

knowledge thereof in another manner.

(6) Enforcement shall not be executed if a competent authority of the requesting State provides notice that the conditions for enforcement no longer exist.

(7) If a foreign order for confiscation was enforced and there is reason to believe from that order that a person identifiable by name might have a claim for damages against the convicted person arising from the offence on which the order was based, that person must without undue delay be informed by the enforcing authority by simple letter to the last known address, about his rights under s. 56 a. The authority may decide not to send such information if the period under s. 56 a(4) 2nd sentence has lapsed.

[table of contents](#)

Section 57 a Costs of enforcement

The convicted person shall bear the costs of the enforcement.

[table of contents](#)

Section 58 Measures Safeguarding Enforcement

(1) If a request for enforcement in the meaning of s. 49(1) no. 1 has been received, or if prior to its receipt it has been so requested by a competent authority of the requesting State with details of the offence on which the sentence is based, the time and place when it was committed and as exact a description of the convicted person as possible, the detention of the convicted person for the purpose of ensuring enforcement of a sentence of imprisonment may be ordered provided that on the basis of ascertainable facts

1. there is reason to believe that he would abscond from the enforcement proceedings or from enforcement, or
2. if there is a strong reason to believe that in the enforcement proceedings he would dishonestly obstruct the ascertainment of the truth.

(2) The court having jurisdiction pursuant to s. 50 shall issue the decision regarding detention. Ss. 17, 18, 20, 23 to 27 shall apply mutatis mutandis. The Oberlandesgericht shall be substituted by the Landgericht, the public prosecution service at the Oberlandesgericht shall be substituted by the public prosecution service at the Landgericht. Decisions of the Landgericht shall be subject to appeal.

(3) If the request for enforcement relates to a fine, a regulatory fine or an order for confiscation or deprivation, or if a competent authority of the requesting State has, with identification of the person sought, the offence on which the criminal proceedings are based and the time and place of its commission prior to receipt of such request, requested preliminary measures for the purpose of ensuring enforcement under ss. 111 b to 111 d of the Strafprozessordnung, s. 67(1) shall apply mutatis mutandis. For the purpose of the preparation of an order for confiscation or deprivation in the requesting State, which may also relate to the monetary value, decisions under ss. 111 b to 111 d of the Strafprozessordnung may be issued if the conditions of s. 66(2) nos. 1 and 2 are fulfilled.

(4) Subsections (1) and (3) above shall not apply if it appears ab initio that enforcement will not be admissible.

[table of contents](#)

Part V. Other Assistance (Mutual Legal Assistance)

[table of contents](#)

Section 59 Admissibility of Assistance

(1) At the request of a competent authority of a foreign State, other legal assistance in a criminal matter may be provided.

(2) Legal assistance within the meaning of subsection (1) above shall be any kind of support given for foreign

criminal proceedings regardless of whether the foreign proceedings are conducted by a court or by an executive authority and whether the legal assistance is to be provided by a court or by an executive authority.

(3) Legal assistance may be provided only in those cases in which German courts and executive authorities could render mutual legal assistance to each other.

[table of contents](#)

Section 60 Rendering Assistance

If the executive authority responsible for granting legal assistance determines that the requirements for rendering legal assistance have been fulfilled, the executive authority responsible for rendering the legal assistance shall be bound by such determination, without prejudice to s. 61.

[table of contents](#)

Section 61 Decision of the Court

(1) If a court responsible for rendering legal assistance is of the view that the requirements for rendering legal assistance have not been fulfilled, it shall note the reasons for its view and request a decision from the Oberlandesgericht. The Oberlandesgericht shall also rule upon an application by the public prosecution service at the Oberlandesgericht, or in the case of s. 66, upon an application by a person claiming that his rights would be infringed if the return of an asset was ordered, whether the requirements for rendering legal assistance have been fulfilled. For these proceedings before the Oberlandesgericht, ss. 30, 31(1), (3) and (4), 32, 33(1), (2) and (4), 38(4) 2nd sentence, 40 (1) as well as the provisions of Chapter 11 of Book 1 of the Strafprozessordnung, with the exception of ss. 140 to 143, shall apply mutatis mutandis. For any subsequent proceedings s. 42 shall apply mutatis mutandis.

(2) Jurisdiction *ratione loci* shall lie with the Oberlandesgericht and with the public prosecution service at the Oberlandesgericht in whose district the legal assistance is to be or has been rendered. If acts of legal assistance are to be or have been carried out in the districts of different Oberlandesgerichte, jurisdiction shall lie in the district of the Oberlandesgericht which first became seized of the matter, and if no court has yet been seized of the matter, in the district in which the public prosecution service at the Oberlandesgericht first became seized of the matter.

(3) The decision of the Oberlandesgericht shall be binding on those courts and authorities responsible for rendering the legal assistance.

(4) Legal assistance may not be granted if the Oberlandesgericht rules that the requirements for the rendering of legal assistance have not been complied with.

[table of contents](#)

Section 61 a Transmission of Personal Data Without Request

(1) Courts and the public prosecution service may transmit personal data from criminal proceedings to the public authorities of another State as well as to Inter-State and supranational authorities without request by the latter if

1. transmission without request to a German court or to a German public prosecution service were admissible,
2. facts exist which warrant the expectation that the transmission is necessary
 - a) in order to prepare a request by the receiving State for assistance for the purpose of prosecution or enforcement of a sentence for an offence which would be punishable by a maximum term of more than five years' imprisonment under German law, and the conditions for granting assistance on request would be fulfilled if such a request was made or
 - b) in the individual case to avert a danger to the existence or security of the State, or to the life, limb or freedom of a person, or to property of significant value, protection of which is in the public interest, or to prevent a crime as described under a) above, and