operational management of the system and the related tasks to a recognised laboratory (coordination centre). This laboratory shall charge fees in order to fund its activities.²⁴

³ The Federal Council shall determine the tasks of the coordination centre and the level of its fees.²⁵

Art. 11 Recording in the information system

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

- a. persons suspected of committing or taking part in a felony or a misdemeanour (Art. 3²⁶);
- b. convicted persons (Art. 5²⁷);
- c. forensic evidence and deceased persons (Art. 4²⁸).

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

- a. unidentified living or deceased persons (Art. 6 para. 1);

²⁰ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

²¹ SR **312.0**

²² SR **322.1**

²³ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS **2023** 309; BBl **2021** 44).

²⁴ Amended by Annex No II 1 of the FA of 15 June 2018 on Human Genetic Testing, in force since 1 Dec. 2022 (AS **2022** 537; BBl **2017** 5597).

²⁵ Inserted by Annex No II 1 of the FA of 15 June 2018 on Human Genetic Testing, in force since 1 Dec. 2022 (AS **2022** 537; BBl **2017** 5597).

²⁶ Presently: art. 255 para. 1 lett. a CrimPC or art. 73s para. 1 lett. a MStP.

²⁷ Presently: art. 257 CrimPC or art. 73u MStP.

²⁸ Presently: art. 255 para. 1 lett. c and d CrimPC or art. 73s para. 1 lett. c and d MStP.

- 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 recorded in the information system if any of the conditions defined under paragraphs 1 and 2 of this Article is met.

^{3bis} Y-DNA profiles generated on the basis of Article 255 paragraph 3 CrimPC²⁹ may be recorded in the information system.³⁰

⁴ The DNA profiles of the following shall not be recorded 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 biological material must be distinguished from those of perpetrators (Art. 3 para. 1 let. b);
- c.³¹ persons who have been excluded from being the perpetrator in mass testing in accordance with Article 256 CrimPC or 73t MCPC³²;
- 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.

Art. 12 Responsible federal authority

¹ The Federal Office of Police (fedpol) is responsible for the information system in accordance with Article 10.³³

² Authorised laboratories may be connected online with the information system. The Department decides on the connection.

Art. 13 International cooperation

¹ In terms of its cooperation with Interpol in accordance with Articles 350 and 352 and with Europol in accordance 355a of the Swiss Criminal Code³⁴ (SCC), fedpol may handle foreign requests for the verification of DNA profiles and submit Swiss requests.³⁵

² The provision of international cooperation is conditional on the conditions for taking samples complying with this Act and on the comparability of the DNA profiles.

²⁹ SR 312.0

³⁰ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

³¹ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

³² SR 322.1

³³ Amended by Annex 2 No 1 of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

³⁴ SR 311.0

³⁵ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

Section 5 Processing Further Data

Art. 14

¹ The ordering authority shall provide fedpol³⁶ with the known personal data, and with details of the location of the crime and where the forensic evidence was found (additional data).

² fedpol shall process the additional data in an information system that is separate from the DNA profile information system.

³ The DNA profiles are linked with the additional data using a process control number. The linking of profiles with the additional data may only be carried out by fedpol.

Section 6 Data Protection

Art. 15 Right to information

¹ Before taking a sample, the ordering authority shall inform the person concerned about the registration of their DNA profile in the information system, their right to information and the requirements for deletion.

² Any person has the right to ask fedpol whether a DNA profile is recorded in the information system under their name.

³ Articles 25 and 26 of the Data Protection Act of 25 September 2020³⁷ on Data Protection govern the right to, and the refusal, restriction or deferral of information.³⁸

Art. 16³⁹ Deletion of the DNA profiles of persons

¹ fedpol shall delete the DNA profiles of persons generated in accordance with Articles 255 and 257 CrimPC⁴⁰ or 73s and 73u MCPC⁴¹:

- a. as soon as the person concerned can be excluded as the perpetrator during the proceedings;
- b. ten years after the death of the person concerned;
- c. as soon as the relevant proceedings have been concluded with an acquittal;
- d. one year after the order to abandon proceedings or not to bring proceedings has become final;

³⁶ Name in accordance with No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44). This change has been made throughout the text.

³⁷ SR 235.1

³⁸ Amended by Annex 1 No II 31 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS 2022 491; BBl 2017 6941).

³⁹ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁴⁰ SR 312.0

⁴¹ SR 322.1

² It shall delete a DNA profile that has been generated in accordance with Articles 255 and 257 CrimPC or 73*s* and 73*u* MCPC:

- a. in the event of conviction and a suspended custodial sentence or suspended monetary penalty or a community service order being imposed: after 10 years;
- b. in the event of conviction and an unsuspended custodial sentence not exceeding three years, an alternative custodial sentence or an unsuspended monetary penalty being imposed: after 20 years;
- c. in the event of conviction and a custodial sentence of more than three but no more than ten years being imposed: after 30 years;
- d. in the event of conviction and a custodial sentence of more than ten years being imposed: after 40 years;
- e. in the event of a protective measure under Articles 12–14 of the Juvenile Criminal Law Act of 20 June 2003⁴² (JCLA) being imposed or a reprimand being issued or conviction and a personal work order or a fine in accordance with Articles 22–24 JCLA being imposed: after 5 years;
- f. in the event of a custody order being imposed in accordance with Article 25 JCLA or a placement in accordance with Article 15 JCLA: after 10 years;
- g. in the event of an order prohibiting the offender from carrying on an activity or a contact prohibition and exclusion order in accordance with Article 67 and 67*b* SCC⁴³, Articles 50 and 50*b* of the Military Criminal Code of 13 June 1927⁴⁴ (MCC) or Article 16*a* JCLA being imposed as the only sanction: after 5 years;
- h. in the event of judicial expulsion in accordance with Article 66*a* or 66*a*^{bis} SCC or Article 49*a* or 49*a*^{bis} MCC being ordered: after 30 years; if lifelong expulsion is ordered: after the death of the person concerned.

³ The periods specified in paragraph 2 begin from the date on which the judgment becomes final.

⁴ In a case under paragraph 1 letter c or d, if it is anticipated in view of certain circumstances that the DNA profile of the accused may be required to investigate future offences, it may be retained and used with the agreement of the director of proceedings for a maximum of ten years from the acquittal or the decision to abandon or not to take proceedings becoming final.

⁵ If the decisions under paragraph 1 letter c or d are taken because of the offender's lack of legal capacity, the DNA profile shall be deleted after 20 years.

⁶ In cases involving lifelong incarceration or therapeutic measures, a DNA profile generated in accordance with Articles 255 and 257 CrimPC or 73*s* and 73*u* MCPC shall be deleted 20 years after final release from incarceration or final discharge from the therapeutic measure.

⁴² SR 311.1

⁴³ SR 311.0

⁴⁴ SR 321.0

⁷ In all other cases that are not covered by paragraphs 2–6, a DNA profile shall be deleted after ten years counting from the date on which the judgment becomes final.

Art. 17 Extension of the retention period by the adjudicating authority⁴⁵

¹ In cases under Article 16 paragraph 2 letters a–f and h and paragraph 6, a DNA profile may with the consent of the competent adjudicating authority be retained for a maximum of ten years beyond the expiry of the deletion deadline if there is still reasonable suspicion that the person concerned has committed a felony or a misdemeanour that is not time-barred, or if there is concern about a repeat offence.⁴⁶

² Obtaining the authorisation of a foreign authority may be waived.

Art. 17a⁴⁷ Deletion of a Y-DNA profile

If, in addition to a DNA profile generated from forensic evidence or a personal sample, a corresponding Y-DNA profile in accordance with Article 11 paragraph 3^{bis} has been recorded in the information system, the Y-DNA profile shall be deleted at the same time as the DNA profile.

Art. 18 Deletion of DNA profiles generated from forensic evidence and samples taken from deceased persons

fedpol shall delete DNA profiles generated from samples taken from deceased persons or from forensic evidence in accordance with Article 255 paragraph 1 letters c and d CrimPC⁴⁸ or Article 73s paragraph 1 letters c and d MCPC^{49,50}

- a. at the request of the ordering authority; the ordering authority shall request deletion as soon as the forensic evidence can be matched to a person who has been ruled out as the perpetrator;
- b. automatically after 30 years, except for offences that are not subject to a statute of limitations.

Art. 19 Deletion of DNA profiles generated outside criminal proceedings

DNA profiles that have been generated outside criminal proceedings in accordance with Article 6 shall be deleted as soon as the person concerned has been identified, but in any case after 50 years.

⁴⁵ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁴⁶ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁴⁷ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁴⁸ SR 312.0

⁴⁹ SR 322.1

⁵⁰ Amended by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

Section 7 Funding

Art. 20

¹ The Confederation shall fund the establishment and operation of the information system.

² The ordering authority shall fund the collection and transmission of samples, and analysis and evaluation.

Section 8 Final Provisions

Art. 20a⁵¹ Evaluation

¹ With the assistance of scientific experts and researchers, fedpol shall prepare a report on the expediency and efficacy of this Act that shall be submitted to the Federal council five years after the Amendment of 17 December 2021 comes into force.

² No later than six years after Amendment of 17 December 2021 comes into force, the Federal Council shall submit a report to Parliament, in particular with regard to the implementation of Article 2b.

Art. 21 Implementation by the cantons

The cantons are responsible for implementing this Act in their area of competence.

Art. 22 Implementation by the Confederation

The Federal Council shall issue the implementing provisions, in which it shall regulate in particular:

- a. the processing of data under this Act, in particular the recording of data in the information system;
- b. the details concerning the identification of unidentified living or deceased persons and missing persons;
- c. the arrangements and processes for generating DNA profiles;
- d. the conditions and the procedure for approving the laboratories;
- e. the notification of fedpol on procedure completion;
- f. the registration of DNA profiles generated abroad;
- g.⁵² familial DNA searches in accordance with Article 2a;

⁵¹ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁵² Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

h.⁵³ phenotyping in accordance with Article 2b.

Art. 23 Transitional provisions

¹ This Act also applies to DNA profiles already recorded in the information system under the Ordinance of 31 May 2000⁵⁴ on the DNA Profiles Information System (EDNA Ordinance).

² The temporary approval of laboratories under Article 20 of the EDNA Ordinance remains valid for two years after this Act comes into force.

³ A sample may be taken and a DNA profile generated and recorded in the information system from persons who before this Act comes into force were sentenced to an unsuspended custodial sentence exceeding one year or to a custodial measure under Articles 59, 61 or 64 SCC⁵⁵, provided that the custodial sentence or custodial measure remains in effect, but within a maximum of one year after this Act comes into force.

Art. 23a⁵⁶ Transitional provision to the Amendment of 17 December 2021

¹ The rules on deletion in Articles 16 and 17 also apply to DNA profiles generated before the Amendment of 17 December 2021 comes into force and for which no judicial consent to deletion as required under the previous law had been obtained at that time.

² The cantons and the federal authorities that have DNA profiles generated in accordance with Articles 255 and 257 CrimPC⁵⁷ or 73s and 73u MCPC⁵⁸ shall notify fedpol within five years after the Amendment of 17 December 2021 comes into force of the new deletion deadline in accordance with this Amendment for every DNA profile. In justified exceptional cases, the Department may grant an extension of this period.

Art. 24 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date: 1 January 2005⁵⁹

⁵³ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁵⁴ [AS 2000 1715, 2002 111 Art. 19 No 1]

⁵⁵ SR 311.0

⁵⁶ Inserted by No I of the FA of 17 Dec. 2021, in force since 1 Aug. 2023 (AS 2023 309; BBl 2021 44).

⁵⁷ SR 312.0

⁵⁸ SR 322.1

⁵⁹ FCD of 3 Dec. 2004.

