

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.

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### **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.

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### **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.

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### **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