

DNA Analyses in Criminal Proceedings

**Summary of the report by the Parliamentary Control of the
Administration for the Council of States' control committee**

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Summary

In recent years, the use of DNA analysis has become well established at a steady level throughout Switzerland, and its use may be regarded as appropriate overall. However, there are differences in the way DNA analysis is used in the various cantons, some of which apply it inappropriately. Furthermore, there are several weaknesses in the system of oversight.

The prosecution authorities may have recourse to DNA analysis when investigating crimes. The police can use traces of DNA to identify suspects and establish a connection with a particular crime. The statutory regulations on the use of DNA analysis are framed in broad terms. It may be used to investigate more serious classes of crime, but not when investigating more minor ones. However, as DNA analysis is a procedure that encroaches on fundamental rights, it must be used proportionately. There has been repeated criticism of the fact that in some cantons the use of DNA analysis has now become too widespread.

For this reason, in January 2017 the Federal Assembly's control committees (CCs) instructed the Parliamentary Control of the Administration (PCA) to evaluate the use of DNA analysis in criminal proceedings. At its meeting of 6 November 2017, the CC-S FDJP/FCh sub-committee decided to focus its evaluation on the appropriateness of the practice and on the role of the Federal Office of Police (fedpol) as the oversight body.

The PCA commissioned the company Killias Research & Consulting to conduct the study, in which the DNA profiles stored in the national CODIS DNA database were analysed. The PCA, meanwhile, looked at fedpol's oversight role. It analysed documents and conducted around 20 interviews with members of the Federal Administration, the cantons and the DNA analysis laboratories in order to establish whether the office assumes sufficient responsibility for the CODIS DNA database and conducts appropriate oversight of the laboratories.

Generally appropriate use

The data analyses conducted in the evaluation show that the use of DNA analysis in criminal proceedings since the Federal Supreme Court decision in 2014 has been in line with trends in crime throughout Switzerland. The decision brought an end to the rapidly increasing use of DNA analysis observed up to that point. Since then, its use has largely remained at a steady level and can be considered appropriate. DNA analysis is now more often used in the case of serious crimes rather than less serious ones, which also indicates that the technique is being used appropriately.

Inappropriate differences in the cantons

In the evaluation, the use of DNA analysis in the cantons of Aargau, Bern, Freiburg, Graubünden, Ticino, Vaud and Zurich was examined in detail. Practices vary between the cantons, and the differences cannot be explained by differences in the number of criminal cases or the nature of crimes committed. In view of the Federal Supreme Court ruling, DNA analysis techniques are used inappropriately in some cantons and there is no uniform application of federal statutory requirements.

External coordination agency is fit for purpose but its mandate needs to be re-examined

fedpol is responsible for the national CODIS DNA database, which is run by an external coordination centre based at the University of Zurich's Institute for Forensic Medicine. This system generally functions well. Although there have been changes in the laboratory landscape since this agency was set up, fedpol has never reviewed the mandate given to this institute to host the coordination centre. In addition to managing the database, the centre carries out a range of further tasks for fedpol despite lacking a formal mandate to do so. Moreover, the coordination centre does not have a sufficiently independent status and so cannot represent the interests of all laboratories towards the Confederation in an appropriate manner.

No independent oversight of DNA analysis laboratories – only appropriate to an extent

Fedpol is required to conduct oversight of federally recognised DNA analysis laboratories. It has delegated this task in large part to the Swiss Accreditation Service (SAS), which is responsible for accrediting laboratories. However, the inspection and accreditation process is not an entirely independent one: the laboratories themselves can put forward specialists to take part in the inspections. Although the SAS's inspection process is very positively assessed by all those involved, this is clearly a weakness: the arrangement between the SAS and fedpol means that oversight is in fact partially delegated to the laboratories that are subject to inspection. Oversight of federally recognised DNA analysis laboratories can thus only be deemed appropriate to a limited extent.

The full report is available in German, French and Italian (www.parliament.ch)