

3. the public authority to which the data are transmitted is competent to implement the appropriate measures under no. 2 above.

If an adequate level of data protection is ensured in the receiving State, the 1st sentence no. 2 a) above shall apply with the proviso that an offence punishable under German law by a maximum term of more than five years' imprisonment shall be substituted by an offence of significant gravity.

(2) The transmission shall occur under the condition that

1. time limits pursuant to German law for data deletion and for review of data deletion will be observed,
2. transmitted data will only be used for the purposes for which they were transmitted and
3. transmitted data will be deleted or corrected immediately upon information in accordance with subsection (4) below.

(3) Transmission shall be precluded if it is evident to the court or the public prosecution service that – taking into consideration the special public interest in the transmission – the protected interests of the person demand the preclusion of the transmission in the individual case; the protected interests of the person concerned include the existence of an adequate level of data protection in the receiving State.

(4) The receiving authority shall be notified without undue delay upon discovery that the transmission of data was inadmissible or that the transmitted data were incorrect.

[table of contents](#)

Section 61 b **Joint Investigation Teams**

(1) If an international treaty so provides joint investigation teams may be established. A member of the joint investigation team seconded by a foreign State may be allowed to conduct investigations under the supervision of the relevant German team member if this has been previously approved by the sending State.

(2) Other persons may participate in the joint investigation team based on the law of the participating States or any agreement between them.

(3) The German officers participating in the joint investigation team may directly transmit information obtained in the execution of their office, including personal data, to the members sent by other States, insofar as this is necessary for the work of the joint investigation team.

(4) Insofar as the transmission of the information obtained under subsection (3) above requires a specific agreement amending the purpose of its use such an agreement is admissible if a request for the use of the information was admissible.

[table of contents](#)

Section 61 c **Audiovisual Examination**

A witness or an expert who fails to appear for examination by a foreign legal authority by use of a video conference although properly summoned shall neither be charged with the costs arising from his failure to appear nor have any penalty for contempt imposed upon him.

[table of contents](#)

Section 62 **Temporary Transfer to a Foreign Country for Foreign Proceedings**

(1) A person detained in pretrial detention or serving a prison sentence or detained under a custodial measure of rehabilitation and incapacitation on German territory may, at the request of a competent authority of a foreign State, be temporarily transferred to that State in order to testify as a witness or for the purpose of identification or inspection by the court in proceedings pending there if

1. after being advised of his rights by a judge he consents to such transfer and his consent is entered into the

court record,

2. it is not to be expected that as a result of the transfer the person's detention would be prolonged or that the purpose of the criminal proceedings would be jeopardised,
3. measures are in place to ensure that the person will not, during the period of his transfer, be punished or be subjected to any other sanction that cannot be issued in absentia, and that in the case of his release he may leave the requesting State, and
4. if measures are in place to ensure that the person will be returned immediately after the evidence has been taken unless this requirement has been waived.

The consent (1st sentence no. 1 above) cannot be revoked.

(2) The public prosecution service at the Oberlandesgericht shall prepare the transfer and shall execute it. The public prosecution service at the Oberlandesgericht in whose district the person is detained shall have jurisdiction.

(3) The detention served in the requesting State shall be credited towards the detention being enforced in Germany. S. 37(4) shall apply mutatis mutandis.

[table of contents](#)

Section 63 **Temporary Transfer from a Foreign Country for Foreign Proceedings**

(1) A person detained in pretrial detention or serving a prison sentence or detained under a custodial measure in a foreign State may, at the request of a competent authority of that State, be temporarily transferred to German territory to give evidence in proceedings pending in that State and after the evidence has been taken, be returned. In order to ensure his return the person shall be held in detention.

(2) Detention shall be ordered by means of a written arrest warrant. The written arrest warrant shall contain information concerning the following:

1. The person,
2. the request for taking evidence in the presence of the person and
3. the reason for the detention.

(3) The judge who is to provide the legal assistance or the judge of the Amtsgericht in whose district the executive authority that is to provide the legal assistance is located, shall have jurisdiction over the decision regarding the detention. The decision shall not be subject to appeal.

(4) Ss. 27, 45(4) and 62(2) 1st sentence shall apply mutatis mutandis.

[table of contents](#)

Section 64 **Transporting Witnesses in Transit**

(1) A foreigner detained in a foreign State in pretrial detention or serving a prison sentence or otherwise detained under a custodial measure may, at the request of a competent authority, be transported through German territory to a third State in order to give evidence as a witness, for identification or inspection and may after the evidence has been taken be returned.

(2) To ensure the transport in transit, the person shall be held in detention. Ss. 27, 30(1), 42, 44, 45(3) and (4), 47 and 63(2) shall apply mutatis mutandis.

[table of contents](#)

Section 65 **Transport in Transit to Enforce Sentence**

The transport in transit through German territory of a foreign citizen for the purpose of enforcing a sentence or