

proceedings;

10. whether the surveillance produced results that are, or may be expected to be, of relevance to other criminal proceedings;

11. where the surveillance failed to produce any relevant results: the reasons for this, distinguishing between technical and other grounds;

12. the costs of the measure, distinguishing between costs in respect of translation services and other costs.

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Section 100f **[Use of Technical Means]**

(1) Words spoken in a non-public context outside private premises may be intercepted and recorded by technical means also without the knowledge of the persons concerned if certain facts give rise to the suspicion that a person, either as perpetrator or as inciter or accessory, has committed a criminal offence referred to in Section 100a subsection (2), being a criminal offence of particular gravity in the individual case as well, or, in cases where there is criminal liability for attempt, has attempted to commit such an offence, and other means of establishing the facts or determining the accused's whereabouts would offer no prospect of success or be much more difficult.

(2) The measure may only be directed against an accused person. Such a measure may only be ordered against other persons if it is to be assumed, on the basis of certain facts, that they are in contact with an accused or that such contact will be established, the measure will result in the establishment of the facts or the determination of an accused's whereabouts, and other means of establishing the facts or determining an accused's whereabouts would offer no prospect of success or be much more difficult.

(3) The measure may be implemented even if it unavoidably affects third persons.

(4) Section 100b subsection (1) and subsection (4), first sentence, as well as Section 100d subsection (2) shall apply *mutatis mutandis*.

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Section 100g **[Information on Telecommunications Connections]**

(1) If certain facts give rise to the suspicion that a person, either as perpetrator or as inciter or accessory,

1. has committed a criminal offence of substantial significance in the individual case as well, particularly one of the offences referred to in Section 100a subsection (2), or, in cases where there is criminal liability for attempt, has attempted to commit such an offence or has prepared such an offence by committing a criminal offence, or

2. has committed a criminal offence by means of telecommunication,

then, to the extent that this is necessary to establish the facts or determine the accused's whereabouts, telecommunications traffic data (section 96 subsection (1), section 113a of the Telecommunications Act) may be obtained also without the knowledge of the person concerned. In the case referred to in the first sentence, number 2, the measure shall be admissible only where other means of establishing the facts or determining the accused's whereabouts would offer no prospect of success and if the acquisition of the data is proportionate to the importance of the case. The acquisition of location data in real time shall be admissible only in the case of the first sentence, number 1.

(2) Section 100a subsection (3) and Section 100b subsections (1) to (4), first sentence, shall apply *mutatis mutandis*. Unlike Section 100b subsection (2), second sentence, number 2, in the case of a criminal offence of substantial significance, a sufficiently precise spatial and temporal description of the telecommunication shall suffice where other means of establishing the facts or determining the accused's whereabouts would offer no prospect of success or be much more difficult.

(3) If the telecommunications traffic data is not acquired by the telecommunications services provider, the general provisions shall apply after conclusion of the communication process.

(4) In accordance with Section 100b subsection (5) an annual report shall be produced in respect of measures pursuant to subsection (1), specifying

1. the number of proceedings during which measures were implemented pursuant to subsection (1);
2. the number of measures ordered pursuant to subsection (1) distinguishing between initial orders and subsequent extension orders;
3. in each case the underlying criminal offence, distinguishing between numbers 1 and 2 of subsection (1), first sentence;
4. the number of months elapsed during which telecommunications traffic data was intercepted, measured from the time the order was made;
5. the number of measures which produced no results because the data intercepted was wholly or partially unavailable.

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Section 100h **[Taking of Photographs; Technical Devices for Surveillance]**

(1) Also without the knowledge of the persons concerned

1. photographs may be taken or
2. other special technical devices intended specifically for surveillance purposes may be used

outside private premises where other means of establishing the facts or determining an accused's whereabouts would offer less prospect of success or be more difficult. A measure pursuant to the first sentence, number 2, shall be admissible only if the object of the enquiry is a criminal offence of substantial significance.

(2) The measures may only be directed against an accused person. In respect of other persons,

1. measures pursuant to subsection (1), number 1, shall be admissible only where other means of establishing the facts or determining an accused's whereabouts would offer much less prospect of success or be much more difficult;
2. measures pursuant to subsection (1), number 2, shall only be admissible if it is to be assumed, on the basis of certain facts, that they are in contact with an accused person or that such contact will be established, the measure will result in the establishment of the facts or the determination of an accused's whereabouts, and other means would offer no prospect of success or be much more difficult.

(3) The measure may be implemented even if it unavoidably affects third persons.

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Section 100i **[IMS I-Catcher]**

(1) If certain facts give rise to the suspicion that a person, either as perpetrator or as inciter or accessory, has committed a criminal offence of substantial significance, in the individual case as well, particularly one of the offences referred to in Section 100a subsection (2), or, in cases where there is criminal liability for attempt has attempted to commit such an offence or has prepared such an offence by committing a criminal offence, then technical means may be used to determine

1. the device ID of a mobile end terminal and the card number of the card used therein, as well as
2. the location of a mobile end terminal,

insofar as this is necessary to establish the facts or determine the whereabouts of the accused person.

(2) Personal data concerning third persons may be acquired in the course of such measures only if, for technical reasons, this is unavoidable to fulfill the objectives of subsection (1). Such data may not be used for any purpose beyond the comparison of data in order to locate the device ID and card number sought, and the data is to be