

## **Section 66**

### **Handing Over of Objects**

- (1) At the request of a competent authority of a foreign State objects may be handed over
1. which may serve as evidence in foreign proceedings or
  2. which the person concerned or an accomplice have obtained for or through the offence on which the request is based,
  3. which the person concerned or an accomplice have obtained through the sale of such object or as a replacement for its being destroyed, damaged or taken away or on the basis of a right accrued to them or as usufruct or
  4. which were created by or used or meant to be used in the commission or preparation of the offence on which the request is based.
- (2) Surrender shall not be admissible unless
1. the offence on which the request is based contains elements of the actus reus and mens rea of a criminal offence or of an offence permitting the imposition of a fine under German law or unless mutatis mutandis it would be such an offence under German law,
  2. an order for seizure by a competent authority of the requesting State is submitted or a declaration of such an authority shows that the requirements for seizure would exist if the objects were located in the requesting State and
  3. measures are in place to ensure that the rights of third parties will not be infringed and that objects handed over under a condition will be returned upon request without undue delay.
- (3) The handing over under subsection (1) nos. 2 to 4 above shall be admissible only as long as no pertinent final and enforceable foreign decision exists with regard to the above-mentioned objects.
- (4) The public prosecution service at the Landgericht shall prepare the decision about the handing over and shall execute it if granted. The public prosecution service at the Landgericht in whose district the object is located shall have jurisdiction. S. 61(2) 2nd sentence shall apply mutatis mutandis.

[table of contents](#)

## **Section 67**

### **Search and Seizure**

- (1) Objects that may be considered for handing over to a foreign State may be seized or otherwise secured even prior to the receipt of the request for surrender. To this end, a search may be conducted.
- (2) If the conditions specified in s. 66(1) no. 1 and (2) no. 1 apply, objects may also be seized or otherwise secured if necessary for the enforcement of a request which is not directed at the handing over of the objects. Subsection (1) 2nd sentence above shall apply mutatis mutandis.
- (3) The Amtsgericht in whose district they are to be performed shall have jurisdiction to order the search and seizure. S. 61(2) 2nd sentence shall apply mutatis mutandis.
- (4) If cases of emergency the public prosecution service or its agents (s. 152 of the Gerichtsverfassungsgesetz) may order the search and seizure.